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SUPREME COURT RULING ON MEDICAID EXPANSION UNDER THE AFFORDABLE CARE ACT

History and Arguments on Medicaid Expansion

The Patient Protection and Affordable Care Act and the Health Care Education Act, jointly referred to as the Affordable Care Act (ACA), passed in March 2010, included a section which addressed the expansion of the Medicaid program.

Eligibility Requirements

To participate in Medicaid, states were required by federal law to cover the following groups: pregnant women and children under the age of six with family incomes below 133 percent of the federal poverty level (FPL), children ages six through eighteen with family incomes at or below 100 percent of FPL, parents and caretaker relatives who met certain financial eligibility guidelines, and elderly and disabled individuals who qualified for Supplemental Security Income benefits as a result of low income and resources.

The Medicaid expansion for adults, scheduled to commence on January 1, 2014, in conjunction with the health insurance exchange, was structured to extend Medicaid coverage to a newly eligible group consisting of nearly all non-disabled adults under the age of 65 whose household income fell at or below 133 percent of the FPL with a variance of plus or minus 5 percent.

Under the 2012 Federal Poverty Level, a family of four making \$30,657 and an individual making \$14,856 would be at 133 percent FPL. A family of four making \$31,809 and an individual making \$15,415 would be at 138 percent FPL.

Federal Government Funding

Under the ACA provisions, states were required to participate in the Medicaid expansion for the newly eligible group or risk losing all Medicaid funding. Instead of providing federal matching funds to the states to provide Medicaid covered services to the new group under the existing federal share structure, known as the medical assistance percentage (FMAP), the federal government would cover 100 percent of the states' costs for the newly expanded group from 2014 through 2016 and gradually reduce the federal share to 90 percent in 2020 and after. The provisions of the federal Medicaid Act which grant authority to the Secretary of the

Department of Health and Human Services (HHS) to withhold all or part of a state's federal matching funds for non-compliance with federal requirements was unchanged by the ACA.

Court Challenge to Medicaid Expansion

Twenty-six states, several individuals, and the National Federation of Independent Business (NFIB) brought suit in Federal District Court challenging the Medicaid expansion and the constitutionality of the individual mandate. The case is known as *Florida v. HHS*. At least 25 other cases were filed in federal district courts, but only in the Florida case did the petitioners assert that the ACA's Medicaid expansion was “unconstitutionally coercive.” Both the Florida Federal District Court and the 11th Circuit Court of Appeals upheld the Medicaid expansion provision. The 11th Circuit's decision stated states have a choice to participate in the Medicaid program and the Medicaid expansion was within Congress' spending clause power to impose conditions on its grants to states. The case reached the U.S. Supreme Court, which heard oral arguments in the case on March 26, 27, and 28, 2012. The Supreme Court's decision in the case is cited as *National Federation of Independent Business et al. v. Sebelius, Secretary of Health and Human Services, et al.*

Arguments Before Supreme Court

Among the four issues addressed by the Supreme Court was whether Congress unconstitutionally coerced the states into agreeing to expand the Medicaid program by threatening to withhold the states' federal funding.

The state petitioners argued Medicaid expansion was coercive because the states felt the need to participate in the program due to the importance of Medicaid funding and would then be required to comply with the new expansion requirements. The states asserted Congress may not coerce the states to adopt policies through the Spending Clause of the *Constitution* when Congress does not have power to force the states to do so directly. The state petitioners argued that limits should be placed and enforced on Congress' spending power to protect state sovereignty and restore the balance of power between Congress and the states. The states stressed the Medicaid expansion was unprecedented because Congress had never mandated what they believed was an across-the-board Medicaid financial eligibility floor.

In the Supreme Court case, the federal government argued Congress has the authority to place conditions of the receipt of federal funds by the power granted under the Spending Clause of the *Constitution*. Further, the federal government argued the Supreme Court has recognized Congress' power to attach conditions on the receipt of federal funds disbursed under its spending power. The federal government also argued that federal Medicaid statute has contained mandatory coverage requirements for participating states and Congress previously has required states to cover new categories of individuals.

State Options for Medicaid Ruling Summary

The U.S. Supreme Court upheld nearly all of the ACA, affirming the law's mandate that most everyone carry insurance, but striking down a provision that would have allowed the federal government to withhold all Medicaid funds to any state that did not comply with new Medicaid eligibility requirements.

