US appeals court deals blow to health law

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(AP)—President Barack Obama's health care law is snared in another big legal battle after two federal appeals courts issued contradictory rulings on a key financing issue Tuesday.

A divided court panel in Washington called into question the subsidies that help millions of low- and middle-income people pay their premiums, saying financial aid can be paid only in states that have set up their own insurance markets, or exchanges.

About 100 miles (160 km) to the south in Richmond, Virginia, another appeals court panel unanimously came to the opposite conclusion, ruling that the Internal Revenue Service correctly interpreted the will of Congress when it issued regulations allowing consumers in all 50 states to purchase subsidized coverage.

The White House immediately declared that policyholders will keep getting financial aid as the administration sorts out the legal implications.

The court ruling in the nation's capital fit with Republican attempts to cripple or repeal the landmark law that the president signed in 2010 in a campaign to dramatically reduce the number of Americans who are uninsured because the high cost of coverage. The law also mandated that insurance companies could no longer deny coverage to people who already have medical conditions or drop coverage when a person became ill.

Republicans believe the law is too intrusive into the lives of Americans in that it forces then to buy health insurance or pay a penalty.

At the White House, spokesman Josh Earnest said the adverse decision in Washington would have "no practical impact" on tax credits as the case works its way through the courts.

Both cases reached appeals courts as part of a long-running political and legal campaign by Republicans to overturn Obama's signature domestic legislation.

In the Washington case, a group of small business owners argued that the law authorizes subsidies only for people who buy insurance through markets established by the states—not by the federal government.

That's no mere legal distinction, since the federal government is running the markets, or exchanges, in 36 states.

A divided court agreed with that objection, in a 2-1 decision that could mean premium increases for more than half the 8 million Americans who have purchased taxpayer-subsidized private insurance under the law.

For those federal exchange consumers, it would result in an average premium increase of 76 percent. Customers now pay $82 on average on total monthly premiums averaging $346. The federal subsidy of $264 a month makes up the rest of the premium.

Two judges appointed by Republican presidents voted against the administration's interpretation of the law while one appointed by a Democratic president dissented.

The Obama spokesman said the administration would seek a hearing by the full 11-judge court. The full court has seven judges appointed by Democratic presidents, including four appointed by Obama.

The majority opinion handed down Tuesday concluded that the law, as written, "unambiguously" restricts subsides to consumers in exchanges established by a state. That would invalidate an Internal Revenue Service regulation that tried to sort out confusing wording in the law by concluding that Congress intended for consumers in all 50 states to have subsidized coverage.

In Richmond, the three-judge 4th U.S. Circuit Court of Appeals panel was unanimous in its decision upholding the law's financing.

The seemingly arcane issue is crucial to the success of the health law because most states have been unable or unwilling to set up their own exchanges. The inaction stems in many instances from opposition by Republican governors to the Affordable Care Act.

The small business owners filing the lawsuit say the tax credits enacted by Congress were intended to encourage states to set up their own health benefit exchanges and that the penalty for not doing so was withdrawal of tax credits for lower-income residents.

Supporters of the act say the purpose of the tax credit was not to promote the establishment of state exchanges, but rather to achieve Congress's fundamental purpose of making insurance affordable for all Americans.

The case revolves around four words in the Affordable Care Act, which says the tax credits are available to people who enroll through an exchange "established by the state."

The challengers to the law say a literal reading of that language invalidates the IRS subsidy to people in the federal exchanges. The opponents say that people who would otherwise qualify for the tax credits should be denied that benefit if they buy insurance on a federally facilitated exchange.

The Obama administration and congressional and state legislative supporters of the Affordable Care Act say the challengers are failing to consider the words of the statute in its entirety.

The judges on the Washington case were Thomas Griffith, an appointee of President George W. Bush; A. Raymond Randolph, an appointee of Bush's father; and Harry Edwards, an appointee of President Jimmy Carter, who dissented.

A lower court had ruled that the law's text, structure, purpose, and legislative history make "clear that Congress intended to make premium tax credits available on both state-run and federally-facilitated Exchanges."

But the appeals court concluded the opposite—that the letter of the law "unambiguously restricts" the law's subsidies to policies sold through exchanges established by the state.