

Federal Judge Strikes Down Health Reform Law

At issue is provision that Americans have to carry insurance; appeal to Supreme Court expected

MONDAY, Dec. 13 (HealthDay News) -- A federal judge ruled Monday that the new U.S. health-care reform law is unconstitutional, saying the federal government has no authority to require citizens to buy health insurance.

That provision is a cornerstone of the new legislation, signed into law in March by President Barack Obama.

The judge's decision was not unexpected, and both supporters and opponents of the legislation anticipate the validity of the new health law ultimately will be decided by the U.S. Supreme Court.

The ruling was handed down by U.S. District Judge Henry E. Hudson, a Republican appointed by President George W. Bush who had seemed sympathetic to the state of Virginia's case when oral arguments were heard in October, the *Associated Press* reported.

Last week, White House officials said a negative ruling would not affect the implementation of the law because its major provisions don't take effect until 2014, the *AP* reported. The legislation was a Democratic initiative championed by Obama, and remains unpopular with Republicans.

Virginia Attorney General Kenneth Cuccinelli, a Republican, had filed a lawsuit in defense of a new Virginia law barring the federal government from requiring state residents to buy health insurance. He argued that it is unconstitutional for the federal law to force citizens to buy health insurance and to assess a penalty if they don't.

The U.S. Justice Department said the insurance mandate falls within the scope of the federal government's authority under the Commerce Clause. But Cuccinelli said deciding not to buy insurance is an economic matter outside the government's domain.

Hudson became the first federal judge to strike down a key part of the health law, which had been upheld by federal judges in Virginia and Michigan. Several other lawsuits have been dismissed and others are pending, including one filed in Florida by 20 states, according to the *AP*.

By 2019, the law, unless changed, will expand health insurance access to 94 percent of non-elderly Americans. Advocates say that between now and then, it will also provide consumers with many new rights and protections.

Key provisions include:

- Health insurance plans may no longer deny coverage to people based on pre-existing health conditions.
- Health plans that cover dependents must permit children to stay on a parent's family policy until age 26.
- Insurers may no longer place lifetime dollar limits on essential benefits.
- New health plans must offer preventive services such as mammograms and colon cancer screenings without charging a deductible, co-payment or coinsurance. (This provision does not apply to existing plans that are "grandfathered.")

Reaction to the judge's ruling was divided, with opponents of the law pleased while backers were dismayed.

The mandate that consumers buy insurance or pay a penalty marked the first time Americans have been required by the federal government to purchase a commercial product, said **Devon Herrick**, a senior fellow at the **National Center for Policy Analysis** in Dallas.

Requiring people to carry insurance takes away an individual's freedom of choice, he said, agreeing with the judge's decision to strike down that provision of the law.

"According to the judge, this dispute is about an individual's right to choose to participate," Herrick said. "One reason why individual choice is important is that the health insurance policies individuals will be required to purchase are saddled with mandated benefits and mandated providers that drive up the cost of coverage."

"Moreover, the cost of this mandated health coverage will grow at twice rate of the nation's income. It doesn't make sense to require individuals to purchase a product they cannot afford and fine them when they fail to purchase it," he said.

DeAnn Friedholm, director of Consumers Union's health reform campaign, said: "This is a case that will likely wind up in the Supreme Court, since other courts have ruled in favor of the new health law. This law, while not perfect, finally protects American consumers against the worst practices of the health insurance industry. Until there is a final decision, we will continue to work hard to educate consumers about what is really in the health law and how they can get the best benefits from the system for their family's health and pocketbook."