

Lawyer Herald

Latest Obamacare challenge claim missing provision could unravel healthcare program

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A hearing at the US Court of Appeals in Washington held today will be arguing about a missing section of the Patient Protection and Affordable Care Act which denies millions of Americans subsidies. Bloomberg said that the missing provision in the statute supposedly requires the federal government to create an insurance marketplace in states for people who have low and moderate income purchase health insurance and obtain subsidies from the state. The news agency said certain key passages of Obamacare, which include details on who are not eligible for subsidies, are not present in the statute.

Referring to the intention of the US government to push states to set up their own insurance marketplaces, Washington attorney Christopher Condeluci, who formerly was on the Republican staff of the Senate Finance Committee during the drafting of the healthcare statute amendment, said, "It's the last legal challenge that could derail this law. The four digits aren't there, so should the court try to read into congressional intent that 1321 was supposed to be there? Yes. That was the intent."

Director of health policy studies Michael Cannon at the libertarian Cato Institute said that the US government has miscalculated with the drafting of the healthcare statute under the pretext that all states will be providing their own insurance exchanges. "This was a 'drafting error' that was made nine times (in the law) That tells you, no, this wasn't an error. It was done deliberately."

The plaintiffs who have challenged Obamacare are business owners from six states in the US which have federally-established marketplaces. Michael Carvin of Jones Day, who represents the plaintiffs, will be arguing in court today that the insistence of the Internal Revenue Service to extend tax credits on people who purchase health plans on a federal exchange could trigger penalties and mandates on the business owners that they should not be subject to.