



House Republicans and Trump Administration Ask Court to Delay House's Lawsuit Challenging Affordable Care Act Cost-Sharing Reduction Payments

On Feb. 21, the House of Representatives and the Trump administration filed a joint motion in the United States Court of Appeals for the District of Columbia requesting that the Court hold in abeyance *House v. Price* (formerly *House v. Burwell*) until May 22. According to the joint motion, “the purpose of the abeyance is to allow time for a resolution that would obviate the need for judicial determination of this appeal, including potential legislative action.”

By background, the House of Representatives filed a lawsuit in 2014 challenging the implementation of the Affordable Care Act's (ACA) cost-sharing reductions (CSR). The suit alleges that the ACA's CSR violate Article 1, section 9, clause 7 of the Constitution because Congress never appropriated funds for the CSR payments. Art. I, § 9, cl. 7 states in relevant part that “no money shall be drawn from the Treasury, but in consequence of appropriations made by law.”

The CSR payments are subsidies available on a sliding scale to individuals up to 250 percent of the federal poverty level. CSR payments are tied to certain silver-level qualified health plans sold on the ACA health insurance marketplaces. The payments help individuals pay for out-of-pocket costs including deductible payments, copayments and coinsurance and are made directly to the individual's health insurer.

If the Court were to decide *House v. Price* in favor of the House Republicans, CSR payments to insurers would cease, resulting in significant losses for ACA insurers.

If you have any questions regarding this Sidley Update, please contact the Sidley lawyer with whom you usually work or

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