

Virginia District Court Rules Health Care Reform's Individual Mandate Unconstitutional; Supreme Court Likely to Have Final Say

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On Monday, December 13, 2010, a federal district judge in Virginia ruled that a key provision of the Patient Protection and Affordable Care Act of 2010 ("Health Care Reform") is unconstitutional. U.S. District Judge Henry E. Hudson ruled that the individual mandate-which, beginning in 2014, requires all Americans to maintain health insurance or face a fine-exceeded congressional authority.

The suit was brought before Judge Hudson by Virginia Attorney General Ken Cuccinelli. While the court declared that the individual mandate is unconstitutional, it refused to block implementation of the entire law. Since there is little risk of harm due to the fact that the individual mandate does not take effect until 2014, the order allows the operative provisions of Health Care Reform to remain in effect while appeals are heard. It is not anticipated that this ruling will have any immediate impact on other Health Care Reform provisions.

Judge Hudson is the first federal judge to strike down a key provision of Health Care Reform, which had been upheld by fellow federal judges in Virginia and Michigan. Several other lawsuits have been dismissed and still others are pending. Given the numerous federal lawsuits brought in connection with Health Care Reform's individual mandate, it is expected that the ultimate issue of its constitutionality will be decided by the Supreme Court. An adverse decision by the Supreme Court, coupled with expected pressures for review by the new Congress, would most likely result in considerable changes to Health Care Reform.



Employers are not required to take any action at this time as a result of this ruling. However, employers should continue to follow the constitutional challenges to Health Care Reform in order to ensure ongoing compliance.

If you have any questions about this Alert, please contact one of the authors, or the Reed Smith attorney with whom you regularly work, to discuss any developments related to Health Care Reform.

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