Improving quality of care, Obama took pains to avoid being too confrontational. In particular, he praised the efforts of Tennessee’s Republican governor, Bill Haslam, who has embraced key parts of Obamacare, while treading lightly on the GOP-controlled state legislature that has twice rejected expanding Medicaid.

The goal, White House officials say, is to take the debate off the political front burner and hope Republicans will be open to collaborating with the administration.

Obama is the law of the land, President Barack Obama says, and it’s time for Republicans who oppose it to move on.

That’s the message a jocular, relaxed Obama delivered during a visit to Tennessee on Wednesday, taking victory lap just six days after the Supreme Court upheld the legislation that created Obamacare in a case known as King v. Burwell.

“Part of what I’m hoping is, with the Supreme Court case now behind us, what we can do is now focus on how we can make it even better,” Obama said in Nashville. “Because it’s not as if we’ve solved all of the problems in our healthcare system.”

The response from Republicans: not yet.

White House aides say the president isn’t under any illusions that Republicans will drop their objections to the Affordable Care Act just because the administration won the latest Supreme Court fight. So as he called on the country to move beyond politics and work on the less controversial missions of reducing costs and improving quality of care, Obama took pains to avoid being too confrontational. In particular, he praised the efforts of Tennessee’s Republican governor, Bill Haslam, who has embraced key parts of Obamacare, while treading lightly on the GOP-controlled state legislature that has twice rejected expanding Medicaid.

The goal, White House officials say, is to take the debate off the political front burner and hope Republicans will be open to collaborating with the administration.

Both the 21st Century Cures Act and The Innovation Act are heading to the House floor this month, according to a memo from House Majority Leader Kevin McCarthy.

Glaringly absent from the memo, though? Any mention of budget reconciliation.

Expect it to take a little while, post-holiday recess, to get to Cures since Energy and Commerce Committee Chairman Fred Upton is still looking to wrangle $12 billion in offsets for that massive biomedical reform bill, which includes changes to the FDA review process for drugs and medical devices plus billions in new funding for FDA and NIH.

Strangely enough, the Energy and Commerce committee is looking to sell off 64 million barrels of crude oil from the Strategic Petroleum Reserve as a Cures pay-for.

The sale of 64 million barrels would reduce the size of the oil reserve by about 10 percent from its current size of 690 million barrels. According to the Congressional Budget Office, it would raise $5.4 billion, and reduce government outlays from the Cures Act over its five-year period by a similar amount.

The patent reform bill isn’t perfectly nailed down, either - the pharmaceutical industry is hoping to get lawmakers to exempt drug makers from a patent review process.
Florida Gov. Rick Scott (R) has dropped his lawsuit against the federal government after receiving an “agreement in principle” from the HHS for the state to continue its Low Income Pool program, the governor’s office announced June 25.

Scott sued the U.S. Department of Health and Human Services on April 28, accusing the agency of trying to coerce Florida into Medicaid expansion by withholding federal health-care funding under the LIP program.

“Florida saw a tremendous win for low income families this week when the Obama Administration finally agreed to continue funding part of Florida’s Low Income Pool program even though our state did not expand Obamacare,” Scott said in a written statement June 25, the day his administration filed a notice to dismiss the lawsuit in the U.S. District Court for the Northern District of Florida. “It is unfortunate it took a lawsuit to make the right thing happen.”

Florida’s LIP program, which provided more than $2.1 billion this year to hospitals and other providers for uncompensated care costs, was due to expire on June 30 if the HHS didn’t reauthorize it as part of the state’s Section 1115 Medicaid waiver.

The HHS notified Florida’s Agency for Health Care Administration that the LIP negotiations resulted in an “agreement in principle,” allowing the program to continue under certain conditions, at a level of $1 billion for fiscal year 2015-2016 and $600 million for FY 2016-2017, according to a June 23 letter from the Centers for Medicare & Medicaid Services.

To make up for the decreased size of the LIP program, Florida’s Legislature included $1.3 billion of additional Medicaid funds from local, state and federal sources in the 2015-2016 budget, which the governor signed into law June 23. The additional funds take the form of Medicaid rate enhancements and disproportionate share hospital payments, among other categories.

These additional funds are part of a proposed state plan amendment, on which the CMS is accepting comments until June 27. The CMS then will be prepared to draft terms and conditions related to the additional Medicaid funding and work toward a final agreement with Florida, according to the June 23 letter.

