***NEWS RELEASE***

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Citizens’ Council for Health Freedom Files Amicus Brief in Landmark King v. Burwell Obamacare Case

Supreme Court Agrees to Hear Arguments on March 4

ST. PAUL, Minn.— 2015 is gearing up to be the year Obamacare will take even more money out of Americans’ pockets.

For one, as of Dec. 31, 2014, the government has ended federal subsidies to primary care doctors who treat Medicaid patients. It’s not a positive math equation for physicians, who may see more Medicaid patients but receive less money to cover the costs of their care.

Also, residents who live in states that have not set up Obamacare exchanges of their own may lose their subsidies for government health care coverage if the Supreme Court rules in favor of the plaintiffs in the landmark case King v. Burwell, which, says Citizens’ Council for Health Freedom (CCHF, www.cchfreedom.org), could unravel Obamacare.

“King v. Burwell could finally be the death of Obamacare,” said CCHF President and Co-Founder Twila Brase, “because the architects of the Affordable Care Act all along have said that the federal health care plan needs the state exchanges to survive. With so many states choosing not to create their own exchanges, or to back away from their problem-plagued exchanges, federal subsidies cannot be issued in these states, per the clear letter and intent of the law. The language is very clear, and we believe the Supreme Court will agree.”

The Supreme Court has announced it will begin to hear oral arguments in King v. Burwell on March 4, and CCHF, in partnership with the Association of American Physicians and Surgeons, Inc., and along with individual physicians in support of the petitioners, filed an amicus brief in the case, which argues why federal subsidies should not be used in states without their own exchanges.

The 49-page brief highlights several points, including:

Point 1: The Chevron test

The “Chevron test,” named for a past Supreme Court case, contains two steps for courts to follow in reviewing agency interpretations of law: 1) The first step asks whether Congress has
“directly spoken to the precise question at issue,” an inquiry that requires an assessment of whether Congress’s intent is “clear” and “unambiguously expressed.” 2) The second step asks whether the agency’s interpretation is “permissible” or reasonable in light of the underlying law.

CCHF argues in its brief that an initial step, or “Step Zero,” needs to be added before either step.

“That step,” Brase says, “should be the initial inquiry into whether the Chevron framework applies at all.”

The brief continues, “Because (the writers of the brief) believe the Statutory Grants are fatally flawed, this case presents a perfect opportunity to transform the Chevron test from a two-step to a three-step analysis by adding a Step Zero.”

Point 2: The Court would become embroiled in the legislative process if it accepts an IRS construction of a statute which contradicts the plain words of that statute

CCHF also argues if the subsidies are allowed to stand, “implied ratification of the (IRS) regulations would create a dispensing power in the IRS and would allow the IRS to pick and choose which statutes to faithfully execute.”

Point 3: Congress clearly defined “Exchange” in the Affordable Care Act

CCHF points out that Congress clearly defined the word “Exchange” in the Affordable Care Act, and the IRS may not alter the definition of words Congress has defined in legislation.

After Congress defined the word “Exchange” as state-created, it used the word almost 300 times in Title I of the Affordable Care Act. “Therefore,” the brief reads, “the IRS may not redefine the word ‘Exchange’ to encompass an FCX because such redefinition by the IRS supplants legislation in violation of the Bicameral and Presentment Clauses. … Although not every administrative action is subject to the bicameralism and presentment requirements, those requirements must be met whenever legislative power is exercised.”

Obamacare architect Jonathan Gruber faced heated opposition in 2014 when uncovered videos showed him mocking the “stupidity” of the American people, admitting that Obamacare was pushed through by deceit and boasting about the Obama administration’s ability to take advantage of voters through deception.

According to CCHF’s brief, “Two years ago, Professor Jonathan Gruber made the statement that ‘if you’re a state and you don’t set up an Exchange, that means your citizens don’t get their tax credits.’ Whether not his statement was ‘off the cuff’ or has been disavowed, or even taken out of context, that quotation crystallizes the issue in this case. As a major contributor to the drafting, passage and implementation of ACA and as a member of the M.I.T. Economics Department, Professor Gruber’s admission carries great weight. In Section 1311, Congress explicitly defined the word ‘Exchange’ as a State-created entity. Subsection 1311(b)(1) provides: ‘Each State shall,
not later than January 1, 2014, establish an American Health Benefit Exchange (referred to in this title as an “Exchange”) for the State …. ’ Because this definition applies (and the ‘E’ is capitalized) throughout Title I of ACA, there are no exceptions.”

Said Brase, “We are a nation of laws. We are under the rule of law. It's time for the Obama administration to follow the law as written.”

Citizens’ Council for Health Freedom is a patient-centered national health freedom organization based in St. Paul, Minn., that works to protect health care choices and patient privacy. CCHF sponsors the daily, 60-second radio feature, Health Freedom Minute, which airs on approximately 350 stations nationwide, including 200 on the American Family Radio Network and 100 on the Bott Radio Network. Listeners can learn more about the agenda behind health care initiatives and steps they can take to protect their health care choices, rights and privacy.

CCHF president and co-founder Twila Brase, R.N., has been called one of the “100 Most Powerful People in Health Care” and one of “Minnesota’s 100 Most Influential Health Care Leaders.” A public health nurse, Brase has been interviewed by CNN, Fox News, Minnesota Public Radio, NBC Nightly News, NBC’s Today Show, NPR, New York Public Radio, the Associated Press, Modern Healthcare, TIME, The Wall Street Journal, The Washington Post and The Washington Times, among others. She is at the forefront of informing the public of crucial health issues, such as intrusive wellness and prevention initiatives in Obamacare, patient privacy, informed consent, the dangers of “evidence-based medicine” and the implications of state and federal health care reform.

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