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Judge rejects O-Care subsidies challenge

By Elise Viebeck

A federal judge has rejected a key lawsuit against ObamaCare, ruling that the reform's insurance subsidies are lawful in states that did not create their own marketplaces.

The decision deals a blow to critics of the Affordable Care Act, who saw the long-shot case as a final way to undercut the law after the Supreme Court largely upheld it in 2012.

If successful, plaintiffs in *Halbig v. Sebelius* would have blocked premium tax credits in 36 states where the federal government is running an ObamaCare marketplace.

The discounts are intended to help lower-income people who do not qualify for Medicaid pay for private health plans.

Dismissing the lawsuit Wednesday, U.S. District Court Judge Paul Friedman wrote that the subsidies should be available in all 50 states, regardless of whether they created their own ObamaCare exchanges.

"The plain text of the statute, the statutory structure, and the statutory purpose make clear that Congress intended to make premium tax credits available on both state-run and federally-facilitated Exchanges," Friedman wrote.

He added that there is "no evidence in the legislative record" that lawmakers intended to limit tax credits to people enrolled in state-based marketplaces.

Supporters of ObamaCare cheered the decision as a final defeat for lawsuits that would topple the law.

"We are thrilled with this outcome," Families USA Executive Director Ron Pollack said on a call with reporters.

"This [suit] was probably the most significant existential threat to the Affordable Care Act. All the other lawsuits that have been filed really don't go to the heart of the ACA, and this one would

have."

The *Halbig* suit was the brainchild of Michael F. Cannon, the Cato Institute's director of health policy. Cannon and the plaintiffs vowed to appeal Friedman's decision to the U.S. Court of Appeals for the District of Columbia.

"This ruling will not be the last word," Cannon said Monday, calling the government's position "untenable."

"The court acknowledged the tax rules are clear, yet overrode that clear language based on the absurdity that an exchange established by the federal government was actually 'established by the state.' "