

## Health Reform: The U.S. Supreme Court's Ruling

Twenty-six states challenged the Patient Protection and Affordable Care Act (ACA) in federal court. A group representing small businesses also filed a lawsuit questioning the constitutionality of the health reform law. Both these cases were argued earlier this year before the U.S. Supreme Court, which issued a ruling on the case June 28, 2012.

### About the Case

The case the Supreme Court decided is largely about the individual mandate, a requirement for most people to have a minimum level of health insurance in 2014 or pay a penalty. The following are four main issues addressed by the Supreme Court's decision:

#### 1) Does the Anti-Injunction Act prohibit lawsuits to stop the implementation of the individual mandate?

The Anti-Injunction Act is a federal law that does not allow people to sue to stop the assessment or collection of a federal tax. If applied to the individual mandate, a person would not be able to file a lawsuit until after the penalty had been collected. The federal government and plaintiffs (the 26 states and business group) agreed that rights in the Anti-Injunction Act do not apply or have been waived.

**Ruling:** The Supreme Court ruled that Congress did not intend for the Anti-Injunction Act to apply when drafting the bill; therefore, the case may be considered.

#### 2) Did congress have the constitutional authority to pass the individual mandate?

The federal government argued that Congress is allowed to create a requirement for health coverage or collect a penalty (i.e., the individual mandate) under three constitutional powers:

**Commerce Clause.** The federal government argued the uninsured "choose" to pay for health care out-of-pocket because they cannot afford health insurance or choose not to buy it. This choice affects interstate commerce because if the uninsured cannot afford their care, the costs are shifted to third parties, which raises the cost of care for everyone. The plaintiffs countered that not buying health insurance is not an activity that can be regulated, and if the mandate were to be upheld, Congress could force people to buy practically anything.

**Tax and Spend Clause.** Both sides defined the penalty for not having health insurance differently. The government called the penalty a tax because it acts like a tax: the amount is based on income, it only applies to individuals who file taxes, it is assessed and collected by the Treasury Department, and it will generate revenue. The plaintiffs argue that the penalty is not a tax because Congress called it a penalty, and its purpose is not to generate revenue but penalize people for not meeting the individual mandate.

**Necessary and Proper Clause.** The federal government asserted the individual mandate is necessary to meet the ACA's goals in regulating the health care sector, including controlling rising costs and ensuring access to quality, affordable health care. The plaintiffs argued an individual's insurance status does not interfere with Congress' ability to regulate insurance companies. Additionally, allowing the government to regulate people not participating in the insurance market would expand Congress' powers too far.

**Ruling:** A majority of the Justices found that the individual mandate was not constitutional under the Commerce Clause or the Necessary and Proper Clause. However, the majority ruled that Congress has the authority to enact a tax for people who choose not to buy health insurance. As such, the individual mandate is constitutional under the Tax and Spend Clause and is therefore upheld.

### **3) If the individual mandate is unconstitutional, how much of the ACA must be thrown out?**

If part of a law is nullified, provisions of the law that Congress would not have enacted without that part are also invalidated. Applied to the ACA, the arguments were:

- The mandate is essential and without it, Congress would not have passed the ACA;
- Congress would have passed the rest of the provisions in the ACA; or
- Congress would have passed some of the provisions in the ACA.

**Ruling:** As the Supreme Court found the individual mandate constitutional, this question does not apply,

### **4) Is the Medicaid expansion an unconstitutional coercion of states?**

The ACA expands Medicaid to individuals under age 65 with incomes up to 133 percent of the federal poverty level (\$14,900 for an individual and \$30,700 for a family of four). The expansion is fully funded by the federal government for three years, falling to 90 percent by 2020. States not expanding Medicaid can be penalized with a loss of all Medicaid funding. The plaintiffs argued that states have no choice, as they could not afford their Medicaid programs without federal funding. The federal government asserted Congress' power to tax and spend includes the right to specify conditions on federal funds.

**Ruling:** The Supreme Court determined that expanding Medicaid coverage is within Congress' constitutional powers. However, the majority also found that states must have a choice regarding implementation of the expansion, and it is unconstitutional to penalize a state with the loss of all federal funding for its Medicaid program if it does not elect to expand Medicaid coverage under the ACA.

## **How the Supreme Court Ruled**

In a 5-4 decision, the Supreme Court determined both the individual mandate and Medicaid expansion are constitutional. The ruling does place some restrictions on the Medicaid expansion, and affords states flexibility in implementation. The implications of this ruling on the effectiveness of the law remain a subject for discussion.

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