
Ideas Matter

The Cato Institute works in the world of ideas—ideas about limited government, constitutional limits on power, and the notion that governments, like people, need to live within their means. Backed by solid and independent research, ideas originated at Cato reverberate through our national debate.

Still, it's a special moment when one of our "ideas" takes concrete, tangible shape.

And that just happened when the Circuit Court of Appeals for the District of Columbia ruled in *Halbig v. Burwell* that, under the clear language of the Obamacare statute, the IRS's authority to issue subsidies is limited to healthcare exchanges established by the states and the District of Columbia (treated as a state for these purposes). Since 36 states declined to establish exchanges this ruling—if upheld—will mean that Obamacare subsidies are prohibited in those 36 states and that the administration acted illegally in paying subsidies to insurers and individuals.

Wow! And the thing is, this ruling simply would not have happened without the groundbreaking work of Michael Cannon, Cato's director of health policy studies. Back in 2011 when, despite clear statutory limitations, the IRS indicated that it planned to go ahead and issue subsidies in D.C. and all 50 states, Cannon began ringing the alarm bell—in print, on TV, in radio interviews, and at conferences. Back then, many Obamacare supporters found Cannon's objections laughable. Not surprisingly, the administration simply barreled on: in 2012 the IRS issued a final regulation flatly stating that subsidies would indeed be offered in D.C. and all 50 states. The IRS cited no authority for this departure from the clear language of Obamacare.

Cannon and others—notably Jonathan Adler, a professor of law at Case Western Reserve—didn't stop with commentary: once the IRS began paying subsidies, they crafted a se-



ries of legal challenges to this blatant illegality. And those lawsuits bore a tangible result in the form of the *Halbig* decision—a huge win, but the fight isn't over. The *Halbig* decision was rendered by a three-judge panel, with one of the three judges dissenting. The decision will be reviewed by the D.C. Circuit sitting en banc. And, on the same day that *Halbig* was handed down, the Court of Appeals for the 4th Circuit reached a contrary decision in a similar case. That court found the statutory language to be sufficiently "ambiguous"—a stretch, in our view—that the IRS should be given discretion in interpreting it. Given differing opinions by two Circuit Courts, it is quite possible that the ultimate decision will be made by the U.S. Supreme Court.

The point is: ideas matter. *Halbig* is a good example of the fact that the ideas nurtured at Cato have powerful, practical consequences. So I would ask you to think of making a contribution to support Cato, whether an annual gift or a planned gift. We welcome whatever gift works for you and your personal circumstances. And please bear in mind that, in addition to annual gifts, many people make generous bequests to Cato or designate us as the beneficiary of a retirement asset. ■

IF YOU HAVE QUESTIONS ABOUT MAKING A GIFT OR BEQUEST TO CATO, PLEASE CONTACT GAYLLIS WARD, ASSOCIATE VICE PRESIDENT OF DEVELOPMENT, AT GWARD@CATO.ORG OR (202) 218-4631.