The Supreme Court Decision and What It Means for Health Care Reform Implementation

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Part 1: Supreme Court Decision Breakdown

Part 2: The Future of the Medicaid Expansion

Part 3: Next Steps

Part 4: Questions
Part 1: Supreme Court Decision Breakdown
The Issues before the Court:
  – Can the Court hear the case now or does it have to wait until 2014 when the penalty goes into effect?
  – Is the individual mandate constitutional?
  – If the individual mandate is unconstitutional, can the rest of the law (or parts of it) still stand?
  – Is the Medicaid expansion constitutional?
Anatomy of the Decision

- **Individual mandate – upheld:**
  - Individual mandate is not a constitutional exercise of Congress’ power to regulate interstate commerce under the Commerce Clause

  BUT, we must keep reading…

  - Individual mandate is a constitutional exercise of Congress’ power to tax

  - **The individual mandate stands** – no need to decide whether rest of the law is severable
Anatomy of the Decision

- Medicaid expansion – upheld, but limited:
  - ACA expansion is such a significant departure from the current program that it amounts to a new program
  - The penalty for state non-compliance with the expansion is limited to loss of Medicaid expansion funds; federal government cannot pull funds for the *entire* Medicaid program if states do not comply with the expansion
Narrow holding – other Medicaid reforms appear to stand:

- Significant reduction of DSH payments to safety net hospitals
- Maintenance of effort requirements requiring states to maintain eligibility and application rules until 2014
- Medicaid application and enrollment rules
- Enhanced federal funding for updating Medicaid IT systems in preparation for expansion
Part 2: The Future of the Medicaid Expansion
The Future of the Medicaid Expansion

What happens in a state that does not comply with expansion?

- Traditional Medicaid
  
  Limited to people with very low income AND who fall into qualifying category:
  - Disabled
  - Low-income parents with dependent children
  - Pregnant women
  - Low-income children

- The Gap
  
  People with incomes below 100% FPL, but who cannot qualify for Medicaid under current rules may be left out of reform if the state does not expand.

- Subsidized Private Insurance through Exchanges
  
  Private insurance available through exchanges:
  - Premium tax credits for people with income between 100 and 400% FPL
  - Cost-sharing subsidies for people with income between 100 and 250% FPL
BUT, there are still plenty of reasons a state will continue with expansion:

- Federal government pays 100% of expansion costs for 2014-2016 and gradually reduced to 90% in 2020 and beyond
- Other reforms (e.g., DSH payment reductions) make it difficult not to expand because of the increased pressure on hospitals without increased revenue from insured patients
- Uptake may be slow, but states have generally come around to Medicaid and CHIP expansions
State Medicaid Reform Implementation Activities

- Expanded Medicaid early under ACA option (7 states and DC)
- Approved or submitted plan to update Medicaid eligibility systems (28 states and DC and includes early expansion states of DC, MN, and NJ)
- Opted not to expand early and have not yet updated Medicaid eligibility systems (17 states)

Map created using data from Kaiser Family Foundation
The Future of the Medicaid Expansion (continued)

- **What to look for moving forward:**
  - HHS/CMS will likely release information/guidance about how they are interpreting the ACA ruling
    - Clarify the implications on other pieces of reform
    - Answer questions from states, including whether there will be flexibility around incremental expansion
  - Regulations on essential health benefits requirements for newly-eligible beneficiaries still forthcoming
  - If/when will states have to notify HHS/CMS about whether they will expand
Part 3: Next Steps
The ACA is the Law of the Land, and Implementation Will Continue

- **June 2012**: U.S. Supreme Court decision
- **September 2012**: 2012 Elections
- **November 2012**: States must submit plan for exchange to HHS (choosing state-run, federal, or partnership)
- **January 2013**: HHS certifies exchanges
- **October 2013**: Open enrollment for exchange coverage
- **January 2014**: Medicaid and exchange coverage begins

**Federal regulations still to come:**
- Medicaid reimbursement (final)
- Essential Health Benefits (exchanges AND Medicaid)
- PCIP transition
- Basic Health Program

**Automatic federal cuts as a result of Budget Control Act go into effect (could impact community health centers, subsidies to purchase private insurance, Ryan White Program)**
State Progress on Exchanges

Map created with data from Kaiser Family Foundation and Center on Budget and Policy Priorities.

- Enacted state-based exchange
- Indicated will operate partnership exchange
- Has not enacted state-based exchange
Next Steps (continued)

- Using the *Health Care Reform Implementation Plan and Assessment*
  - Relationship with state planning body, exchange board, and other agencies?
  - Opportunity to participate in essential health benefits benchmark plan decisions?
  - Opportunity to participate in discussion and planning around Medicaid expansion?
    - IT system readiness
    - Benefits package

- How can health departments be part of the planning and dialogue around state implementation?
Resources

- National Alliance of State & Territorial AIDS Directors (NASTAD), [www.NASTAD.org](http://www.NASTAD.org)
- AIDS United, [www.aidsunited.org](http://www.aidsunited.org)
- Treatment Access Expansion Project, [www.taepusa.org](http://www.taepusa.org)
- HIV Medicine Association, [www.hivma.org](http://www.hivma.org)
- Health Care Reform Resources
  - State Refo(ru)m, [www.statereforum.org](http://www.statereforum.org)
  - Center on Budget and Policy Priorities, [www.cbpp.org](http://www.cbpp.org)
  - Kaiser Family Foundation, [www.kff.org](http://www.kff.org)