

THE WALL STREET JOURNAL.

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <http://www.djreprints.com>.

<http://www.wsj.com/articles/supreme-court-upholds-obamas-health-law-subsidies-1434737182>

POLITICS | HEALTH POLICY

Supreme Court Upholds Obama's Health-Law Subsidies

Justices back foundation of Affordable Care Act

By JESS BRAVIN and LOUISE RADNOFSKY

Updated June 25, 2015 9:51 p.m. ET

WASHINGTON—The Supreme Court on Thursday upheld a pillar of the Affordable Care Act, rescuing for the second time the most ambitious social program in nearly 50 years and ensuring that the law's ultimate fate will be in the hands of the political process.

The 6-3 ruling, written by Chief Justice John Roberts, upheld a signature achievement of President Barack Obama's tenure. In buttressing the health law's legal foundation it raised the odds that it may become as entrenched as Social Security, Medicare and Medicaid.

The case turned on whether the law's wording allowed for federal subsidies to help lower-income Americans nationwide buy insurance. A contrary ruling could have stripped coverage from millions by making their plans too costly. And it would have thrown the insurance and medical industries into turmoil as the 2016 presidential race heats up.

Insurance and hospital businesses, which were preparing for disruptions to the health-care system if the government lost, breathed a sigh of relief and stocks in the companies rose.

"The Affordable Care Act is here to stay," Mr. Obama said at the White House, adopting a phrase used by cheering supporters of the law outside the Supreme Court.

Supreme Court Decisions of 2014-15



The president acknowledged setbacks in the law's implementation and the public's persistent ambivalence over it, and said much work remained to improve the health system. "But what we're not going to do is unravel what has now been woven into the fabric of America," the president said. "And my greatest hope is that

rather than keep refighting battles that have been settled again and again and again, I can work with Republicans and Democrats to move forward."

Republicans greeted the ruling with derision. They promised to continue fighting to strip away the law, potentially by applying pressure with budget tools even if they lack the power to repeal it outright.

In putting the health act's fate back in the hands of politicians, the court's ruling adds pressure on Republican presidential candidates to say how they will alter a law that most GOP voters still want overturned.

But the ruling also gives lawmakers some breathing room for the remainder of Mr. Obama's second term because they don't have to reckon with upheaval caused by the abrupt disappearance of subsidies that had already been distributed.

The Roberts decision frustrated what many conservatives believed was their best, and perhaps last, chance to gut Mr. Obama's signature domestic law.

The ruling said subsidized insurance policies would remain available to lower-income Americans nationwide. It rejected an argument by challengers, who contended wording in the statute prevented the government from extending subsidies in the form of tax credits to residents of some three dozen states that didn't set up their own insurance exchanges for people to buy policies.

 READ MORE ON CAPITAL JOURNAL

Capital Journal is WSJ.com's home for politics, policy and national security news.

- Roberts Charts Own Path (<http://www.wsj.com/articles/chief-justice-draws-republican-fire-for-supreme-court-health-care-ruling-1435261862?mod=capitaljournalrelatedbox>)
- Insurers and Hospitals Breathe Sigh of Relief (<http://www.wsj.com/articles/insurance-industry-relieved-after-supreme-court-upholds-health-law-1435245067?mod=capitaljournalrelatedbox>)
- Obama Says Health-Care Law 'Here to Stay' (<http://blogs.wsj.com/washwire/2015/06/25/obama-says-health-care-law-here-to-stay-in-wake-of-supreme-court-ruling/?mod=capitaljournalrelatedbox>)
- Ruling Caps Big Week for Obama (<http://www.wsj.com/articles/obama-has-a-good-week-1435253458?mod=capitaljournalrelatedbox>)
- Supreme Court Guide: Four Big Decisions Remain (<http://blogs.wsj.com/washwire/2015/06/25/supreme-court-guide-four-big-decisions-remain/?mod=capitaljournalrelatedbox>)
- With Supreme Court Health Law Ruling, Republicans Avoid Internal Fight on Subsidies (<http://www.wsj.com/articles/with-health-law-ruling-republicans-avoid-internal-fight-on-subsidies-1435252586?mod=capitaljournalrelatedbox>)
- After King v. Burwell Ruling, Health Law Issues Involve Implementation (<http://blogs.wsj.com/washwire/2015/06/25/after-king-v-burwell-ruling-health-law-issues-involve-implementation/?mod=capitaljournalrelatedbox>)
- What Legal Challenges Lie Ahead for Obamacare? (<http://blogs.wsj.com/law/2015/06/25/what-legal-challenges-lie-ahead-for-obamacare/?mod=capitaljournalrelatedbox>)
- A Gasp, Some Giggles and a Shrug: The Scene Inside the Supreme Court (<http://blogs.wsj.com/washwire/2015/06/25/health-care-subsidies-ruling-chief-justice-roberts-unemotional-scalias-dissent-draws-giggles/?mod=capitaljournalrelatedbox>)
- Supreme Court's Decision on Health-Care Law (<http://online.wsj.com/public/resources/documents/KingvBurwellOpinion06252015.pdf?mod=capitaljournalrelatedbox>)
- Unanswered Health Law Question: So Why Was It Written that Way? (<http://www.wsj.com/articles/unanswered-health-law-question-so-why-was-it-written-that-way-1435256767?mod=capitaljournalrelatedbox>)

