

The Health Reform Individual Mandate is Ruled Unconstitutional - or was it?



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In the last 45 days, two separate federal appeals courts have come to opposite decisions regarding the constitutionality of the individual mandate contained in the Affordable Care Act (ACA). Beginning in 2014, the individual mandate requires most Americans to purchase minimum health insurance coverage or face financial penalties.

Back on June 29th, 2011, the Federal Court of Appeals for the 6th Circuit found (in a 2-1 decision) the individual mandate provision of ACA constitutional. The Court found “that the minimum coverage provision is a valid exercise of legislative power by Congress under the Commerce Clause”.

However, in a decision announced on August 12th, 2011, the 11th Circuit Court of Appeals has ruled (also in a 2-1 decision) the ACA individual mandate is unconstitutional. Again, the issue is whether requiring individuals to purchase private insurance is within Congress’ commerce power. The ruling affirms a lower court decision in a case filed by 26 states. However, the appeals court disagreed with a significant portion of the lower court’s ruling, and will allow other provisions of the ACA to remain “legally operative”.

Government attorneys can, and likely will, ask the 11th Circuit Court to review the ruling. A spokesman for the White House commented that the administration strongly disagreed with the ruling and was confident that it would not stand.

These opposite decisions, by two different appeals courts, all but guarantee that the issue will be eventually decided by the Supreme Court. We will continue to keep you apprised as this develops.