The Affordable Care Act returned to the front page this weekend when a federal district court in Texas issued an opinion striking down the entire law as unconstitutional.

The case arose from a lawsuit filed by a contingent of Republican state attorneys general, one governor, and a few individuals. They asserted that Congress’s elimination of the tax penalty under the ACA individual mandate provision, part of last year’s Tax Cuts and Jobs Act, rendered the entire ACA unconstitutional. Little immediate effect is expected—the court did not issue an injunction—but if upheld, the decision's eventual effects on U.S. health care will be monumental.

The individual mandate requires taxpayers to obtain health coverage for themselves and their families. Failure to do so results in assessments under the Internal Revenue Code. The Tax Cuts and Jobs Act did not eliminate the individual mandate rules altogether, but did (effective January 1, 2019) reduce the tax consequences of failing to obtain coverage to zero dollars. In 2012, the U.S. Supreme Court upheld the constitutionality of the individual mandate based on Congress's taxing power. With the elimination of the tax penalty, the court found that the individual mandate no longer constitutes an exercise of Congress's tax power, and is, therefore, unconstitutional. Finding further that the individual mandate is essential to the ACA as a whole, the court struck down the entire Act.

If the trial court's ruling is upheld by the appellate courts, the ACA insurance market reforms that prohibit pre-existing condition exclusions, guarantee continued issue of insurance, require coverage for children through their parents' coverage until age 26, and assure minimum essential benefits, including preventive health benefits without copayments, will no longer be required. Many of the Marketplace health insurance exchanges, all of the premium subsidies for lower income families enrolled for coverage in the Marketplace Exchanges, and extended Medicaid coverage provisions would also be eliminated.

The court's ruling is expected to have little immediate effect. The court did not issue an injunction, and the Trump administration has asserted that it will continue to enforce the terms of the ACA pending appeal, notwithstanding its vocal opposition to the law. The administration's unwillingness to defend the individual mandate in the lawsuit led a number of attorneys general, from states more supportive of the ACA, to intervene. They are certain to appeal the ruling and may be joined by the House of Representatives when Democrats become the majority party in January.

The decision has far-reaching political consequences. It was a major issue in last month's federal mid-term elections and a significant issue in state elections as well. States have increasingly needed to take positions on ACA-related issues. Besides determining whether to join one side or the other of this lawsuit (nearly two-thirds of states are now involved) and ongoing questions about the role to play in health insurance exchanges, many states are faced with determining the extent to which they will support association health plans and short-term, limited duration insurance, whether they will expand Medicaid coverage, and whether they will seek waivers of ACA requirements. If courts ultimately strike down the ACA, the burden of addressing health care and how to pay for it will likely fall even more heavily on the states.

Before that occurs, the litigants in the case will be sharpening their arguments for appeal to the Fifth Circuit Court of Appeals and potentially the Supreme Court, where two new justices now sit. Because these justices replace two who previously voted to strike down the ACA as unconstitutional, attention may once again focus on Chief Justice Roberts, who previously authored the opinion that upheld the constitutionality of the individual mandate.
and the ACA.

Copyright © by Ballard Spahr LLP

Source URL: https://www.natlawreview.com/article/district-court-rules-aca-unconstitutional