

Summary of the Supreme Court proceedings of the Affordable Care Act

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Last week, the US Supreme Court heard oral arguments regarding the constitutionality of the Patient Protection and Affordable Care Act (PPACA). The Court devoted an unusually long amount of time – three days, a total of six hours – to arguments on PPACA.

On Monday, the Court heard arguments on whether the PPACA's constitutionality could even be decided now, as opposed to 2014, when the law fully goes into effect. One of the federal appeals courts which heard the case earlier decided that the penalty for not purchasing health insurance is a tax, and pointed to precedent in a Supreme Court case from the 1880s in which the Court decided that a tax could not be judged on a constitutional basis until it had actually been levied. Neither the Obama administration nor the opponents of the PPACA share this perspective, so the appeals court appointed an attorney to argue for their position.

Tuesday's arguments focused on the constitutionality of the health insurance mandate, which would require most individuals to obtain, and show proof of, health insurance coverage. Under this requirement, individuals would be obligated to obtain health insurance through their employers; through a government-sponsored program such as Medicare, Medicaid, or the Veteran's Administration; or by purchasing an individual policy through their state's exchange or on the private market. Some people would be exempt from the mandate, including those who have religious objections. Individuals would then need to show proof of health insurance when filing their income taxes, or they would be subject to a fine. The arguments regarding the mandate revolved around the question of whether it is an appropriate use of federal authority under the commerce clause of the Constitution. US Solicitor General Donald Verrilli, representing the Obama administration, argued for the mandate's constitutionality, saying that all individuals participate in the market for health services, and that the mandate was simply a way to require individuals to pay their fair share of health care costs. Paul Clement, a former solicitor general representing 26 states which are suing the federal government over the PPACA, argued that the mandate was an overreach of federal power and that Congress could not compel any individual to purchase a product.

In the final day of arguments, on Wednesday, the topic was the issue of severability – whether other elements of the PPACA, including the ban on denial of insurance for people with pre-existing conditions, would survive or be invalidated if the mandate was deemed to be unconstitutional. Deputy Solicitor General Edwin Kneedler argued that, if the mandate were struck down, the Court should also strike down the guarantee of coverage to those with pre-existing conditions, but allow other parts of the law, including the Medicaid expansion and state insurance exchanges, to remain. Clement argued that the law should not be severable at all – if the mandate is struck down, it should bring the

rest of the law with it. A third attorney, appointed by another appeals court, argued that if the mandate is struck down, all other elements of the PPACA should remain.

Governor Malloy and Lt. Governor Wyman have been deeply committed to implementing health reform in the state of Connecticut to address the following health reform priorities; promoting health, improving access, reducing cost and reducing disparities in health. The Office of Health Reform and Innovation in coordination with agencies across the state is on track to implement federal health reform in Connecticut. We will continue our work because the people of Connecticut deserve a health care system in which improved health outcomes are the norm and not the exception. To find out more about health reform efforts in the state of Connecticut, please visit our website: www.healthreform.ct.gov