

Conflicting court rulings may slow Medicaid expansion decision in Utah

By [Lisa Riley Roche](#)

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SALT LAKE CITY — Legislative action on Gov. Gary Herbert's proposed alternative to Medicaid expansion could be pushed back until next year as a result of conflicting appeals court rulings on the Affordable Care Act issued Tuesday.



"It puts more uncertainty into a law that already has much uncertainty and ambiguity. I think you've got to allow some time for it to sort out," said Rep. Jim Dunnigan, House chairman of the Legislature's Health Reform Task Force.

The conflicting rulings from appeals courts in Washington, D.C., and Richmond, Virginia, deal with the subsidies available to low- and middle-income Americans to help them cover the cost of their health insurance premiums, not Medicaid expansion.

But the House Republican said that doesn't mean they still won't stall the governor's hopes of getting his Healthy Utah plan to provide health care coverage for low-income Utahns approved in a special session of the Legislature this fall.

Dunnigan said the new rulings reinforce the reluctance of GOP lawmakers who have already balked at taking action on Medicaid expansion during this year's legislative session, instead referring the issue to the task force for further study.

"I think it is going to be more likely that's it's going to be a regular session item," Dunnigan said, handled during the 2015 Legislature that doesn't begin meeting until late January.

House Speaker Becky Lockhart, R-Provo, an opponent of the governor's plan to spend the nearly \$300 million in Medicaid expansion money available under the Affordable Care Act, also known as Obamacare, said lawmakers may not consider it then, either.

Lockhart, who is not seeking re-election but is viewed as a challenger to Herbert in 2016, said the task force may come up with a new plan to cover low-income Utahns that doesn't rely on Medicaid money.

A similar proposal advanced by Lockhart, Dunnigan and other House Republicans also failed to win support last session. But Lockhart said at this point, "it would be incredibly unwise" for lawmakers to agree to take the Medicaid funds.

"The Legislature likes to have good information for us to make decisions," the speaker said, but now, faced with "more and more of that uncertainty, that's making us very uncomfortable."

Herbert's spokesman, Marty Carpenter, said the governor still intends to seek legislative approval of his plan as soon as he can secure the needed waivers from the Obama administration.

"We're going to continue to move forward on the timeline we have," Carpenter said.

The waivers could come after the governor's next visit to Washington in early September, he said, which would allow for a special legislative session this fall.

Carpenter said the Healthy Utah plan is an attempt "to fix something broken from the get-go," by providing health care to Utahns earning less than 100 percent of poverty who are in the so-called coverage gap and don't qualify for subsidies.

Supporting the governor's plan is a good decision "for all of us who believe there are significant problems with the Affordable Care Act," Carpenter said, calling it a plan "to take care of people who were already left out in the cold."

Jason Stevenson, education and communications director for the Utah Health Policy Project, said the court rulings have no immediate impact on Utahns and they shouldn't be discouraged from utilizing the health care law.

More than 84,000 Utahns have signed up for coverage through the federal exchange, and 87 percent qualify for subsidies, Stevenson said, but none are expected to be affected as the ruling that went against the health care law is appealed.

Tuesday, the Washington court ruled that residents in 36 states, including Utah, that use the federal government's health care exchange to provide insurance under President Barack Obama's signature program don't qualify for premium subsidies.

But just hours later, the Virginia court ruled just the opposite, that Congress intended residents of all 50 states to be able to purchase subsidized coverage no matter who runs their state's health care exchange.

Stevenson said lawmakers should realize the court rulings have nothing to do with Medicaid expansion.

"They're looking for a reason to take the slow approach," he said. "They've had two years to study this issue. ... Meanwhile, there's a huge number of Utahns who don't have insurance."