

U.S. court rules against Obama healthcare mandate

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WASHINGTON, Aug 13 (Reuters) - President Barack Obama's signature healthcare law suffered a setback on Friday when a U.S. appeals court ruled that it was unconstitutional to require all Americans to buy insurance or face a penalty.

The U.S. Appeals Court for the 11th Circuit, based in Atlanta, ruled 2 to 1 that Congress exceeded its authority by requiring Americans to buy coverage, but it unanimously reversed a lower court decision that threw out the entire law.

The legality of the individual mandate, a cornerstone of the healthcare law, is widely expected to be decided by the U.S. Supreme Court. Opponents have argued that without the mandate, which goes into effect in 2014, the entire law falls.

The law, adopted by Congress in 2010 after a bruising battle, is expected to be a major political issue in the 2012 elections as Obama seeks another term. All the major Republican presidential candidates have opposed it.

Obama has championed the individual mandate as a major accomplishment of his presidency and as a way to try to slow the soaring costs of healthcare while expanding coverage to the more than 30 million Americans without it.

The White House voiced confidence the law would be upheld. "We strongly disagree with this decision and we are confident it will not stand," Obama aide Stephanie Cutter said in a statement.

Because it conflicts with another appeals court ruling that upheld the law, the Supreme Court is expected to take it up during its term that begins in October with a ruling possible just months before the November 2012 presidential election.

Legal experts said it was impossible to predict how the high court will rule but agreed that it may be a close vote by nine ideologically divided justices, with moderate conservative Justice Anthony Kennedy as the possible swing vote.

SPLIT DECISION

Twenty-six states together had challenged the mandate, arguing that Congress had exceeded its authority by imposing such a requirement. But the Obama administration had argued it was legal under the Commerce Clause of the U.S. Constitution.

A federal judge in Florida sided with the states and struck down the entire law, leading the administration to appeal.

A divided three-judge panel of the 11th Circuit found that it did not pass muster under that clause or under the power of Congress to tax. The administration has said the penalty for not buying healthcare coverage is akin to a tax.

"This economic mandate represents a wholly novel and potentially unbounded assertion of congressional authority: the ability to compel Americans to purchase an expensive health

insurance product they have elected not to buy, and to make them repurchase that insurance product every month for their entire lives," the majority said in its 207-page opinion.

That opinion was jointly written by Judges Joel Dubina, who was appointed to the appeals court by Republican President George H.W. Bush, and by Frank Hull, who was appointed by President Bill Clinton, a Democrat.

REPUBLICANS AGAINST IT

Republicans have sought to undercut or repeal the healthcare law at every level of government -- in federal court, in the state legislatures and in the U.S. Congress.

The decision contrasts with one by the U.S. Appeals Court for the 6th Circuit, based in Cincinnati, which had upheld the individual mandate as constitutional. That case has already been appealed to the Supreme Court.

The Court of Appeals for the 4th Circuit, based in Richmond, has yet to rule on a separate challenge by the state of Virginia. A federal judge in that state had ruled the mandate unconstitutional as well.

Either side could ask the full 11th Circuit court to reconsider the decision or go straight to the Supreme Court. The Justice Department said it was weighing its options.

"Today we have prevailed in preventing Congress from infringing on the individual liberty protected by the U.S. Constitution," Florida Attorney General Pam Bondi said.

The 11th Circuit did not agree that the entire Obama healthcare law should be tossed out. Many provisions are already being implemented, including allowing children to stay on their parents' health insurance plan until age 26 and banning lifetime coverage limits.

Further, the Obama administration on Friday issued new incentives for states and people to participate in health insurance exchanges, including tax credits and funding grants for the states.

The Obama administration did win some support from the appeals court for the individual mandate. One of the three judges, Stanley Marcus, dissented from the majority opinion in his own 84-page opinion.

The majority "has ignored the undeniable fact that Congress' commerce power has grown exponentially over the past two centuries and is now generally accepted as having afforded Congress the authority to create rules regulating large areas of our national economy," wrote Marcus, also a Clinton appointee to the appeals court.

He also cited a past opinion about Congress' broad power by the possible Supreme Court swing vote, Justice Kennedy.

Cutter from the White House said that without the individual mandate, healthcare premiums could go up as much as 20 percent. America's Health Insurance Plans, the trade group for the industry, said repealing the individual mandate would cause "significant disruption and skyrocketing costs."

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