

Businesses: Prepare For U.S. Supreme Court Health Insurance Exchange Ruling

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The U.S. Supreme Court is debating a controversial case challenging the legality of the IRS' decision to extend ACA premium tax credit subsidies to individuals who purchase health care coverage through the federally-run health insurance exchange. The decision could have a profound effect on how employers administer benefits, forcing significant changes to employer mandate compliance strategies.

Decision for Defendant (Burwell)

There will be little immediate impact should the Court agree with the administration's position that the statute's language is ambiguous and other sections of the statute suggest intent to provide subsidies in all exchanges. Thus, the ruling would be that the IRS has authority to allow them in the federally-run exchange based on its interpretation of the law. Employers hoping for relief from the employer mandate will need to put those thoughts aside and move forward with existing ACA compliance strategies.

Decision for Plaintiff (King)

The Court could agree with the plaintiff that the IRS does not have authority to allow subsidies in the federally-run exchange because the ACA's statutory language specifically limits subsidies to coverage purchased through exchanges "established by the state."

This decision means subsidies could cease for millions of Americans but the timing for when that might occur is uncertain, depending if or when Congress, the administration, or affected states implement a contingency plan. If a permanent fix is not implemented and subsidies end in the 34 states that rely on the federal exchange, it would mean disruption to employer and individual mandates and the stability of the federal exchange.

- Because employer penalties under the employer mandate are triggered by an employee receiving a subsidy, an employer cannot incur penalties under part (b) of the mandate for employees residing in the affected states and may be shielded from the mandate entirely if all of full-time employees reside only in those states.
- Individuals for whom unsubsidized exchange premiums are unaffordable would be exempt from the individual mandate and likely only those with significant health needs would remain enrolled, driving up premium costs.

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