

Obamacare Takes Devastating Blow as Appeals Court Throws Out Key Provisions

A U.S. federal judicial panel on Tuesday dealt a potentially devastating blow to President Barack Obama's **health-care law**, throwing out a provision that provides millions of Americans with subsidies for private health insurance.

The 2-1 decision, which could lead to a new showdown over **Obamacare** before the U.S. Supreme Court, would prevent the administration from offering premium tax credits to people who purchase insurance through the federal insurance marketplace that serves most of the 8 million consumers who signed up for private coverage for 2014.

The judges from the U.S. Court of Appeals for the District of Columbia stayed the ruling to allow for an appeal. The **Obama administration** said it would appeal to the full circuit court, a process that could take up to six months, and stressed the ruling would have no impact on consumers receiving monthly subsidies now.

Republican opponents of Obamacare said the decision would help efforts to dismantle the law, which the Democratic president signed in 2010.

"Obamacare is a bad deal. I want to see it unravel," said Sen. Lindsey Graham of South Carolina, whose residents receive federal subsidies. "This is a small step in the right direction."

5 Million People

Analysts estimate that as many as 5 million people could be affected if subsidies disappear from the federal marketplace,

which serves 36 states through the website . The subsidies are available to people with annual incomes of up to 400 percent of the federal poverty level, or \$94,200 for a family of four.

“Practically, we think it’s very unlikely that the subsidies will actually be pulled back,” said Caroline Pearson, a vice president at consultancy Avalere Health. Further litigation could take a few years even if the case moves up to the Supreme Court, and the administration could find a regulatory workaround, she said.

Plaintiffs in the case, known as *Halbig vs. Burwell*, claimed that Congress did not intend to provide subsidies through federally operated marketplaces because the **Affordable Care Act** (ACA) specifies only state-run exchanges as recipients. The plaintiffs were identified as a group of individuals and employers from states that did not establish their own marketplaces.

Most states, including Florida and Texas, which have some of the largest uninsured populations in the country, opted to leave the task of operating a marketplace to the federal government.

“The fact is that the legislative record provides little indication one way or the other of congressional intent, but the statutory text does. (It) plainly makes subsidies available only on exchanges established by states. And in the absence of any contrary indications, that text is conclusive evidence of Congress’s intent,” wrote the two judges in the majority, Thomas Griffith and Arthur Randolph, both appointed by Republican presidents.

“To hold otherwise would be to say that enacted legislation, on its own, does not command our respect—an utterly untenable proposition,” their opinion said.

The panel’s dissenting judge, Harry Edwards, appointed by Democratic president Jimmy Carter, said the majority’s

judgment “defies the will of Congress and the permissible interpretations of the agencies to whom Congress has delegated the authority to interpret and enforce the terms of the ACA.”

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