Patient Protection and Affordable Care Act Upheld by U.S. Supreme Court

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On June 28, 2012, in a 5-4 decision wherein Chief Justice John Roberts joined Justices Breyer, Ginsburg, Sotomayor, and Kagan, the Supreme Court of the United States upheld the two challenged provisions of the Patient Protection and Affordable Care Act of 2010, commonly referred to as "the individual mandate" and the "Medicaid expansion" provisions.

The individual mandate requires non-exempt individuals to maintain a minimum level of health insurance coverage. Non-exempt individuals who do not receive health insurance through an employer or a federal program must either obtain private health insurance or face a monetary penalty called a "shared responsibility payment."

The Court, in an opinion authored by Chief Justice Roberts, determined that the individual mandate "may reasonably be characterized as a tax." The "shared responsibility payment" does not apply to those individuals who would not otherwise pay taxes; the value of the payment is based on "familiar factors," such as taxable income, the number of dependents, and joint filing status; the requirement to pay is found in the Internal Revenue Code and is collected by the IRS; and it accomplishes the main function of a tax, which is to collect revenue for the federal government. The Court found that this "power to tax" fell squarely within the government's authority, and upheld the individual mandate on this basis.

The Court then turned to the "Medicaid Expansion" provision, which expands the criteria of covered individuals eligible for Medicaid benefits. The Affordable Care Act increases federal funds available to States to help cover the costs of the program's expansion. However, if a State elects to not offer expanded coverage, it would forego the additional federal funds and would be at risk to lose all other federal Medicaid assistance.

The Court, in limiting the Medicaid Expansion provision, held that "the Constitution simply does not give Congress the authority to require the States to regulate ... but may indirectly coerce[] a State to adopt a federal regulatory system as its own." The Court reasoned that the withdrawal of funds provision is severable from the rest of the Affordable Care Act because Congress is still allowed to offer funds as an incentive to States to comply with the expansion. What Congress may not do, however, is "penalize States that choose not to participate in that new program by taking away their existing Medicaid funding." The severability of the provision is critical as this allowed the Court to uphold the remainder of the Affordable Care Act as it relates to the Medicaid Expansion component.

The Health & Hospital Law Group at Genova Burns Giantomasi & Webster will be monitoring further developments of the Affordable Care Act in order to provide additional guidance and in depth analysis to the Firm's clients.

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