



Health Care Reform: The Future of the Affordable Care Act

June 26-27, 2012

Key Terms

Accountable Care Organizations:

Doctors, hospitals and other providers will voluntarily offer coordinated high quality care to Medicare patients.

Community Rating:

Limits variations in premiums insurers may charge based on certain individual characteristics such as age or health status.

Guaranteed Issue:

Requires insurers to cover all applicants, regardless of prior health history.

Individual Mandate:

Requires individuals to have health insurance.

Insurance Exchange:

Brings private insurance options together in a regulated online marketplace to compete for individual and small business customers.

“Doughnut Hole”:

Medicare drug plans have a coverage gap or "doughnut hole." Once you have reached your plan's limit for prescription drugs, your coverage stops. This gap in coverage is the “Doughnut Hole.”

Essential Benefit Package:

Essential health benefits are a set of health care service categories that must be covered by certain plans, starting in 2014.

This Comes Down to Dollars and Cents

Congress:

Money is the most powerful tool Congress uses to make states comply with legislation.

Administration:

HHS uses money as a carrot and a stick to get states to set up exchanges, to get providers to join ACOs, and improve care.

Employers:

Terribly concerned about costs of providing insurance and impact of new requirements.

Politicians:

Republicans and Democrats both agree that health care costs are too high – they disagree on how to best control money to bring costs down.

So What Could the Court Do?

Uphold the Law

Strike down the Mandate/Leave the Rest of the Bill Intact

**Strike down the Mandate, Guarantee Issue, and Community
Rating**

Strike Down Medicaid Expansion

Strike Down the Entire Law

Option One

Uphold the Law

Uphold the Law

If the Law Stands, Implementation Will Be Anything But a Walk in the Park...

- Many states are currently gambling that the Court will invalidate the law and have done little, if anything, to begin implementation.
- HHS implementation is incomplete and diverse funding sources are subject to the whims of the Congress – expect the law to roll out in fits and starts and with unforeseen disruptions.
- In 2017 and beyond, states will be held accountable for a greater share of the Medicaid funding – states may have to cut other programs or raise taxes.
- A Supreme Court decision upholding the law would not end the litigation over the ACA.

Uphold the Law

If the law stands, people with disabilities will see:

- Expanded access to affordable, quality health care regardless of age, income, or pre-existing condition.
- Shifting of our health care system towards an emphasis on prevention and near-universal coverage.
- Funding to establish preventative health programs.
- Expanded coverage to children with pre-existing medical conditions.
- Protected coverage for dependents up to 26 years of age on their parent's insurance.
- Eliminating lifetime dollar limits on benefits.
- Maintaining the CLASS Act infrastructure for the development of a long-term services and supports program.
- Expanding the Medicaid eligibility to additional populations.

Option Two

**Strike Down the Mandate/Leave the Rest
of the Bill Intact**

Strike down the Mandate/Leave the Rest of the Bill Intact

Striking Mandate Alone Could Lead to Major Insurance Disruptions...

Impact Overview – The Issue of Risk

- “Adverse Selection Death Spiral.”
- Creates a situation where there is no mandate for everyone to obtain coverage; yet insurance companies have to cover all people regardless of individual characteristics or health status.
- Encourages people to get insurance only when they get sick – the resulting insurance pool of sick people could make costs skyrocket for all.
- Congress would likely examine other options to encourage participation in the insurance market.
- Negative effect on hospitals – striking down only the mandate would leave hospitals with lower Medicare and Medicaid payments.
- Negative impact on taxes – taxes and fees intended to pay for ACA Coverage Expansion would remain on the books without the offsetting benefit of coverage expansion.
- For people with disabilities, the continuation of pre-existing coverage without a mandate will increase employer-sponsored insurance premiums, decrease provider reimbursements, and pose tight utilization review of benefit.
- This could also negatively affect the employment of people with disabilities.

Strike down the Mandate/Leave the Rest of the Bill Intact

**Congressional Budget Office (CBO) Points to Big Impact from Loss of
Mandate, RAND Outlook is Not as Bad...**

Reduction in Newly Insured

CBO: 16 million

RAND: 12.5 million

Increase in Individual Insurance Premiums

CBO: 15 percent

RAND: 2.4 percent

Impact on Deficit

CBO: + \$35 billion

RAND: (\$10 billion)

Strike down the Mandate/Leave the Rest of the Bill Intact

Loss of mandate would deal painful blow to the Administration and the Insurance Industry...

