

NEWS RELEASE

For Immediate Release

March 9, 2015

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CCHF: If SCOTUS Rules for King, ACA Puts Doctors and Hospitals on the Hook for Non-Paying Patients

ST. PAUL, Minn.—When the U.S. Supreme Court announces its ruling in the landmark Obamacare case *King v. Burwell*, millions of people could see their health freedom restored if the Court rules in favor of the plaintiffs.

What few people are talking about, however, is that government regulations and contracts with health insurers may require that doctors and hospitals continue treating patients without insurance for up to two months, should the court strike down federal subsidies for individuals in states that did not establish state exchanges.

Citizens' Council for Health Freedom (CCHF, www.cchffreedom.org), a Minnesota-based national organization dedicated to preserving patient-centered health care and protecting patient and privacy rights, says many doctors and hospitals may be unaware that they may be forced to provide their services for free for a time, and there are few provisions in place to let them know this.

“From the beginning, Obamacare has been about federalizing the healthcare system so patient care is at the mercy of Washington’s control,” Brase said. “And this also includes whether physicians and hospitals get paid for providing care. Should the Court rule that subsidies are limited only to those states that have established their own exchange—which is the clear wording of the law—federal Obamacare contracts with health insurers may still require that physicians and hospitals treat patients even though the patients have not shown evidence that they will pick up the full cost of the coverage.”

Brase noted that many are not aware of the law’s “grace period,” which says insurers must not oust someone with Obamacare coverage until they have not paid their premiums for three months; however, the insurer must only cover the first

month of bills if the enrollee ultimately does not pay the premium. Therefore, if the Supreme Court rules in accordance with the wording of the Affordable Care Act and strikes down subsidies for individuals in states that rely on the federal exchange, many doctors and hospitals in those states may find themselves treating patients who actually end up not being covered.

In the event of a ruling against the Obama administration, health insurers last year demanded an opt-out provision in their Obamacare contracts with the Centers for Medicare and Medicaid Services (CMS). The contract states: “CMS acknowledges that (the insurer) has developed its products for the (federal exchange) based on the assumption that (advance payments of the premium tax credit) and (cost-sharing reductions) will be available to qualifying enrollees.” And it notes, “In the event that this assumption ceases to be valid during the term of this agreement, CMS acknowledges that issuer could have cause to terminate this agreement subject to applicable state and federal law.”

However, it’s uncertain how the phrase “could have cause to terminate” will be determined. Nor is it clear how quickly this might happen.

However, if health plans were not allowed to immediately terminate coverage in the event of a ruling in favor of King, patients still may be without coverage. For example, if SCOTUS ruled for King on June 30 and if subsidies were terminated a month later, patients would likely remain covered until the end of August because guaranteed coverage lasts one month from the date of the last premium payment, according to the ACA. However, if patients then drop coverage through non-payment, they will still be ‘on the books’ of the health plan for an additional two months, leaving physicians and hospitals to think the patients are ‘covered.’ The law requires health plans to notify providers when the three-month ‘grace period’ begins, but it’s uncertain that the notification must be immediate. Thus, doctors and hospitals could end up receiving no insurer payments for care for these two months and may be unaware that they are providing care for an uncovered patient.

“The fact that the administration conceded to health insurers in including the opt-out language—vague though it may be—indicates that they are less than confident in prevailing in the King case,” Brase continued. “We will not know the outcome of this case for four months, yet even if the Court rules to strike the illegal subsidies, the only permanent fix for this ill-conceived law is still total repeal.”

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