Health Care Reform
**Bulletin**

# Federal Judge Rejects ACA Lawsuit Over Exchange Subsidies

Provided by GTPS Insurance Agency

**Quick Facts**

- Several individuals and employers filed a lawsuit challenging the availability of subsidies in states that did not establish their own Exchanges.
- On Jan. 15, 2014, a federal district court judge rejected the challenge.
- Several other lawsuits are currently pending in federal courts to address similar issues.
- These cases may have a significant impact on employers as a result of the ACA's employer mandate.

On Jan. 15, 2014, a federal district court judge ruled that subsidies can be provided to individuals in all states, including those with federally-facilitated Exchanges.

On May 2, 2013, several individuals and employers filed a lawsuit challenging the ability of the federal government to provide tax credits under the Affordable Care Act (ACA) to individuals in states that did not establish their own Exchanges (that is, in states with federally-facilitated Exchanges, or FFEs). This case, *Halbig v. Sebelius*, was filed in response to an Internal Revenue Service (IRS) rule that authorizes subsidies in all states, including those with FFEs.

On Jan. 15, 2014, a federal district court judge **rejected the challenge**, ruling that the subsidies can be provided to individuals in states with FFEs.

**Health Insurance Subsidies**

The ACA created health insurance subsidies to help eligible individuals and families purchase health insurance through an Exchange. By reducing a taxpayer's out-of-pocket premium costs, the subsidies are designed to make coverage through an Exchange more affordable.

There are two federal health insurance subsidies available with respect to coverage through an Exchange—premium tax credits and cost-sharing reductions. Both of these subsidies vary in amount based on the taxpayer's household income and reduce the out-of-pocket costs of health insurance for the insured.

- Premium tax credits are available for people with somewhat higher incomes (up to 400% of FPL), and reduce out-of-pocket premium costs for the taxpayer.
- Reduced cost-sharing is available for individuals with lower incomes (up to 250% of FPL). Through cost-sharing reductions, these individuals will be eligible to enroll in plans with higher actuarial values and have the plan, on average, pay a greater share of covered benefits. This means that coverage for these individuals will have lower out-of-pocket costs at the point of service (for example, lower deductibles and copayments).

**Overview of *Halbig v. Sebelius***

This lawsuit was filed by several individuals and employers in states that have FFEs. They argued that the IRS rule authorizing subsidies in all states conflicts with the text of the ACA. They assert that, according to the law's plain language, the ACA only authorized subsidies to

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be provided in states that have established their own Exchanges.

However, the federal district court judge ruled that the language of the statute, along with the structure and purpose of the law, make it clear that Congress intended to make premium tax credits available in both state-based Exchanges and FFEs. The judge noted that “there is no evidence that either the House or Senate considered making tax credits dependent upon whether a state participated in the exchanges. To the contrary, Congress assumed that tax credits would be available nationwide.”

As a result, the court denied the plaintiff’s challenge, determining that the IRS rule is consistent with the intent of Congress. According to the court, the ACA must be read to authorize subsidies in all states, including those with FFEs.

**Impact on Employers**

Following this ruling, federal subsidies will continue to be available to eligible individuals in all states, including those with FFEs.

This may have significant implications for employers as a result of the ACA’s employer mandate. Under the employer mandate, large employers may face penalties if they do not offer coverage to their full-time employees that meets certain requirements.

However, penalties apply only if an employee receives a subsidy to buy coverage through an Exchange. If the subsidy is available only in state-based Exchanges, employers would not be subject to penalties for employees living in states with an FFE.

**Other Lawsuits**

Although one federal judge has ruled that subsidies are available in all states, other lawsuits challenging the subsidies in states with FFEs are still pending in federal courts. Depending on the outcome of these cases, they may have an impact on the availability of subsidies in certain states. In addition, although the U.S. Supreme Court has not yet agreed to consider it, it may decide to take up the issue in the future.

Oklahoma Attorney General Scott Pruitt filed a similar lawsuit challenging the IRS ruling. This lawsuit argues that Oklahoma businesses should not be subject to the ACA’s employer mandate because the law only provides for the tax to be collected in states with a state-based Exchange, as opposed to an FFE. In August, an Oklahoma federal judge allowed the suit to proceed; however, the case is still pending.

Likewise, Indiana Attorney General Greg Zoeller filed a lawsuit against the IRS challenging its authority to fund subsidies for individuals and penalize public employers that don’t meet the employer mandate. This case is also pending.

**More Information**

Please contact GTPS Insurance Agency for more information on the ACA’s federal subsidies or the employer mandate.