

Federal Judge Rules Against Subsidies

Oct. 01--A U.S. district judge in Muskogee sided with Oklahoma Attorney General Scott Pruitt on Tuesday in his lawsuit claiming the Affordable Care Act does not allow subsidies for health insurance purchased on the federal exchange in Oklahoma.

The ruling by U.S. District Judge Ronald A. White would effectively prevent Oklahomans below certain income levels from receiving federal tax credits to buy health care policies. However, White delayed his ruling pending a possible appeal by the Obama administration.

White, who was nominated to the bench by President George W. Bush, has had the state case for two years. His ruling Tuesday came after the same issue already has made it through two federal appeals courts -- one in Virginia and one in the District of Columbia -- and is now awaiting consideration by the U.S. Supreme Court; it is possible the high court could take up the matter sometime in the term that begins Monday.

It's a significant dispute because Oklahoma and 35 other states refused to set up their own health care exchanges -- or marketplaces -- from which consumers can choose insurance policies from various companies. If tax subsidies aren't available on the federal exchanges, millions of people likely would not be able to afford coverage, even though the law mandates that they buy a policy.

The two federal appeals courts issued conflicting rulings on the same day in July, with the Virginia-based court saying that Congress intended to provide subsidies regardless of whether coverage was purchased on a state or a federal exchange and the D.C. circuit court saying that the law only specifies subsidies for state-based exchanges.

In his ruling, White went with the D.C. court and said he was upholding the law as Congress wrote it since the wording of the Affordable Care Act does not specifically allow for subsidies on federal exchanges.

The IRS formulated a rule in 2012 that applied the subsidies to those who purchased insurance on federal exchanges, as well. White ruled Tuesday that the IRS rule was "arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law." And he noted that Congress could change the law to be more specific if the intent is to provide subsidies through federal exchanges.

Pruitt called the ruling "a consequential victory for the rule of law."

He said, "The administration and its bureaucrats in the IRS handed out billions in illegal tax credits and subsidies and vastly expanded the reach of the health care law because they didn't like the way Congress wrote the Affordable Care Act. That's not how our system of government works."

A Justice Department spokesman did not respond to an email asking whether White's ruling would be appealed to the 10th Circuit court in Denver.

In July, when the appeals courts ruled on the issue, White House spokesman Josh Earnest said the administration's viewpoint -- that Congress intended subsidies for both state and federal exchanges -- ultimately would prevail.

A high court decision against the subsidies in federal exchanges would virtually destroy the framework designed to make health care coverage affordable.

Pruitt said the issue likely would be decided by the U.S. Supreme Court.

"We look forward to making our case and continuing the effort to hold federal agencies accountable to their duty to enforce the laws passed by Congress," he said.

By Chris Casteel, The Oklahoman, Oklahoma City

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