



REFORM UPDATE

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THE SUPREME COURT RULES ON SUBSIDIES IN FEDERALLY-FACILITATED EXCHANGES

In *King v. Burwell*, the Supreme Court ruled in a 6-3 decision that subsidies provided in a federally-facilitated exchange are legal under the Affordable Care Act (ACA).

This case hinged on the literal reading of the ACA. The legislation says that subsidies are available in exchanges “established by the state.” The plaintiffs argued that the government overstepped its authority by deeming those four words to include subsidies in both state-run and federally-facilitated exchanges.

The Supreme Court decision, written by Chief Justice John Roberts, accepted the administration's argument that the ACA statute allows federal tax credits to be issued to people who buy health plans through a federally-run exchange. Joining Roberts in the majority decision were Justices Anthony Kennedy, Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor and Elena Kagan. Justices Antonin Scalia, Clarence Thomas and Samuel Alito dissented.

The majority opinion notes that the language of the ACA exchange tax credit provision is ambiguous. However, limiting the subsidies to state-run exchanges would destabilize the individual insurance market in any state with a federally-run exchange. To support the decision, Roberts cites an earlier ruling in which the court held that the court cannot interpret federal statutes to negate their own stated purposes.

If the court ruled for the plaintiffs, the impact of the ACA would change dramatically. Nearly 85 percent of individuals covered under exchange policies receive some financial subsidy, and many of these individuals would be unable to afford unsubsidized coverage. The impact of the employer mandate would also be diminished. All of the penalties associated with the employer “play or pay” requirement are triggered by at least one full-time employee receiving subsidized coverage in an exchange. If employers only operated in states with federally-run exchanges, no penalties could be assessed under the mandate.

This ruling means the ACA in its current form continues to apply to both individuals and employers.

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