Florida’s uncertainty over LIP funding caught the attention of other states, including Texas, where Gov. Greg Abbott (R) filed an amicus brief in Scott’s lawsuit against the HHS.

Texas and Florida are the largest and second-largest states in the U.S. to decline to expand Medicaid eligibility as allowed under the Affordable Care Act. Like Florida, Texas and Kansas have raised concerns that their decisions not to expand Medicaid shouldn’t affect the federal government’s decision about continuing their LIP programs.

“The federal government has overstepped its constitutional authority and ignored the Supreme Court’s decision in NFIB v. Sebelius, where the Court held that Congress could not coerce States into accepting a massive expansion of an already broken and bloated Medicaid program,” Abbott said in a May 8 written statement after the filing of the amicus brief. “The State of Texas will exercise its constitutional right to refuse Medicaid expansion, and we support the State of Florida’s effort to do the same.”

“Governor Drops HHS Lawsuit Over Medicaid, Hospital Funding

Florida Gov. Rick Scott

Gov. Rick Scott
At least four states have imposed co-pay caps on costly drugs as others weigh transparency requirements to force drug companies to justify their prices.

Lawmakers in California, the biggest market in the country, are advancing legislation that would mirror a cap to limit out-of-pocket costs for a given drug at $250 per month, which the states’ exchange, Covered California, has already imposed on most Obamacare plans.

Insurers are livid. They say the caps provide cover for the real problem - the increasingly high cost of prescription drugs.

“These proposals are designed to give pharmaceutical companies the green light to charge whatever they want for their treatments, and patients will continue to pay the cost,” AHIP spokeswoman Clare Krusing said.

Assemblyman Richard Gordon, who sponsored the California bill that has passed the state Assembly and is slated for a hearing July 15 from a Senate Health Committee, told reporters that he had met with California HHS Secretary Diana Dooley last week and is confident he has the administration’s support.

Dooley, a board member of Covered California, was instrumental in developing the cap adopted by the exchange this spring after putting the brakes on Gordon’s first effort to pass a statewide limit last year. The Senate hearing was delayed a week Tuesday afternoon so that Gordon can tweak his bill to more closely align with the exchange’s policy.

Gordon acknowledged the insurers’ complaint - that the caps don’t address the problem of high cost specialty drugs. "My focus was simply: there are consumers out there who have chronic disease," he said. "There are drugs that will help them and they have to take them on an ongoing basis. My concern is to protect them."

Fines for Small Businesses Effective July 1st

Starting July 1, businesses that give their workers additional pay to compensate them for medical expenses or for buying health insurance can be fined $100 per day, per employee under the ACA.

The National Federation of Independent Business says 14 percent of small businesses that don’t offer group health insurance provide such reimbursement.

The fines will kick in under an IRS rule that such arrangements are subject to group market provisions of Obamacare, although if the payment plans are integrated into a group health plan that complies with the ACA, employers are in the clear, according to Labor Department guidelines.

NFIB Policy Director Kevin Kuhlman said many small businesses offer their employees compensation to avoid “the administrative headache of setting up a costly group plan.” The group is lobbying Congress to repeal the IRS rule.

"It’s hard to believe Congress or the President intended to punish employers much more severely for actually helping their workers," Kuhlman said.

"Nevertheless, that’s the consequence and most small businesses don’t know it."
Weekly Round-Up and Look Ahead

Weekly Round-Up:

- The New York Times reports on a political paradox: insurers and hospitals spend big on campaigns to encourage people to stop smoking, but they also sit on the board of the U.S. Chamber of Commerce, which is fighting hard against anti-smoking legislation: [http://nyti.ms/1KtZweC](http://nyti.ms/1KtZweC)
- It's time to modernize the HIPAA privacy rule: [http://bit.ly/1RTiDh7](http://bit.ly/1RTiDh7)
- Employer health benefits could be on the line for cohabiting couples after same-sex marriage ruling. [Forbes: http://onforb.es/1JwjRwW](http://onforb.es/1JwjRwW)
- With Obamacare subsidies affirmed, lobbyists throughout the health industry are lobbying Congress to make tweaks to the Affordable Care Act. ([The Hill](http://thehill.com))

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Miller/Wenhold Capitol Strategies uses our expertise and network of information to assist clients in developing effective strategies to deal with legislative, regulatory and political issues. MWCS works to anticipate and resolve problems by providing information, offering counsel, devising strategies, coordinating advocacy, and identifying issues that help shape government actions.

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