Court's Obamacare Ruling Could Open Way to GOP Reforms

By Sandy Fitzgerald

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The Obama administration doesn't seem to have a backup plan for the president's signature healthcare reform effort if the Supreme Court rules against its subsidy program, but one expert believes he'll agree to a GOP compromise solution.

"I do think there's a chance that if they do this right, if they play their cards right, that the president would, in fact, sign it," Grace-Marie Turner, founder of the Galen Institute, which supports free market healthcare reform, told Fox News.

She noted that instead of dismantling Obamacare, which many Republicans want to do, lawmakers can offer a temporary solution giving states more control over the subsidies that Americans use to help purchase their insurance.

Next month, the Supreme Court is expected to come to a decision over whether the IRS offered the subsidies to millions of Americans who were not entitled to them. According to the law's language, the subsidies were to be awarded in states that set up their own healthcare exchanges, but more than three dozen states did not and the IRS still extended the subsidies to them.

Currently, 87 percent of people who have signed up through state exchanges are eligible for subsidies, with an average payment of $268 per month, lowering the premiums they pay by roughly 72 percent.

If the Supreme Court throws out the current subsidy program, it would be "devastating" to Obamacare, Health and Human Services Secretary Sylvia Burwell said earlier this month. However, she did not say whether the administration has a backup plan if that happens.

While many Republicans want the law dismantled, they are also waiting for the court's decision, saying it may be the best option for stopping the law.

But that strategy may backfire. Some Obamacare critics say the court may be hesitant to block the subsidies because justices are not confident over Congress' ability to step in and update laws or fix them. Justice Ruth Bader Ginsburg, in an interview earlier this week, commented that "the current Congress is not equipped really to do anything."

The court is scheduled to open hearings on the law on March 4, with a decision due by late June, and has extended oral arguments in the case, allowing 2 1/2 hours instead of the usual one hour.

A ruling against the subsidies could eliminate them for millions of Americans, and two independent think tanks have estimated the number of uninsured could go up by 8 million people, Fox reports.

Meanwhile, Michael Tanner, a senior fellow at the Cato Institute, argues in an opinion piece Wednesday for The National Review that no matter which way the court rules, Obamacare will not be stricken down.

"The case concerns one provision of the law, subsidies provided through the exchanges, and whether those subsidies can be offered through federally run exchanges as well as through exchanges established by a state," said Tanner. "That's an important provision, to be sure, but even if the court rules that subsidies cannot be offered through a federal exchange, most provisions of the law will remain in effect."

Further, he argues, a decision won't mean Americans will lose insurance plans overnight, and raising the alarm about canceled insurance is "a rather late conversion" for many people, as Obamacare itself canceled "some 6 million insurance plans that failed to meet its criteria," while driving up insurance costs.

"Because Obamacare outlawed many affordable policies and drove up premiums generally, its operation is extremely dependent on shifting much of that cost to taxpayers through subsidies," Tanner said.

"Therefore, if some of those subsidies are ruled illegal, there will be Americans who will have difficulty paying their premiums — especially at Obamacare's inflated prices. In a sense, removing the subsidies simply brings the law's full cost home."

He also predicts that Congress will step in and find a way for people to keep their coverage, as Republicans have already proposed several alternatives that Obama refuses to acknowledge.