

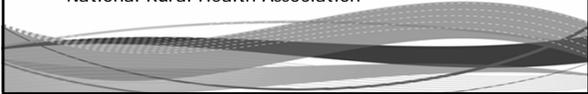


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What did SCOTUS do?

- And what do we do next?

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The Ruling

- The individual mandate is a valid exercise of Congress's *Taxing Power*
 - The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; Art. I, Sec. 8, Cla. i
- The mandate is not a valid exercise of the Commerce Clause
 - The Congress shall have Power To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; Art. I, Sec. 8, Cla. iii



The Ruling

- The federal requirement to expand Medicaid is a *coercive* exercise of the Spending Power and unconstitutional. (South Dakota v. Dole, 483 U.S. 203)
 - The federal government cannot rescind ALL Medicaid funding if states don't comply with new requirements
 - The federal government can refuse NEW funds if states don't meet NEW Medicaid Rules



The Ruling

- "Simply put, Congress may tax and spend. This grant gives the federal government considerable influence even in areas where it cannot directly regulate."
Individual Mandate Valid
- "Congress may use this power to establish cooperative state-federal Spending Clause programs. The legitimacy of Spending Clause legislation, however, depends on whether a State voluntarily and knowingly accepts the terms of such programs."
Medicaid expansion MUST be voluntary



The Dissent

- “The Act before us here exceeds federal power both in mandating the purchase of health insurance and in denying nonconsenting states all Medicaid funding. These parts of the Act are central to its design and operation, and all the Act’s other provisions would not have been enacted without them. In our view it must follow that the entire statute is inoperative.”



The Ruling

- Important: The money, payment modifications, and workforce modifications that have already gone into effect will NOT be rescinded.



Rural ACA Provisions

- Increase NHSC Funding/Slots
- Residency reallocation
- Expansion of 340B program (CAH/SCH)
- Community Health Center funding/grants
- Medicare Accountable Care Organizations
- Innovation Center establishment and funding

Rural ACA Provisions

- Increase AHEC funding authorization
- Establishment of Rural Physician Training Grants
- Pharmacy Reimbursement Increases
- Primary Care Incentive Payments
- 1.0 Floor on the Wage Index for Frontier States
- Community Transformation Grants

Rural ACA Provisions

- “Extenders”
- Establishment/Extension of Rural Demonstration Projects
- Modification of the Low Volume Hospital Adjustment
- Payment increases for Hospitals in counties with the lowest Medicare spending

What the SCOTUS ruling means

- **PART** of the legal battle is over:
 - Interpretation rulings?
 - New legal challenges about actual implementation.
 - Contraception, Tax Application, Tax Exemption, Secondary Payor Liability all currently being litigated.

What it Means

- **Political battle is reheating:**
 - Battles to remodel?
 - Battle to repeal?
 - House voted for 33rd time to repeal on July 11
 - Senate MAY vote in September
 - What will states do with Medicaid?
 - What will states do with Exchanges?
 - What will be funded?

Continuing Challenges w/Implementation

- Many programs “authorized” by ACA have not been fully funded.
 - Example: AHECs
 - Authorized in ACA to be funded at \$75 million/year
 - Appropriated at \$33 million/year or lower each year since ACA passage.



Continuing Challenges w/Implementation

- Example: National Health Care Workforce Commission
 - Established in ACA to study workforce shortages and recommend methods for fixing such shortages
 - Commissioners named in 2010 after ACA passage
 - Commission never received funding and has never met in official capacity

Medicaid Expansion

- Federal government will pay 100% of expansion costs for first two years (FY 2014, 2015)
 - Important: federal funds tied to specific federal fiscal years, not first years of expanded participation
- Federal government will pay 90% of expansion costs thereafter



Medicaid

- Six states already announced they are not participating:
 - Texas, Louisiana, Wisconsin, South Carolina, Florida, and Mississippi.
- 10 other states have said they are leaning toward not participating or are expected not to participate.
- The six states that have announced they will not expand represent $\pm 20\%$ of all those intended to be covered in the expansion

Medicaid Expansion

- Other Medicaid (Policy) Challenges:
 - Mandate penalty: Those who would have been covered by Medicaid are still susceptible to IM penalty
 - Subsidy gap: ACA sets subsidy floor at 133% of poverty but states that don't expand expose their citizens to increased tax
 - Subsidies: 42 U.S.C. 1396w-3 (ACA 2201) *may* preclude insurance assistance for people in states that don't expand Medicaid

Medicaid Expansion

- Medicaid policy challenges (providers)
 - ACA mandated reduction in DSH payments—could be as much as 75% but would likely average 25-30%
 - Middle Class Tax Relief and Job Creation Act of 2012 mandated reduction of all bad debt to 65%
 - State budget challenges

Medicaid MOE

- “Congress may use this power to establish cooperative state-federal Spending Clause programs. The legitimacy of Spending Clause legislation, however, depends on whether a State voluntarily and knowingly accepts the terms of such programs.”
- On August 1, Maine became first state to notify CMS of intent to modify current MOE

Medicaid MOE

- Maine released a plan to cut ±21,000 current beneficiaries from program
- Letter from HHS *before* Maine plan said that HHS would deny all efforts to reduce MOE
- Maine has not officially implemented their plan but legal action looks likely

Medicaid MOE

What are the experts saying?

- University of Kentucky Law School: Maine will not be able to lower MOE
- George Washington University School of Public Health: Maine will not be able to modify current MOE
- Congressional Research Service: MOE was not modified in SCOTUS Ruling

What's Next?

- Elections—state and federal
- More regulations—state and federal
- More law suits—state and federal
- More Hill fights



THANK YOU

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