

Federal Appeals Court Strikes Down Key Obamacare Rule

By Nathan Pangrace

A federal appeals court has ruled that the Affordable Care Act's ("ACA") individual mandate is unconstitutional. On December 18, 2019, the Fifth Circuit Court of Appeals struck down this key Obamacare provision and remanded the case to the district court with instructions to decide whether the rest of the ACA should fall as well.

The origins of the case date back to 2012 when the Supreme Court upheld the ACA's individual insurance requirement based upon the taxing power of Congress. Congressional Republicans made several attempts to repeal the ACA. When those attempts failed, a Republican-led Congress in 2017 cut the tax penalty for those who lacked insurance to zero as part of its year-end tax overhaul. A coalition of Republican states led by Texas then filed a new lawsuit arguing that the individual mandate was unconstitutional because it was no longer tied to a tax penalty. The states further argued that the Court should strike down the entire ACA because the individual mandate was intertwined with other provisions of the law. The Trump Administration and the Justice Department decided not to defend the ACA in court. A group of Democratic-led states led by California intervened to defend the law.

The District Court agreed with the Republican states and struck down the entire ACA. On appeal, the Court agreed that there was no longer a valid basis for upholding the individual mandate because of the tax change in 2017. However, the recent Court of Appeals decision declined to answer the larger question of what should happen to the rest of the ACA if the individual mandate was void. In addition to the individual mandate, the ACA's wide-ranging provisions include the requirement that large employers offer affordable coverage to full-time employees, changes to Medicare co-payments, requirements for calorie counts on menus, and protections for people with pre-existing conditions. The Court of Appeals questioned whether some of these provisions were tied to the individual mandate. It therefore instructed the lower court to decide how much of the law can stand.

The ACA remains in effect until courts can resolve these issues. Defenders of the ACA state they are prepared to appeal the case back to the Supreme Court. However, the Court will most likely not hear the case ahead of the next presidential election. The Court of Appeal's decision extends the uncertainty surrounding the health care law and puts the issue of healthcare back into the upcoming presidential campaign. If the Affordable Care Act is eventually invalidated, the number of Americans without health insurance would be expected to rise dramatically. The Democrats' success in retaking the House of Representatives in last year's midterm elections was due in part to voters' fear of losing coverage if Republicans repealed the law as promised. Trump has repeatedly vowed to release his health plan and his administration officials have stated that they are working on a proposal. However, the Trump Administration has not yet released a plan to replace the ACA.

We will keep you updated on the progress of this litigation as it continues. For questions or additional information, please contact one of the Roetzel attorneys listed below.

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