Challenge to health care reform

King v Burwell

King v Burwell

- **Plaintiff - David King**:
- 64-year-old Vietnam veteran,
- a resident of Fredericksburg, Virginia,
- works as a limo driver and makes $39,000 a year,
- didn’t want to buy health insurance
- Other plaintiffs:
  - **Douglas Hurst,**
  - **Brenda Levy**
  - **Rose Luck**

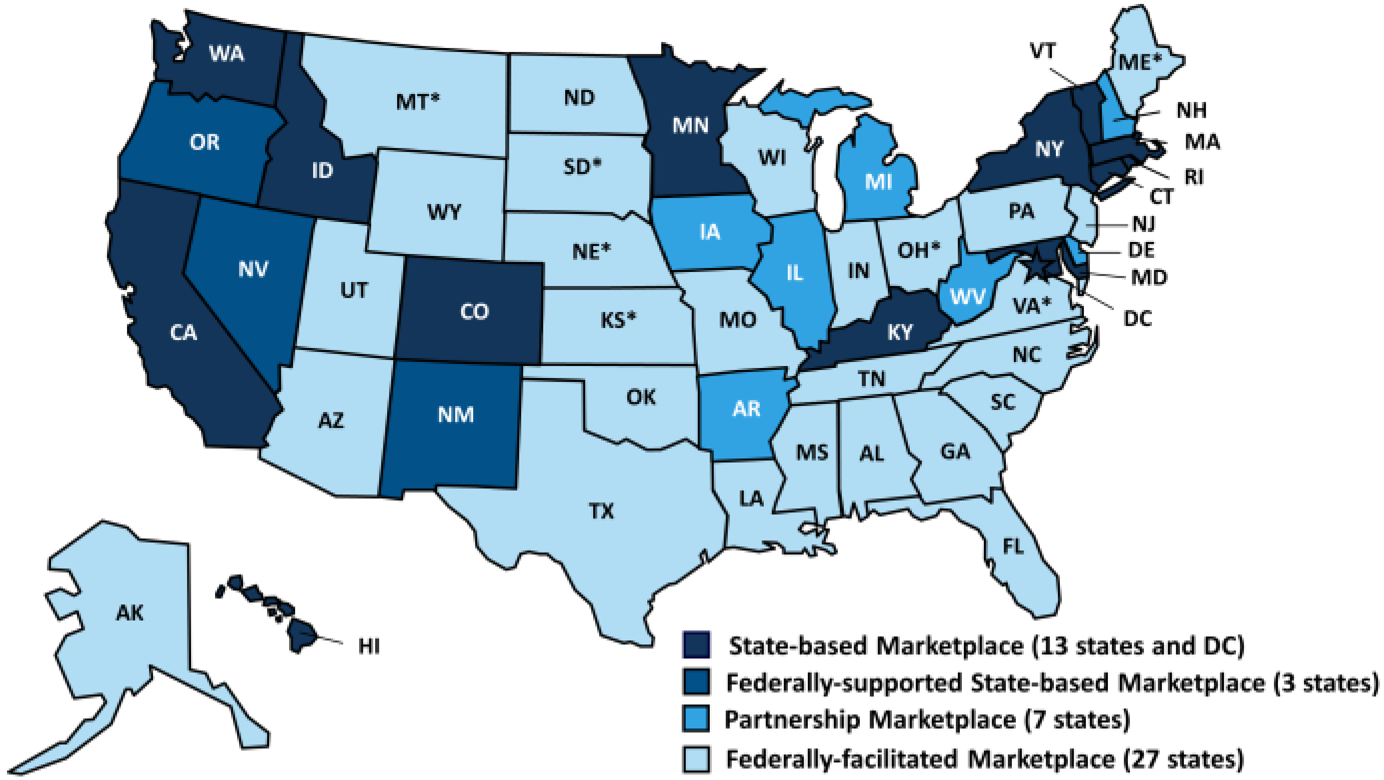
- Sylvia Matthews Burwell:
- Replaced Kathleen Sebelius as US Secretary of the Dept of Health and Human Services

The argument

- The challengers argue that the text of the ACA only allows for subsidies on <u>state-run exchanges,</u>
- the regulation implemented by the IRS, providing for subsidies on state-run exchanges as well as federal exchanges, exceeds the authority Congress granted to it.

Figure 2

State Health Insurance Marketplace Types, 2015



NOTES: This map displays the marketplace type for the individual market. For most states, the marketplace type is the same for the small business, or SHOP, marketplace; however, MS, NM, and UT operate State-based SHOP Marketplaces.
SOURCE: *State Health Insurance Marketplace Types, 2015,* KFF State Health Facts:
http://kff.org/health-reform/state-indicator/state-health-insurance-marketplace-types/.

Subsidies

Purpose:

Encourage enrollment

Shield lower income individuals and families from sticker shock

Low risk need an incentive and improve risk and lower premiums

Results - those enrolled in federally run exchange:

- 7.5 million received subsidies (87%)
- 1.1 million without subsidy (13%) - KFF

- **Individual market:**
- 100% to 400% of FPL (about $24,000 to $96,000 - family of four)
- have no offers of coverage from other sources
- 85% received subsidies in 2014
- Families' required contributions 2% if just above FPL and 9.5% if 400% FPL
- If premiums increase, families contribution doesn't change if in benchmark or less expensive plan – KKF

What happens if subsidies go away?

- **Eliminating Subsidies Will Raise Premiums and Lower Enrollment**
- Specifically, eliminating tax credits in all states would cause:
- Premiums in the individual market to rise 43 percent
- Enrollment in the individual market to fall by 68 percent; 70% among adults ages 18–34
- More than 11 million Americans to become uninsured
- When the analysis is restricted to the 34 states with federally facilitated marketplaces (FFMs), eliminating subsidies in FFM states would cause:
- Premiums in the individual market in FFM states to rise 47 percent
- Enrollment in the individual market in FFM states to fall by 70 percent
- About 8 million Americans to become uninsured

Benefits of Subsidies

Rand Research Brief

- High-risk people — those with poorer health and higher health care costs — are likely to sign up for coverage regardless of subsidies.
- low-risk individuals — typically, younger, healthier adults — may need a tax credit to entice them to enroll.
- When low risk individuals sign up for coverage, they improve the risk pool and bring premiums down.
- tax credits in the individual market reduce premium costs for everyone, not just people with tax credits.
- **Without subsidies** :
  - large numbers of potential buyers will not enroll,
  - leading to steep premium hikes for those who remain in the market.
- The resulting exchanges will consist of a small number of high-risk enrollees, leaving the majority priced out of the market.
- The tax credits exert a stabilizing effect, and therefore eliminating them will result in a substantial disruption to the market