



The Affordable Care Act: In the Supreme Court We Trust

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Several weeks ago, the Supreme Court of the United States (SCOTUS) heard oral arguments regarding the constitutionality of the Affordable Care Act (ACA) or “Obama Care” to its detractors. It is thought that a decision will be rendered sometime in June. It is possible that the decision will have been announced before this editorial will have been published, perhaps making these remarks superfluous. Nevertheless, I have heard some legal scholars call the impending decision the most important regarding health care since *Roe vs. Wade*. However, most Americans and some clinicians do not understand the essence of the ACA or what issues were argued before SCOTUS.

The ACA is a complex piece of legislation.¹ It is nearly 2000 pages long. It contains several popular provisions such as allowing children to remain on their parents’ insurance until age 26, removal of restrictions on lifetime and annual dollar limits and increased coverage for preventative health services. However, the primary focus of contention is the “individual mandate” or the requirement that everyone purchase health insurance or pay a penalty. The primary rationale for the “individual mandate” is that unless everyone, healthy or not, has insurance, the risk pool will not be sufficiently large to keep insurance premiums affordable. The opposing view is that the federal government does not have the power to force a person to purchase something they do not currently need and/or that it is bad health policy.² Of course, the current SCOTUS arguments are solely focused on the power of the federal government because states already mandate that drivers purchase automobile insurance, and that one state, Massachusetts, already has an individual health insurance mandate from which the federal law was modeled! It is beyond the scope of this editorial and my own legal expertise to coherently explain the legal arguments on both sides of this question. I will say that this particular issue would be moot if our country like many others in the civilized world would have single payer universal health coverage.

What are the possible decisions that SCOTUS could make? There are 3 possible outcomes. First, the entire law could be upheld. In that case, the debate would continue through the November elections and possibly be a significant factor in determining its outcome. The act’s provisions would continue unless it was amended or repealed by Congress. Second, only the individual mandate could be declared unconstitutional, leaving the other sections intact. If this were to occur, some believe that there would be a dramatic rise in insurance premiums because there would be insufficient premiums from those currently with coverage to fund the additional mandates of the ACA.³ Third, the entire law could be ruled as unconstitutional. In this case, we would be left in the same situation as before the law was passed. There would be those with health insurance, those who could buy insurance, but do not and those who cannot afford insurance. Furthermore, all of the aforementioned cited provisions not related to the individual mandate would no longer be required. Importantly for clinicians, the government would not be encouraging accountable care organizations for Medicare recipients, and there would not be an expansion of Medicaid for the indigent patients.

Irrespective of the final decision, it is unlikely to be unanimous which is not surprising when you consider how divided our country is on many important issues. However, there will be one certainty—the ramifications on the delivery of health care in the United States will be affected for years to come.

REFERENCES

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