

# Judge clears way for House lawsuit challenging health law

September 9 2015, by Michael Biesecker

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A federal judge cleared the way Wednesday for a legal challenge by congressional Republicans to President Obama's health care law to proceed.

U.S. District Court Judge Rosemary M. Collyer ruled the House can pursue its claim that the administration violated the Constitution when it spent public money that was not appropriated by Congress. At issue is the more than \$175 billion the government is paying [health insurance companies](#) over a decade to reimburse them for offering reduced [health care](#) co-payments for lower-income people.

The House argues that Congress never specifically approved spending that money, and in fact denied the administration's request for it. The Obama administration insists it is instead relying on previously allocated money that it is allowed to use.

"The House of Representatives as an institution would suffer a concrete, particularized injury if the Executive were able to draw funds from the Treasury without a valid appropriation," wrote Collyer, who was appointed to the federal bench in 2003 by President George W. Bush.

The lawsuit was filed last year against the departments of Health and Human Services and Treasury by Republicans frustrated by their inability to torpedo the President's signature health care law through legislative action. The House has voted more than 50 times to repeal all or parts of the law known as Obamacare, only to be stymied in the

Senate.

House Speaker John Boehner praised Wednesday's ruling, calling Obama's actions a "historic overreach." He said the House will press its case in the court. Collyer stressed that her ruling was merely procedural, and that Congress would still have to prove the merits of its case.

There was no immediate response from the White House, but in the past Democrats have contended that Obama acted legally and have mocked the case as an unwinnable, politically motivated attack. Legal experts have also expressed doubts the GOP can prevail.

Under the Affordable Care Act, people with low-to-modest incomes can get help to pay their actual medical costs, such as annual insurance deductibles and co-payments when they go to a doctor or the hospital.

Those so-called "cost-sharing subsidies" are on top of the financial aid that the law provides with insurance premiums. Earlier this summer the Supreme Court upheld premium subsidies in all 50 states, turning back a challenge from the law's opponents.

The House argues that the cost-sharing subsidies are legally different from the premium subsidies. While the latter flow automatically, the cost-sharing subsidies require annual authorization by Congress. And the Republican-led Congress, still committed to repealing the [health care law](#), will not authorize them.

The administration counters that the law gives the Treasury Department authority to pay the cost-sharing subsidies without separate congressional approval. The government pays insurers directly, on behalf of their customers.

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