

Back On Track!

Supreme Court Upholds Affordable Care Act Tax Credits

The Affordable Care Act requires the creation of an "Exchange" in each state through which individuals can purchase health insurance. If the state does not create the Exchange, the federal government must establish the Exchange within the state. Petitioners in the case, *King et al v. Burwell, Secretary of Health and Human Services, et al*, 576 U.S. ____ (2015), argued that the plain meaning of the Act's language provided tax subsidies only to low income individuals who purchased insurance through a state Exchange.

In a decision announced today, the Supreme Court upheld the payment of tax credits to low income individuals purchasing health insurance through the federal Exchange. Writing for the majority, Chief Justice Roberts stated that "the context and structure of the Act compel us to depart from what would otherwise be the most natural reading" of the Act and conclude that the tax credits are available whether insurance is bought on a state Exchange or on the federal Exchange. Chief Justice Roberts said that the tax credit provision had to be read taking into account the total construct of the Act and that a plain meaning approach to the statutory language was not the right standard of review.

Chief Justice Roberts wrote in his opinion that an opposite conclusion reached by the Supreme Court would result in a "death spiral" in that only the sickest individuals would purchase insurance on the Exchange and the cost of insurance would skyrocket. Roberts stated that the ACA adopted a three-pronged approach to insurance reform and that all three prongs must be present to avoid the death spiral. First, insurance coverage must be available to all individuals whether sick or healthy and the cost of the insurance must be the same for sick and healthy insureds. Second, the ACA requires individuals to purchase health insurance or else pay a fine. And, third, the ACA seeks to make health insurance affordable to low income individuals purchasing insurance through the use of tax credits. This allows those individuals to purchase insurance that would otherwise be unaffordable, thereby guaranteeing that healthy individuals purchase insurance on the Exchanges and offset the cost of the less healthy. If the tax credit was unavailable to individuals purchasing insurance on the federal Exchange, the three pronged system of the ACA would collapse.



by Alison E. Wright

For employers, the Supreme Court's decision means it is time to get back on track with ACA compliance. 2015 continues to be a year of changes under the ACA. New regulations were published this month regarding the Summary of Benefits and Coverage and Uniform Glossary, which will require employers to update their summaries prior to open enrollment in the fall of 2015. And, of course, the number one compliance issue on employers' minds is the information reporting due to employees and the IRS in early 2016 regarding the offer of health care coverage to employees and their dependents in 2015. Insurers and small employers with self-insured plans are required to report information to the employees and the IRS on Forms 1094-B and 1095-B. Large employers with an average of 50 or more full-time equivalent employees have an even tougher task to complete Forms 1094-C and 1095-C. Employers will be required to gather a tremendous amount of information in order to complete the filings. Reporting will require input from Human Resources, Benefits and Payroll, and coordination with IT groups and third party vendors. Contact us to schedule a multi-department training session on the reporting requirements.

With the Supreme Court eliminating the final hurdle to the ACA, employers should no longer delay in complying with the ACA. For more information, please contact the Hanson Bridgett LLP Employee Benefits Group.

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