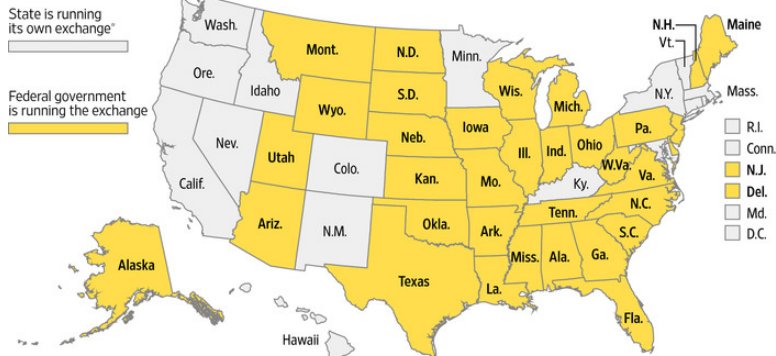
“Congress passed the Affordable Care Act to improve health insurance markets, not to destroy them,” Chief Justice Roberts wrote, joining with the court’s liberal wing and maverick conservative Justice Anthony Kennedy to back the law.

“If at all possible, we must interpret the act in a way that is consistent with the former, and avoids the latter,” he continued, echoing language he used in 2012 to uphold another centerpiece of the law, the requirement that most Americans carry health coverage or pay a penalty. In that ruling he defined the penalty for noncompliance as a tax.

The response from the GOP was defiant. “Republicans will continue to listen to American families and work to protect them from the consequences of Obamacare,” said House Speaker John Boehner (R., Ohio). “We will continue our efforts to repeal the law and replace it with patient-centered solutions that meet the needs of seniors, small-business owners, and middle-class families.”

Range of Exchanges

At least 34 states haven't set up their own health-insurance exchange, which means their residents must use the federal exchange, HealthCare.gov, to obtain policies under the Affordable Care Act.



THE WALL STREET JOURNAL.

The chief justice's opinion displayed confidence and commanded a solid majority, unlike the 2012 opinion where he made clear his distaste for elements of the law and found much of his reasoning disputed by the four liberal justices who nonetheless joined him in the outcome.

Justice Kennedy, a 2012 dissenter who then would have struck down the entire law as unconstitutional, joined liberal Justices Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor and Elena Kagan in full support of Chief Justice Roberts.

Justice Antonin Scalia, reading his dissent aloud in court to emphasize his displeasure, accused the chief justice of again performing “somersaults of statutory interpretation” to save a law from itself. “We should start calling this law SCOTUScare,” he said, using Washington shorthand for Supreme Court of the United States. Justices Clarence Thomas and Samuel Alito joined the dissent.

The ruling also relieves governors and state legislators, mostly Republicans, from the fallout of people losing credits. Meanwhile, more states that struggled to keep afloat their own exchanges may seek federal help. Hawaii officials announced shortly before the ruling they would abandon their exchange in favor of HealthCare.gov, the federal site.

The ruling was closely watched by consumers like Scott Trindl, a retired small-business owner in Waukesha, Wis., whose subsidy covers about half the cost of a plan he purchased through HealthCare.gov, the federal site that hosts exchanges for states such as Wisconsin. About 185,000 residents there had subsidies that would have been affected by the court's decision. “I was very happy to see the ruling,” said the 60-year-old.

“Knowing it is here to stay in some form is a huge relief,” said Cal Morris, 39, a Birmingham, Ala., coffee shop owner who buys coverage for his family on HealthCare.gov. A subsidy covers about \$275 of his family’s roughly \$600 monthly premium payment.

Thursday’s case turned on the question of interpreting four words in the statute. At issue was a provision authorizing subsidies for policies purchased on insurance exchanges “established by the State.”

The Internal Revenue Service had concluded there was no difference between exchanges run by state governments and HealthCare.gov, which is operated by the U.S. Department of Health and Human Services.

The tax credits are key to the law’s sweeping ambitions to extend insurance to millions of Americans, and are closely tied with its requirement for insurers to sell coverage to healthy and sick people alike, and its “individual mandate” that requires most people to get coverage or pay a penalty.

The lawsuit contended the statute’s language restricted the tax credits to the 13 states that actively set up their own exchanges. Had the challenge succeeded, almost 6.4 million people who hold the credits everywhere else would have seen them vanish, and the law’s remaining provisions also would have been imperiled.

Chief Justice Roberts’s 21-page opinion adopted reasoning put forth by the Obama administration, which pointed to other sections of the law as proof that the legislation assumed the tax credits would be available in every state.

The law “grew out of a long history of failed health insurance reform,” Chief Justice Roberts said, and drew on prior experiments to design “a series of interlocking reforms” to expand coverage. While the “plain meaning” of “established by the State” might seem to preclude the federal exchange, a different picture emerged by examining myriad cross-references and related provisions throughout the statute, he wrote.

The Competitive Enterprise Institute, a conservative advocacy group that funded the lawsuit and recruited four Virginia residents to serve as plaintiffs, slammed the decision. “Today’s ruling is a tragedy for the rule of law in our country,” said Sam Kazman, the group’s general counsel. Now, he said, it fell to Congress to keep “the executive branch and its agencies in check” even as it “deals with the problems created by Obamacare.”

—*Christopher Weaver and Kristina Peterson contributed to this article.*



Jessica Ellis, right with “yay 4 ACA” sign, and other supporters of the Affordable Care Act react with cheers to the high court’s decision outside of the Supreme Court in Washington Thursday PHOTO: JACQUELYN MARTIN/ASSOCIATED PRESS

Write to Jess Bravin at jess.bravin@wsj.com and Louise Radnofsky at louise.radnofsky@wsj.com

Copyright 2014 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com.