



What The U.S. Supreme Court Decision Upholding The Federal Health Care Law Means For Employers

Client Advisories

06.28.2012

The United States Supreme Court today finally issued its long-anticipated decision, upholding virtually all of the components of the new health care law, including the mandate for individuals and many businesses to purchase health insurance. While the decision will have far-reaching political and social implications, the ruling also has several impacts on employers. Even though the legal challenge focused on whether individuals could be required to purchase health insurance, a Supreme Court decision striking down that "individual mandate" would, for all practical purposes, have likely delayed or even scuttled the law's requirement that mid-size and large businesses provide health insurance for their employees, or pay a penalty. With the individual mandate now upheld, those employers should be prepared for the full implementation of the law in 2014, while small businesses can continue to take advantage of tax credits available to them already and over the next few years.

After much fanfare and anticipation, the U.S. Supreme Court today ruled in [National Federation of Independent Business v. Sebelius](#) that the Affordable Care Act (commonly referred to by media pundits as "Obamacare") is essentially constitutional. The legal challenge centered on whether the federal government had the authority to impose the individual mandate on all persons to either purchase health insurance or pay a penalty. The ruling was certainly interesting to legal scholars, as the Court found that the government did not have the power to force individuals to buy insurance under its general "interstate commerce powers" clause, but that Congress did have the ability to do so under its general taxing powers. By so holding, the Court expressly found that the Act itself is basically a "tax" and not a penalty, because the Act does not impose criminal sanctions for those who do not purchase health insurance but instead imposes a tax through the IRS for those without insurance. The bottom line is that, regardless of the label, the Court found that the Act was a form of tax, and therefore it was constitutional. (The only portion of the Act that was overturned by the Court related to whether States could be forced to extend Medicaid to more people than are covered under the current law, and on that issue, the Court ruled that the federal government could not do so under the Act).

Beyond the legal nuances of the ruling, the broader impact is a practical one - if the individual mandate had been overturned, the entire Act may have been in serious jeopardy, as the design of the Act was to create affordable sources of health insurance, by including healthy and sick people in broad health care insurance exchanges. Without the individual mandate, it is likely that other provisions of the Act, including those regulating employers, would have been undermined or even replaced because the funding would not have been available to keep health insurance affordable. The bottom line is that, unless a new Administration and Congress after the Fall 2012 election can muster the overwhelming political power needed to repeal the Act (which would in all likelihood require a 60-vote majority in the U.S. Senate), the Affordable Care Act and many of its key provisions will remain in effect during the next Administration.

As a result, employers should be reminded of the key provisions of the Act, including those that will take effect over the next several years. For a more complete discussion of the Affordable Care Act and its impact on employers, please see Archer's original client alert on the Act [here](#). However, those of most significant importance to employers are the following. First, as is already the case, health insurance plans offered by employers cannot deny insurance coverage based upon pre-existing conditions and must extend health care to qualifying dependents up to age 26. Second, the tax credits available to businesses with under 25 employees, who offer health insurance to their employees, will continue through at least 2013. Lastly, and most significantly, businesses with more than 50 employees will be required to provide health insurance to their employees beginning in 2014, or face a penalty. Although the penalty is likely to be less than the cost of insurance, that more punitive requirement of the Act (along with the individual mandate) are not yet in effect, and were the provisions most likely to be reversed by the legal challenges. With the Act now upheld in virtually all respects, employers must prepare for the Act's requirements, as only a political solution will avoid the full implementation of the Act in 2014.

If you have any questions or concerns regarding this groundbreaking decision, and the impact of the Affordable Care Act on employers, please contact Archer's Labor and Employment Department in Haddonfield, N.J., at (856) 795-2121; in Philadelphia, Pa., at (215) 963-3300; or in Hackensack, N.J. at (201) 342-6000.

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