

# Legislative Brief

## HCR - Exchange Subsidies

June 2015

### ALERT: SUPREME COURT UPHOLDS HEALTH LAW SUBSIDIES

Yesterday, June 25, 2015, the Supreme Court issued its final ruling in [King v. Burwell](#), the case challenging the availability of subsidies in health insurance Exchanges run by the federal government.

**In a 6-3 decision, the Court upheld the availability of subsidies in both state and federal Exchanges. Subsidies will continue to be available in all states, including states that have federally facilitated Exchanges, not just those with state-based Exchanges.**

The Supreme Court reasoned that Congress intended subsidies to be available in all states when drafting the Affordable Care Act. The Court rejected the argument that the language of the Affordable Care Act authorized subsidies only in states that had set up their own Exchanges. Although the Supreme Court agreed that text of the ACA is ambiguous, it noted that the ACA's subsidy provision must be read in a manner "that is compatible with the rest of the law."

If the Court had struck down the subsidies in federal Exchanges, the impact would have been significant:

- For individuals: Of the approximately 11 million people who selected private health plans during the 2015 open enrollment period, nearly 9 million obtained coverage through a federally facilitated Exchange and 87% of Exchange consumers have been determined eligible for subsidized coverage.
- For employers: A ruling striking the subsidies would have had significant implications under the ACA Employer Mandate (also known as Employer Shared Responsibility) since shared responsibility payments/penalties under the ACA employer mandate only apply if an employer fails to offer affordable minimum value coverage to a full-time employee, and that employee receives a subsidy to buy coverage through an Exchange.

#### WHAT'S NEXT

**This ruling confirms the current interpretation of the Affordable Care Act's provisions; thus, the Affordable Care Act, and its insurance-reform provisions, remains intact and in effect.** Eligible individuals in all states, including those with federal Exchanges, may continue to receive subsidies for their Exchange coverage, and employers will continue to be subject to the employer mandate in all states.

Employers should continue to work to implement strategies necessary to comply with ACA's requirements — including compliance with the 4980H employer shared responsibility rule, ACA reporting requirements under Sections 6055 and 6056 of the Internal Revenue Code, and the Cadillac Tax.

Please contact your Kapnick Client Executive for more information regarding ACA subsidies, the 4980H employer shared responsibility rule and the ACA reporting requirements.

The health care reform law—the Affordable Care Act (ACA)—has many complex requirements for employers and health plans. Please contact Kapnick Insurance Group with any questions about how you can prepare for any of the health care reform requirements. This Kapnick Insurance Group Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal or tax advice. The information contained in this communication is intended to provide general information regarding health care reform and related topics, and is based on general information available at the time it was prepared. Readers should contact their tax and/or legal counsel for advice that is appropriate to their specific circumstances. This information cannot be used by any taxpayer to avoid tax penalties.

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