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Health Reform Individual Mandate Ruled Unconstitutional

On December 13, 2010, the U.S. District Court for the Eastern District of Virginia ruled that §1501 of the Patient Protection and Affordable Care Act (the Affordable Care Act) is unconstitutional because it exceeds the powers of Congress under the Commerce Clause of the U.S. Constitution. The district court decision impacts one of the enforcement mechanisms of the Affordable Care Act that requires every citizen to maintain a minimum level of health insurance coverage or pay a penalty administered under the Internal Revenue Code beginning in 2014.

The Commonwealth of Virginia alleged that by enacting §1501, Congress exceeded its powers under the Commerce Clause, the Necessary and Proper Clause and the taxing power under the General Welfare Clause in Article I of the U.S. Constitution. The Secretary of the U.S. Department of Health and Human Services insisted that Congress acted within its constitutional powers, noting that the provision was critical to the efforts to reform the interstate health insurance market, and that individual decisions to participate in that market have a critical collective effect on interstate commerce sufficient for the individual mandate provision to meet constitutional scrutiny under the Commerce Clause and the Necessary and Proper Clause of Article I.

The district court rejected the Secretary's argument and held that the individual mandate provision compels an individual citizen "to involuntarily enter the stream of commerce," which exceeded Congress's authority under the Commerce Clause. The district court also declined to view the individual mandate provision as a tax subject to scrutiny under the General Welfare Clause. Instead, the district court characterized the measure as a "mere penalty" to regulate and punish behavior.

The Commonwealth of Virginia sought injunctive relief to enjoin implementation of §1501, but the district court rejected the request due to the

lack of “compelling exigencies in the case.” Noting that §1501 does not take effect until the end of 2013 at the earliest, the district court found the likelihood of irreparable harm pending appellate review was minimal.

The decision represents the third lawsuit brought in federal district court against the Affordable Care Act. Two other district courts dismissed complaints challenging the constitutionality of the Affordable Care Act and those cases are on appeal to separate circuits of the U.S. Court of Appeals. The Justice Department indicated that it intends to appeal the recent Eastern District of Virginia decision. The constitutionality of the Affordable Care Act may ultimately be decided by the U.S. Supreme Court.

What this Means to You

The individual mandate is an important enforcement and financial component of the Affordable Care Act, even though it does not go into effect until 2014. The new Republican majority in the House of Representatives will likely use the decision as further justification for substantially amending the Affordable Care Act. The expansion of health insurance coverage was one of the selling points to gain the support of the healthcare industry for the Affordable Care Act. If the decision affects the expansion of health insurance coverage, provider groups may reevaluate their support for it.

We will continue to monitor this issue and keep you updated.

Contact Info

If you have any questions about this ruling, please contact any of our Healthcare or Employee Benefits & Executive Compensation attorneys.

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