A majority of the justices voted that the government could not compel states to expand Medicaid by threatening to withhold federal money to existing Medicaid programs. “When, for example, such conditions take the form of threats to terminate other significant independent grants, the conditions are properly viewed as a means of pressuring the States to accept policy changes.” Section IV-A, page 50 Opinion of Roberts, C.J.

The Court ruling limited the Medicaid expansion provisions, but did not invalidate them. The Medicaid expansions called for in the law are now optional for states and states will no longer be required to implement those provisions. “Nothing in our opinion precludes Congress from offering funds under the Affordable Care Act to expand the availability of health care, and requiring that States accepting such funds comply with the conditions on their use. What Congress is not free to do is to penalize States that choose not to participate in that new program by taking away their existing Medicaid funding.” Section IV-B, page 55 Opinion of Roberts, C.J.

The Court upheld the ACA's major expansion of the joint federal-state Medicaid health insurance program, but limited the possible penalty for states that opt to forgo expansion provisions outlined in the law. “The Court today limits the financial pressure the Secretary may apply to induce States to accept the terms of the Medicaid expansion. As a practical matter, that means States may now choose to reject the expansion; that is the whole point.” Section IV-B, page 57 Opinion of Roberts, C.J.

“[T]he Secretary cannot apply §1396c to withdraw existing Medicaid funds for failure to comply with the requirements set out in the expansion.” Section IV-B, page 56 Opinion of Roberts, C.J.

The expansion is valid if the penalty is limited to the loss of new funds. The ACA's provision withholding all Medicaid funding from any state that did not agree was unconstitutionally coercive on the states. “The threatened loss of over 10 percent of a State's overall budget, in contrast, is economic dragooning that leaves the States with no real option but to acquiesce in the Medicaid expansion.” Section IV-A, page 52 Opinion of Roberts, C.J.

It was noted, Congress had not revised an existing program, but essentially created a whole new one, and therefore was not entitled to withhold longstanding funding for states that would not go along with the changes. “[T]he manner in which the expansion is structured indicates that while Congress may have styled the expansion a mere alteration of existing Medicaid, it recognized it was enlisting the States in a new health care program.” Section IV-A, page 54 Opinion of Roberts, C.J.

Outcomes from the ruling include:

1. Congress acted constitutionally in offering states funds to expand coverage to millions of new individuals; “Congress may offer the States grants and require the States to comply with accompanying conditions, but the States must have a genuine choice whether to accept the offer.” Section IV-B Page 58, Opinion of Roberts, C.J.
2. States may agree to expand coverage in exchange for those new funds; “Nothing in our opinion precludes Congress from offering funds under the Affordable Care Act to expand the availability of health care, and requiring that States accepting such funds comply with the conditions on their use.” Section IV-B, Page 55 Opinion of Roberts, C.J.

3. If a state accepts the ACA-related expansion funds, it must comply with the new rules and regulations for Medicaid; “Today’s holding does not affect the continued application of §1396c to the existing Medicaid program. Nor does it affect the Secretary’s ability to withdraw funds provided under the Affordable Care Act if a State that has chosen to participate in the expansion fails to comply with the requirements of that Act.” Section IV-B, Page 58 Opinion of Roberts, C.J.
4. A state can refuse to participate in the expansion without losing *all* of its Medicaid funds; instead the state will have the option of continuing its current Medicaid plan as is. “As a practical matter, that means States may now choose to reject the expansion.” Section IV-B, Page 57 Opinion of Roberts, C.J.

According to *Kaiser Health News*, the court’s ruling on Medicaid funding took away one of the federal government’s primary inducements to get states to participate in its expanded health coverage for low income people. The ACA would have allowed the government to withhold all Medicaid money to states that did not expand Medicaid coverage to those who earned up to 133 percent of the federal poverty level, which is about \$30,000 for a family of four under the 2012 Federal Poverty Level. “The Court today limits the financial pressure the Secretary may apply to induce States to accept the terms of the Medicaid expansion.” Section IV-B, Page 57 Opinion of Roberts, C.J.

States will now have to make a series of political, fiscal and policy decisions moving forward to determine if this Medicaid expansion makes sense for their state. Additionally the U.S. Department of Health and Human Services will have to promulgate guidance on the issue of what constitutes expansion and the definition of “current funding.”

It is projected that 130,000 additional Kansans would become eligible for Medicaid under the ACA. Currently there are about 350,000 people in Kansas directly benefiting from Medicaid services. Medicaid statistics may be found at <http://www.kdheks.gov>.