

Opinion: Halbig Decision Creates New Level Of Uncertainty For Obamacare

Publication

7.22.14

Bob Christenson wrote an article for *Employee Benefit News* on July 22, 2014 where he discusses the impact of the *Halbig* decision on Obamacare.

The immediate take-away for employers in Tuesday's *Halbig v. Burwell* ruling is uncertainty about what the future brings for the Affordable Care Act. If the *Halbig* majority prevails, Obamacare has been dealt a serious, if not lethal, blow.

The statutory interpretation argument raised by the plaintiffs in *Halbig* was given little chance of success, but this attack has now gained substance and a voice through the *Halbig* majority opinion. Employers who had ramped up to comply with Obamacare now see that the statute may be vulnerable, and opponents have new hope.

Personally, I think that the D.C. Court of Appeals will take the case en banc – meaning the entire bench will hear the case, rather than a just select panel of judges – and reverse the panel's decision. The *Halbig* case has proceeded so far along ideological lines: The district court judge (who affirmed the law) was a Clinton appointee. The Circuit Court judges who reversed were appointed by George H.W. Bush and George Bush. The dissenter was a Carter appointee.

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