



## Insight

# What's Left in the ACA if the Administration Wins *King v. Burwell*

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As the Supreme Court puts the finishing touches on its opinion in *King v. Burwell*, which will decide the fate of Affordable Care Act (ACA) subsidies and key portions of the law, many might be curious to know what's left of ACA implementation. According to American Action Forum (AAF) research, there are more than \$700 million in total regulatory costs remaining and 8.3 million paperwork burden hours.

Although the ACA has already imposed **\$43 billion** in burdens and 155 million paperwork burden hours, there are still a few parts of the law remaining that the Supreme Court opinion could affect. If the administration loses, there would surely be a rush of regulatory activity to salvage some parts of the law, but here's a look at what happens if Secretary Burwell wins and the status quo prevails.

First, according to the [Unified Agenda](#), there are seven **major regulations** (rules with an economic impact of \$100 million or more) still pending. Below are the rules and their projected final publication dates, if applicable:

<u>Regulation</u>	<u>Regulation ID</u>	<u>Projected Publication Date</u>
Medicare: Fraud and Abuse	<a href="#">0938-AA04</a>	October 2015
Reform of Long-Term Care Facilities	<a href="#">0938-AR61</a>	N/A
Applying Mental Health Parity to Medicaid	<a href="#">0938-AS24</a>	February 2016
CY 2017 Notice of Payment Parameters	<a href="#">0938-AS57</a>	N/A
Face-to-Face Requirements for Home Health	<a href="#">0938-AQ36</a>	August 2015
Covered Outpatient Drugs	<a href="#">0938-AQ41</a>	August 2015
Appeals Processes for Medicaid	<a href="#">0938-AS27</a>	August 2015

There are also two major long-term actions, “Adoption of Operating Rules for HIPAA” and “Medicaid Disproportionate Share Hospital Allotments.” The administration plans an interim final rule for the former right after the [2016 election](#) and plans to finalize the latter by [October 2017](#), when they will no longer be in office.

Likewise, there are six pending ACA rules currently under review at the White House, including number two on the table above, “Reform of Long-Term Care Facilities.” Because there is no public cost-benefit estimate for this rulemaking, this and other pending regulations could easily add to the total of \$700 million in costs and 8.3 million paperwork hours.

The most prominent of the pending rules might be “Covered Outpatient Drugs.” The measure was proposed in February of 2012, with annual costs of \$26 million and more than 390,000 burden hours. The long-delayed rulemaking was originally supposed to be final by [August 2013](#), but that was pushed to [January of 2014](#), and then to [April of 2015](#), and now to [August of 2015](#). Because the rulemaking, tangentially related to the ACA, is not currently under review, it’s likely the administration will once again miss its target publication date.

## CONCLUSION

Although the ACA has already hit the economy with billions of dollars in burdens and enough paperwork to devote 75,000 employees to around-the-clock compliance, there are still fragments, costing hundreds of millions, of the law left to implement. As the Congressional Budget Office outlined last week, the ACA is responsible for trimming roughly [0.7 percent of GDP](#) from the nation’s economic growth. \$700 million in additional costs and 8.3 million more hours of paperwork will only hamper growth further if the administration has its way with the Supreme Court.