

# US Supreme Court upholds Obamacare subsidies

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The US Supreme Court on Thursday upheld a critical component of the Affordable Care Act, ruling 6-3 in *King v. Burwell* that tax subsidies could be provided to those purchasing insurance coverage on all of the exchanges set up under the law.

Chief Justice John Roberts wrote in the majority opinion that Congress clearly intended for the tax subsidies to be available in all 50 states. He was joined by Justices Anthony Kennedy, Ruth Bader Ginsburg, Sonia Sotomayor and Elena Kagan. Justice Antonin Scalia dissented, joined by Justices Clarence Thomas and Samuel Alito.

At issue was a four-word phrase in the 900-page legislation commonly referred to as Obamacare, which reads that subsidies are available to those buying insurance on exchanges “established by the State.” As only 13 states and the District of Columbia have set up their own exchanges, plaintiffs in the case argued that those buying coverage on the HealthCare.gov exchange set up by the federal government should be ineligible for subsidies.

The Opinion of the Court, written by the chief justice and joined by fellow conservative Kennedy as well as the four justices of the high court’s liberal wing, clearly comes down in favor not only of the subsidies, but of Obama’s signature legislation as a whole. It states: “Congress passed the Affordable Care Act to improve health insurance markets, not to destroy them.”

The opinion argues that without the subsidies the two other main components of the ACA—guaranteed and equal access to insurance coverage, and the “individual mandate” requiring individuals to obtain insurance or pay a penalty—would collapse, sending the insurance market into a “death spiral,” causing premiums to spike and leading to an exodus of insurers from the ACA exchanges.

Last July, the Fourth US Circuit Court of Appeals in Richmond, Virginia, upheld the federal exchange subsidies on the basis that the Internal Revenue Service had interpreted the seemingly ambiguous language in the law to mean that subsidies should apply in all states. The high court’s decision goes further, stating that, placed in the context of the legislation as a whole, the language was not essentially ambiguous and the ACA should allow for subsidies on the federal exchange.

While a number of leading Republicans remain vocal critics of Obamacare (reflected in Scalia’s angry and rambling dissent), the Supreme Court’s 6-3 ruling in *King* is indicative of a growing consensus in ruling circles that the Affordable Care Act is proving to be a valuable tool for cutting health care costs for the government and corporations and boosting the profits of the insurers and health care industry.

In 2012, the Court ruled 5-4 to uphold key provisions of Obamacare, including the reactionary individual mandate, while ruling that the federal government could not force states to expand their Medicaid programs.

Opponents of the legislation have little to propose in its place, and many Republicans were secretly relieved with Thursday’s ruling, as it meant they would not have to deal with the fallout if subsidies were suddenly cut off.

Speaking at the White House Thursday, President Obama hailed the Supreme Court decision, stating, “The Affordable Care Act is here to stay,” He attempted to place Obamacare on a par with the landmark social reforms of previous generations, saying that with the ACA, “This generation of Americans chose to finish the job” begun by Social Security and Medicare.

“As the law’s provisions have gradually taken

effect,” Obama said, “more than 16 million uninsured Americans have gained coverage so far. Nearly one in three Americans who was uninsured a few years ago is insured today.”

What the president sought to cover up, however, is the experience of millions of people signing up for coverage on the exchanges, who have been hit with skyrocketing premiums for barebones coverage. Individuals and families have also discovered that this insurance often comes with deductibles in excess of \$5,000 annually before coverage even kicks in.

This is because Obamacare is, in fact, a counter-reform aimed at funneling billions of dollars to the private insurers while rationing health care for the vast majority of Americans. It requires individuals to purchase insurance from private companies or face a fine. The insurance companies then have an incentive to cut back on services and increase rates.

The legislation has also encouraged many private corporations to shed their own health care plans and push workers onto the health care exchanges.

Perhaps the one truth the president spoke from the Rose Garden was when he said that Obamacare “has never been a government takeover of health care, despite cries to the contrary.”

With near universality, the media described the Supreme Court’s ruling as rescuing millions of Americans from the threatened loss of their subsidies and cementing Obama’s place in history as a health care reformer.

Typical were the comments posted Thursday afternoon in a news analysis piece in the *New York Times* headlined: “Obama Gains Vindication and Secures Legacy with Health Care Ruling.”

Michael D. Shear writes: “The Supreme Court decision on Thursday to uphold most insurance subsidies in President Obama’s health care law is a validation of an effort to fulfill the promise of expanding health care that has been the aspiration of every Democratic president since Harry S. Truman.”

The erstwhile liberal *Times* has been one of the key backers of Obamacare, combining support for the retrograde legislation with calls for cutbacks on unnecessary and “lavish” spending on life-saving medicines, screenings and procedures for ordinary Americans.

Meanwhile, an indication of the corporate support for

the ACA was on display Thursday, when health care stocks rallied after the high court ruling upholding the tax subsidies. The S&P 500 health care index rose 0.5 percent on the news.

Hospital operators are among the biggest beneficiaries, now assured that the growing number of paying customers created by Obamacare will not evaporate. S&P 500’s biggest gainer of the day was Tenet Healthcare, jumping 12 percent to \$56.21, followed by HCA Holdings, up 8.8 percent to \$90.72. Universal Health Services rose 7.7 percent, to \$140.78.



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