

December 17, 2018

Federal Judge in Texas Rules ACA is Unconstitutional; Case will be Appealed

AHA Summary and Talking Points

A federal judge Dec. 14 ruled that the entire Affordable Care Act (ACA) is unconstitutional because Congress repealed the tax penalty enforcing the law's individual mandate.

"In sum, the Individual Mandate 'is so interwoven with [the ACA's] regulations that they cannot be separated. None of them can stand,'" U.S. District Court Judge Reed O'Connor wrote in his [decision](#).

The lawsuit was brought by 20 Republican-led states. The decision will be appealed to the United States Court of Appeals for the Fifth Circuit, according to California Attorney General Xavier Becerra. California was one of 16 Democratic-led states that filed a brief defending the ACA.

You may be receiving questions from your board, employees, the media or members of the public. Below, you will find a summary and talking points outlining the legal and political implications of the ruling, next steps in the case, and the impact for hospitals and health systems.

Our Take:

In a [statement](#), AHA President and CEO Rick Pollack said, "America's hospitals and health systems are extremely disappointed with today's federal district court ruling on the constitutionality of the ACA. The ruling puts health coverage at risk for tens of millions of Americans, including those with chronic and pre-existing conditions, while also making it more difficult for hospitals and health systems to provide access to high-quality care.

Key Takeaways

- The judge ruled the ACA is unconstitutional because Congress repealed the tax penalty enforcing the law's individual mandate.
- The decision will be appealed to the United States Court of Appeals for the Fifth Circuit, according to California Attorney General Xavier Becerra. California was one of 16 Democratic-led states that filed a brief defending the ACA.
- The ruling has *no immediate* impact on any ACA program and does not give the Administration clear authority to alter any ACA program.

"We strongly disagree with the ruling and urged the court not to accept the plaintiff's severability argument in an [amicus brief](#) filed earlier this year along with other national organizations representing hospitals and health systems. We join others in urging a stay in this decision until a higher court can review it and will continue advocating for protecting patient care and coverage."

Background:

The ACA provides coverage to tens of millions of Americans. It also provides important consumer protections, such as: no annual or lifetime limits on coverage, the essential health benefits package (which includes emergency services, maternity and newborn care, mental health and substance use disorder treatment, prescription drugs and pediatric care), allowing children until 26 to remain on their parents' insurance, no discrimination based on health status, and coverage of preventive services to name a few.

The ACA also put in place important delivery system reforms and established the Centers for Medicare and Medicaid Improvement (CMMI), which has spurred innovation in health care and tested new models of value-based care.

Talking Points:

- America's hospitals and health systems are extremely disappointed with the federal district court ruling on the constitutionality of the Affordable Care Act.
- We strongly disagree with the ruling. We believe the court ruling was wrong and won't be upheld on appeal.
- The ruling has *no immediate* impact on any ACA program and does not give the Administration clear authority to alter any ACA program.
- The decision is certain to be appealed to the Fifth Circuit Court of Appeals. The legal basis for the ruling – that repeal of the financial penalty for failing to acquire health insurance renders the entire ACA unconstitutional – is deemed unsound on a bipartisan basis by many legal authorities.
- The AHA and other national associations representing hospitals and health systems argued in an amicus brief filed last summer that the portion of the law being challenged could easily be severed from the rest of the law without harming the remainder of the ACA.
- How the case wends its way through the courts is not certain at this time, but it is expected to be taken up promptly by the Fifth Circuit. It is *not* expected that any ACA program will be altered until there is a final decision by the courts.
- There is no expectation that the Administration's efforts to promote value-based care will be adversely affected. In any case, the move to value-based care has become ingrained for hospitals and health systems, which have committed the necessary

infrastructure and investment to provide more coordinated, convenient and efficient care to their communities.

- The most immediate impact of the decision is that it is causing uncertainty about the long-term future of the ACA.
- Congressional leaders in the House of Representatives are expected to convene hearings on the ACA as a result of the decision. Nancy Pelosi, who is expected to become House Speaker, has said the House Democratic Majority will seek to intervene in the case to defend the ACA and ensure that none of its provisions will be affected pending a final decision by the courts.
- The AHA will continue to work with the courts and Congress to highlight the importance of the ACA in providing millions of people with access to health insurance coverage.