



December 2010

## Health insurance mandate ruled unconstitutional

Headlines from this week: “[Long Legal Fight Ahead for Health Law](#)” (MSNBC) and “[Judge Voids Key Element of Health Care Law](#)” (New York Times).

But is the whole law on the rocks? No.

Judge Hudson ruled only on the requirement for each person to have health insurance. This part of the health reform law, he found, is beyond the federal government’s authority. Key to this argument is whether NOT purchasing health insurance is economic activity, which the feds can govern. Hudson was not persuaded: in [his decision](#), he states that he could find no case law allowing federal government “regulation of a person’s decision not to purchase a product, notwithstanding its effect on interstate commerce or role in a global regulatory scheme.”

The requirement for each and every person to have health insurance is an important part of the law. With it, health insurers can sell insurance to all comers, knowing that they will have a mix of healthy people and sick ones. Without it, health insurers know that only the sicker people will buy insurance, driving up costs.

Though the insurance mandate is important, it is not everything. Even without the mandate, health reform can still:

- Require employers with 50 or more employees to offer a group health plan;
- Expand Medicaid to cover everyone who earns 133% or less of the Federal Poverty Limit (FPL);
- Give cost-sharing and premium credits for people who earn 400% of FPL or less;
- Tax “Cadillac” group health plans;
- Offer coverage to children up to age 26;
- Create health insurance exchanges;
- Set how much an insurer has to spend on medical services and quality improvement projects.

And there are many other parts of health reform that do not hinge on the insurance mandate. Granted, if people can skip health insurance, demand for health insurance – and for the health insurance exchanges, premium credits, cost subsidies, etc. – will wane.

The insurance mandate may be the first health reform item to get to the Supreme Court, and likely, others will follow. The law covers so many different areas in so many different ways. It is not going to completely unravel when one provision gets removed.

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*P.S. – Another reason to skip your high school reunion:* The people who graduated in the top 25 percent of their high school class are healthier than their peers who graduated in the bottom 25 percent. This was the finding of [The Wisconsin Longitudinal Study](#) that has followed 10,000 people who graduated from high school in 1957. I continue my lifelong fascination with the intricate dance between social-economic-status and health!