

NEWS RELEASE

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Citizens' Council for Health Freedom: Obama Administration Concedes Obamacare Failures

As SCOTUS' King v. Burwell Decision Looms, Administration Declares High-Risk Pools for Those with Serious Pre-Existing Conditions 'Compliant'

ST. PAUL, Minn.—There was once a time when a citizen who had a serious pre-existing condition, had no access to employer health care, and was unable to obtain individual coverage from a traditional insurance company, could join a “high-risk pool” in nearly three-quarters of U.S. states and have his or her medical needs met.

Then, once the Affordable Care Act (ACA) came along, all that changed, and the law said that these high-risk pools were not Obamacare-compliant.

But the Obama Administration has changed its tune, and has issued a new proposed rule saying these high-risk pools are, indeed, Obamacare-compliant.

Why the sudden change of heart? *Citizens' Council for Health Freedom (CCHF*, www.cchfreedom.org), a Minnesota-based national organization dedicated to preserving patient-centered health care and protecting patient and privacy rights, says the flip-flopped rule change points convincingly to the administration's uncertainty about a pending landmark Supreme Court case that could unravel Obamacare.

“With the new rule that was issued before the holidays, the Obama Administration is essentially making a concession over its Obamacare failures,” said CCHF president and co-founder Twila Brase. “Conveniently, these regulations were changed fewer than three weeks after the Supreme Court agreed to hear the case King v. Burwell, which, if decided in favor of the plaintiffs, could completely dismantle the Affordable Care Act.”

In King v. Burwell, the plaintiff, King, argues that HealthCare.gov, the federal insurance exchange, should not be able to offer subsidies to residents living in the 36 to 37 states that do not have their own exchanges, according to the way the law is written.

Before the Affordable Care Act was passed in March 2010, 35 states offered high-risk pool coverage for people with serious pre-existing conditions, such as cancer and HIV/AIDS. Traditionally, insurance companies would not cover many of these patients, but they were able to

join these state programs, pay higher rates and get covered for their care. But when the ACA became law, these pools were deemed non-compliant and every insurance company was required to cover all pre-existing conditions. Twenty-five of the 35 states discontinued their pools, but 10 have not.

Soon after the Supreme Court announced it would take on *King v. Burwell*, the Obama Administration changed the rule, stating that high-risk pools are now compliant. However, in the wording of the law, Brase notes, high-risk pools are not considered Obamacare-compliant coverage.

According to the National Association of Health Underwriters' web site, high-risk pools are private, self-funded health insurance plans organized by states to serve high-risk individuals who meet enrollment criteria and do not have access to group insurance. In most states, they are independent entities governed by their own boards and administrators, but in some states they function as part of the state's department of insurance.

“These new rules are the Administration’s admission that *King v. Burwell* may be a defeat for Obamacare,” Brase said. “Health and Human Services Secretary Sylvia Mathews Burwell has said in a Congressional hearing alongside discredited Obamacare architect Jonathan Gruber that ‘nothing has changed’ with the Affordable Care Act, when pressed about why officials have not told citizens that their coverage could disappear by next summer if *King* is victorious in this landmark case.

“This is a typical bureaucratic response,” she continued. “Never concede. Obamacare officials didn’t concede their utter failure to Congress, and they have no contingency plans. The Obama Administration has not told enrollees that they may be without coverage by July if the SCOTUS decision comes down in June. But this abrupt rule change is, itself, a concession. If SCOTUS rules in favor of *King*, and if most states can no longer offer subsidies, then at least those with pre-existing conditions can find coverage off the federal exchange, now that Obama has suddenly declared these plans ‘compliant.’ That way, the Administration can try to win political points by claiming to be helping those who need coverage.”

The new regulations are in no way a “fix” for the floundering Obamacare, Brase added.

“The prospect of ‘fixing’ Obamacare has never been, and will never be, viable,” she said. “The only fix is repeal.”

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For more information or to interview Twila Brase, president and co-founder of *Citizens’ Council for Health Freedom*, contact Deborah Hamilton, Hamilton Strategies, 215.815.7716, 610.584.1096, DHAMILTON@HamiltonStrategies.com.