



Supreme Court to Hear Case on ACA Subsidies

By Joyce Frieden
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WASHINGTON -- The Supreme Court [announced Friday](#) that it will consider a controversial case involving subsidies paid to people participating in federally run health exchanges under the Affordable Care Act.

The case, known as King v. Burwell, is similar to a more well-known case called Halbig v. Burwell. In both cases, the plaintiffs argue that the subsidies being issued in the federally run exchanges to help people pay their insurance premiums are illegal because of the wording allowing for the subsidies in the ACA.

Section 36B of the law says that "The 'premium assistance amount' is based on the cost of a 'qualified health plan ... enrolled in through an Exchange established by the State under [section] 1311 of the [ACA].'"

It is the mention of only state-established exchanges -- and similar wording in other parts of the provision -- that is at issue. The plaintiffs contend that the wording means that only consumers who purchase insurance in state-run exchanges are eligible for subsidies, which would leave out consumers in the 34 states that have defaulted to the federally run exchange.

The defendant -- the federal government -- says it's clear from the general context of the law, as well as wording in yet other parts of it, that the ACA's intent was to make consumers in federal as well as state-run exchanges eligible for the subsidies.

A lot of money is at stake in the decision. Subsidies paid on the federal exchanges amount to about \$10 to \$12 billion per year, according to [Michael Cannon](#), MA, JM, director of health policy studies at the Cato Institute, a libertarian think tank in Washington.

In the King case, the U.S. Court of Appeals for the Fourth Circuit, in Richmond, Va., [ruled in the government's favor](#) in July.

Also in July, a three-judge panel of the U.S. Court of Appeals for the District of Columbia [ruled 2-1 against the government](#) in the Halbig case.

That unfavorable ruling prompted the White House to request a review of the decision in the case by all 11 judges on the court (a procedure known as "en banc" review). The majority of the full

court's judges are Democratic appointees. The court [agreed to the request](#) and set oral arguments for the re-hearing for Dec. 17.

Then, in September, a federal district judge in Oklahoma ruled against the government in still another case, [Pruitt v. Burwell](#).

Although a decision is still a long way off, most legal experts agree that the Supreme Court [is not likely to agree](#) with the plaintiffs on the issue.