

In the Spotlight: Supreme Court Rules on ACA Again

On June 25, 2015, the United States Supreme Court decided another major case regarding the Affordable Care Act (ACA). As you may recall, in 2012, the Court upheld the individual mandate but decided that the federal government could not make the Medicaid expansion, another key coverage provision of the ACA, mandatory for all states to implement. In *King v. Burwell*, the most recent Court challenge to the ACA, the Supreme Court upheld the federal government's interpretation that the ACA allowed consumers who purchase insurance through the Federally-facilitated Marketplace to receive premium tax credits from the government. In this *In the Spotlight*, we will review the elements of the latest ACA challenge and what it means to consumers, insurers and the health care industry into the future.

Background on the Case

Context & Legal Challenge

The *King v. Burwell* case focuses on a key requirement of the ACA, creation of new health insurance exchanges, now known as Marketplaces. In the new Marketplaces, consumers in any state are able to compare and shop for health insurance. Specifically, the law states that Marketplaces "shall be established by the State" and sets up a framework for establishing such a Marketplace. The ACA also states that premium tax credits are available to individuals enrolled in such Marketplaces to help consumers afford their coverage. If a state fails to establish a Marketplace itself, the ACA directs the federal government to establish a Marketplace in that state. The federal government has developed a Marketplace (referred to as the Federally-facilitated Marketplace) to be used in those states at Healthcare.gov.

The challenger in *King v. Burwell* argued that the federal government, in this case the Internal Revenue Service (IRS), had no authority to presume that premium tax credits should be available in the Federally-facilitated Marketplace. The challengers argued that because the Federally-facilitated Marketplace was not "established by the State," consumers in the Federally-facilitated Marketplace should not have access to premium tax credits. The challengers were taxpayers in Virginia, a state which did not establish a Marketplace. These taxpayers did not want to purchase health insurance, but, under the IRS's interpretation, qualified for premium tax credits from the federal government, which made such insurance affordable. Thus, the challengers were subject to the coverage requirement of the ACA. If premium tax credits had not been available, the cost of coverage would have been unaffordable by the ACA definition and the challengers would not have been required to purchase insurance.

Potential Implications

Many eyes were watching this Supreme Court case because it would have had big implications for those receiving premium tax credits to help pay for health insurance premiums. Across the country, consumers in 34 states rely on the Federally-facilitated Marketplace to apply for their insurance coverage since these states did not create a Marketplace themselves. Roughly 6.4 million Americans were at risk of losing their tax credits depending on the outcome of this case. On a monthly basis, those Americans could have lost access to a total of \$1.7 billion in premium support depending on the outcome of the case. The average premium tax credit received by an individual in the Federally-facilitated Marketplace is \$272 per individual each month. It is projected that health insurance

premiums would have risen 287% on average for consumers who received tax credits if premium tax credits were unavailable in Federally-facilitated Marketplace states.¹ This average premium rate increase is due solely to the loss of tax credits and does not account for the expected rate increases on all individual and small group plans for the population under age 65 due to changes in the risk pool for 2016. This means that had the Court decided in favor of the challengers, consumers with premium tax credits could have expected premium increases even higher than the 287%.

The potential impacts in North Carolina, a state without a Marketplace “established by the State” would have also been significant. With current enrollment through the Federally-facilitated Marketplace topping out at nearly 500,000 consumers, these consumers would stand to lose access to nearly \$145 million each month in federal premium tax credits. Premium tax credits for North Carolinians tend to be higher (per enrollee) than the national average, with consumers accessing an average \$316 per month. If the Supreme Court decided against premium tax credit availability in the Federally-facilitated Marketplace, North Carolinians could have expected to see their premiums rise 336% on average, due to loss of tax credits, alone.²

The Decision

The Supreme Court issued a 6-3 decision, which allowed premium tax credits to continue to be provided to eligible enrollees in states applying for health insurance through the Federally-facilitated Marketplace. The opinion of the Court, written by Chief Justice Roberts, stated that the three main components of the ACA-- guaranteed issue (which prohibits insurers from taking a person’s health into consideration when deciding whether to sell health insurance or how much to charge for such insurance), the individual mandate (which requires each person to maintain health insurance coverage or make a payment to the IRS), and premium tax credit (which makes insurance more affordable)---are intertwined and are all necessary to support ACA’s reforms. Without one component, the ACA would not function as intended. The Chief Justice’s opinion focused on reading the ACA in the context of the overall law, holding that when reading the ACA altogether, it is clear that Congress intended for premium tax credits to be available to consumers in both State and Federal Marketplaces.

What does this mean for my Health Insurance?

In a nutshell, the Supreme Court case means that there are no changes for consumers who receive premium tax credits through the Federally-facilitated Marketplace. Consumers in states with established state-based Marketplaces and consumers who access the Federally-facilitated Marketplace may continue to receive premium tax credits. Meanwhile, the federal government will continue to release rules, requirements and functionality for the Federally-facilitated Marketplace on course with its original plans.

The entire health care industry avoided significant disruption thanks to the outcome of this Supreme Court case. However, many believe the path forward for the health law may be far from smooth-sailing. Even if the Supreme Court does not take up additional legal challenges to the ACA, new Congressional challenges or by 2016 presidential candidates’ policies may attempt to limit funding or completely repeal parts or all of the ACA. In spite of those possibilities, health insurers, providers and others in the health care industry must carry on with the expectation that the ACA is here to stay.

¹ Kaiser Family Foundation. [State-by-State Effects of a Ruling for the Challengers in King v. Burwell](#). June 2015.

² See above.

BCBSNC Views

The outcome of the case is good news for the nearly 500,000 North Carolina customers who receive premium tax credits to offset the cost of monthly health insurance premiums. Blue Cross and Blue Shield of North Carolina (BCBSNC) has been operating under the assumption that the ACA would be upheld by the Court and, therefore, has been implementing the provisions of the law full steam ahead. The Court case clarifies the near term path forward, but the health care industry continues to grapple with issues of rising costs and lack of access to affordable care, even with ACA in place. BCBSNC has long supported affordability and access to health care for all North Carolinians. We are working diligently to implement programs to combat cost while offering high quality and accessible health care in compliance with the law. We expect this to continue to be an uphill climb as there are no easy solutions to some of the industry's greatest challenges.

For More Information:

Supreme Court website: [King v. Burwell Supreme Court Opinion](#)

Kaiser Family Foundation: [King v. Burwell: Resources on the U.S. Supreme Court Case](#)

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