

November 17, 2014

## Supreme Court to Hear Another PPACA Case

The U.S. Supreme Court has agreed to hear yet another case challenging the Affordable Care Act (ACA), this one related to the exchange (Marketplace) premium tax credits/subsidies. Justices announced they would hear review of *King v. Burwell*, a Fourth Circuit Court of Appeals case. The dispute in this case relates to the grant of premium subsidies to low- and moderate-income individuals who qualify for and purchase qualified plan coverage under an exchange. Public exchanges are either state-run or federally-facilitated. Most states decided not to run their own exchanges and instead are using the federally-facilitated exchange.

**The Dispute.** The issue is that the statutory language of the ACA law does not explicitly allow the government to subsidize premiums for people in the federally-facilitated exchange. The law does explicitly allow the government to subsidize premiums for enrollees on the state-run exchanges. Therefore, the IRS may be exceeding its authority by allowing the premium subsidies to be issued in all 50 states. A Supreme Court ruling to block the premium subsidies for people in the federally facilitated exchange could unravel the law and make certain other PPACA provisions ineffective. The Court will hear the case in March and a decision will come by June of 2015.

**The Consequences to Employers.** The Supreme Court ruling is of concern for employees (and their employers) relying on premium subsidies in states with federally-facilitated exchanges. Plan sponsors should keep in mind that the ruling does not affect any of the other ACA provisions affecting employer-sponsored health plans. Therefore, plan sponsors should continue with implementation of the ACA's employer reporting requirements, fee payments, and other group health plan requirements. If the ruling blocks the premium subsidies for people in the federally-facilitated exchange, premium subsidies will be available only for coverage purchased on state-run exchanges, which would have consequences for large employers that are subject to the ACA's employer shared responsibility or "pay-or-play" rules. For employers, a ruling to block the subsidies would be positive since employers are subject to a penalty only where one or more of their employees receives a premium subsidy for health coverage through the exchange. If no employee receives a subsidy, then there can be no liability for any penalty payments.

This legal battle is significant for the insurance market since a ruling blocking the premium subsidies for people in the federally-facilitated exchange means fewer people would purchase coverage. It could also be a huge problem for the federal treasury as it is expecting to collect billions through penalties imposed under the employer mandates.

Conner Strong & Buckelew will provide alerts and updates as new information is issued on this

important topic. Should you have questions about this or any aspect of federal health insurance reform, contact your Conner Strong & Buckelew account representative toll free at 1-877-861-3220. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online [Resource Center](#).



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