

United States Supreme Court to Hear Challenges to Health Care Reform

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The Supreme Court decided on November 14, 2011 that it will hear several challenges to the health care reform legislation enacted in 2010 (the Patient Protection and Affordable Care Act). Oral arguments are scheduled for March, 2012 and a decision is likely by next summer (just in time for the run-up to the Presidential election).

The Court will review several challenges that have worked their way through the federal appellate courts. The actual case selected for review is [State of Florida v. U.S. Dept of Health & Human Services](#), in which 26 states challenged the constitutionality of the individual insurance mandate, which beginning in 2014 will require individuals who do not have other health insurance (such as through their employers) to purchase individual insurance or pay a penalty. The 11th Circuit Court of Appeals threw out the individual mandate as unconstitutional, concluding that it violated the commerce clause of the U.S. Constitution.

In addition to reviewing the constitutionality of PPACA's individual mandate, the Supreme Court will consider whether that mandate is severable from the other parts of the statute. If it finds the mandate both unconstitutional, and also finds that it cannot be severed from the rest the statute, it will likely invalidate the entire PPACA.

The Supreme Court will also consider two other issues: a challenge to PPACA's expansion of Medicaid coverage, and the question of whether the federal Anti-Injunction Act bars the states from challenging PPACA at this time because the individual mandate penalty is to be considered a "tax."

Given the large divisions in opinion at to the value of the health care reform legislation, the imminent political season leading up to the 2012 elections, and the significant impact that PPACA will have on virtually all employers, the Supreme Court's decision will be eagerly awaited.

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