Administration:

The Administration argues that if the Individual Mandate is overturned, then other insurance reforms in the ACA must go as well to avoid exorbitant premiums and chaos that could threaten the viability of the insurance market.

Insurance Industry:

Most concerned about this scenario due to potentially catastrophic implications for the industry.

Option Three

**Strike down the Mandate, Guarantee
Issue, and Community Rating**

Strike down the Mandate, Guarantee Issue, and Community Rating

Doctors, Hospitals Most Impacted Because They are Still Responsible for the Uninsured...

Impact overview

- Avoids possibility of “adverse selection death spiral” caused by striking individual mandate alone.
- Removes key consumer protections in law, thus creating a market similar to the one today where those with pre-existing conditions and/or disabilities have exorbitant premiums or no coverage at all.
- Medicaid expansion remains intact – low-income people still get insurance.

Stakeholder Impact

- Doctors and hospitals opposed because they will continue to absorb costs of treating uninsured and unhealthy patients.
- Hospitals, especially, could face serious financial pressure.
- Entitlement costs will continue to rise and demand reform of Medicaid and Medicare, thus significantly affecting people with disabilities.

Option Four

Strike Down Medicaid Expansion

Strike Down Medicaid Expansion

If the Medicaid Expansion is Cut, 16 Million Low-Income People Would Remain Uninsured...

Impact overview

- Approximately 16 million uninsured persons slated to get Medicaid through expansion will remain uninsured -- working people with disabilities are in this category, e.g. "Ticket to Work"
- Tax credits will not be available to buy insurance on exchanges as an alternative to Medicaid --- Middle-income Americans will get financial help buying insurance on insurance exchanges, but the lowest income will not.

Stakeholder Impact

- States will lose funding allocated to insure this new population – for many, seen as a budgetary blessing – states worry about long-term budget liabilities should federal funding ebb over time
- Hospitals still have to treat uninsured who cannot pay bills.
- Congress may face pressure to fix the hold in the law – may expand tax credits to those impacted.

Option Five

Entire Law Struck Down

Entire Law Struck Down

Because parts of law have gone into effect and money has been spent, striking the entire law would lead to CHAOS...

Impact Overview

- Though some key provisions don't go into effect until 2014, many have.
- A Supreme Court ruling against the whole ACA would end the administration's authority under the ACA to move forward.
- Rolling back the many reforms, grants and payment changes will be difficult and legal authority to do so would be murky.
- Hundreds of millions of dollars already received by states for insurance exchanges – contracts have been signed with vendors to disperse portions of this money.
- Congress has cut budgets for a variety of programs because of appropriated money in bill -- these programs would be dealt an instant budget cut, potentially leading to layoffs and closures.
- Providers who already had payments reduced might sue for reimbursement.
- Discount provisions for seniors who fall into the "Doughnut Hole," would likely not continue.

Entire Law Struck Down

Repealing Entire Law Would Wreak Havoc on Congress, the Uninsured and the Insurance Industry...

Stakeholder Impact

Congress:

Will have to sort out mess and deal with budget fallout – CBO says health care law saves money – will have to cut somewhere to make up for it.

Uninsured:

Lose opportunity for subsidized health insurance.

Insurance Industry:

Loses prospect of 32 million new customers.

Providers:

With no clear path forward, innovations could be abandoned.

Overview Timeline: The Affordable Care Act

2012

Medicaid Reforms – pilot programs to change how doctors are paid, cost controls

Insurance Reforms – young adults on parents' plan, rate review, no lifetime limits

Everything Else – Indian Health Service, restaurant menu labeling, breastfeeding rules, prevention fund, free preventative screenings, etc.

2014

Insurance reforms – individual Mandate, Guaranteed Issue, Community Rating

Medicaid Expansion – broadens entitlement to everyone under 133 percent of the federal poverty level in every state

2015

Exchanges and Tax Credits – sets up a marketplace to buy insurance and helps middle-income Americans pay for their premiums

Doctors paid according to quality of care