

What the Supreme Court health care ruling means for Utahns

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Washington - The Supreme Court on Thursday upheld the nationwide tax subsidies under President Barack Obama's health care overhaul, in a ruling that preserves health insurance for millions of Americans.

The justices said in a 6-3 ruling that the subsidies that 8.7 million people currently receive to make insurance affordable do not depend on where they live, under the 2010 health care law.

The outcome is the second major victory for Obama in politically charged Supreme Court tests of his most significant domestic achievement.

In Utah, health care advocates and Utah Democrats cheered the ruling. Republicans were disappointed.

Jason Stevenson, communications director for Utah Health Policy Project, was unsurprised but relieved by the decision.

"This enables tens of thousands of Utah families to continue to be protected by the health care they're already paying for," Stevenson said. "It just continues the access that Utahns have shown a great interest in."

And Shaun Greene, chief operating officer for Arches Health Plan, said ACA is immature and needs work, but a ruling against the subsidies would have meant massive disruption in the insurance markets.

"That collective sigh of relief you hear is coming from all the insurers in the state," Greene said. "It's nice to see common sense prevail."

Gov. Gary Herbert, however, said he was "very disappointed" by the ruling and will support Republican efforts in Congress to repeal and replace Obamacare "with policies that provide access while addressing the rising cost of health care."

Nonetheless, Herbert said in a statement that he will work to maximize state flexibility in health care reform. "We must ensure federal tax dollars Utahns pay under this law provide optimal benefit to our state."

With Thursday's ruling, which essentially upholds the ACA, the governor's office and state lawmakers will have to continue negotiating a Medicaid expansion. Conservative state legislators rejected Herbert's proposal, "Healthy Utah," during the 2015 Legislature.

Rep. Jim Dunnigan, R-Taylorsville, and House majority leader, was disappointed by the Court's decision, even though he was not surprised.

"There are many problems and challenges with Obamacare and it would have been nice to have Congress have the chance to retool it," said Dunnigan, an insurance company owner and key legislative thinker on health care reform.

Having the case settled removes one more piece of uncertainty as the Gang of Six — the governor, lieutenant governor, House speaker, Senate president, Dunnigan and Sen. Brian Shiozawa — strive to develop an alternative Medicaid expansion plan, Dunnigan said. He and Shiozawa were sponsors to the rival House and Senate bills on Medicaid expansion last session.

"It has been a big cloud of uncertainty and now that uncertainty is gone so we can continue to work," Dunnigan said. "This is an ambitious undertaking. It's doable, but there is still a lot of work to be done."

Utah House Democratic Whip Rebecca Chavez-Houck said, "There are no more 'red herrings' to fish out. The Affordable Care Act has provided accessible health coverage to so many Utahns, and now it is time to insure many more."

Chief Justice John Roberts again voted with his liberal colleagues in support of the law. Roberts also was the key vote to uphold the law in 2012. Justice Anthony Kennedy, a dissenter in 2012, was part of the majority on Thursday.

"Congress passed the Affordable Care Act to improve health insurance markets, not to destroy them," Roberts wrote in the majority opinion.

Nationally, 10.2 million people have signed up for health insurance under the Obama health overhaul. That includes the 8.7 million people who are receiving an average subsidy of \$272 a month to help pay their insurance premiums.

Of those receiving subsidies, 6.4 million people were at risk of losing that aid because they live in states that did not set up their own health insurance exchanges.

The challenge devised by die-hard opponents of the law, often derided by critics as "Obamacare," relied on four words — established by the state — in the more than 900-page law.

The law's opponents argued that the vast majority of people who now get help paying for their insurance premiums are ineligible for their federal tax credits. That is because roughly three dozen states opted against creating their own health insurance marketplaces, or exchanges, and instead rely on the federal healthcare.gov to help people find coverage if they don't get insurance through their jobs or the government.

In the challengers' view, the phrase "established by the state" demonstrated that subsidies were to be available only available to people in states that set up their own exchanges. Those words cannot refer to exchanges established by the Health and Human Services Department, which oversees healthcare.gov, the opponents argued.

The administration, congressional Democrats and 22 states responded that it would make no sense to construct the law the way its opponents suggested. The idea behind the law's structure was to decrease the number of uninsured. The law prevents insurers from denying coverage because of "pre-existing" health conditions. It requires almost everyone to be insured and provides financial help to consumers who otherwise would spend too much of their paycheck on their premiums.

The point of the last piece, the subsidies, is to keep enough people in the pool of insured to avoid triggering a so-called death spiral of declining enrollment, a growing proportion of less healthy people and premium increases by insurers.

More than two-thirds of the 128,220 Utahns who are paying for insurance this year via the federal exchange — 86,330 — get subsidies from the government that help them pay for it. A whopping 22 percent of them are children under 18, the highest percentage of any state, and 55 percent are 34 and under.

And Salt Lake City resident Sonja Blackham, who with her husband gets a subsidy that reduces their insurance costs from about \$450 per month to \$100 per month, was thrilled.

"I'm grateful for my family and all the other families that are getting the subsidies," Blackham said Thursday morning.

The Supreme Court decision makes it harder for Congress to kill the ACA, she said. "It's going to be harder and harder to go against it (ACA) now."

UHPP helps people sign up for insurance, and Stevenson had worried that many low-income people would stop paying if they lost their subsidies, which average more than \$200 a month.

"We knew people who were getting chemotherapy right now who were very worried they would get stuck," he said.

Several portions of the law indicate that consumers can claim tax credits no matter where they live. No member of Congress said that subsidies would be limited, and several states said in a separate brief to the court that they had no inkling they had to set up their own exchange for their residents to get tax credits.

The 2012 case took place in the midst of Obama's re-election campaign, when he touted the largest expansion of the social safety net since the advent of Medicare nearly a half-century earlier. But at the time, the benefits of the Affordable Care Act were mostly in the future. Many of its provisions had yet to take effect.

In 2015, the landscape has changed, although the partisan and ideological divisions remain for a law that passed Congress in 2010 with no Republican votes.

The case is *King v. Burwell*, 14-114.

After the ruling, Utah Sen. Orrin Hatch advocated for a Republican alternative that he helped write, the Patient CARE Act.

"Obamacare has been a series of broken promises from the start," Hatch said. "From skyrocketing costs to less access to care and more bureaucratic control of the healthcare system, the President's law has failed patients and taxpayers. And, unfortunately, absent a cooperative President, the negative consequences of Obamacare will continue. The American people deserve better."

He said GOP lawmakers "plan to reverse this course by repealing and replacing Obamacare with reforms that put patients — not Washington — first."

Salt Lake Tribune reporter Kristen Moulton contributed to this story.