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Healthcare: Viewpoint duel

Commentator Michael Tanner says the Affordable Care Act ruling could be a pyrrhic victory for President Obama.

In upholding the constitutionality of the Patient Protection and Affordable Care Act - aka Obamacare - the US Supreme Court has hardly ended the fight over healthcare reform, merely changed venues.

There is still plenty of time to fight over the healthcare law.

The individual mandate, like most Obamacare provisions, is not scheduled to go into effect until 2014. Between now and then there will be an election.

And we can certainly expect healthcare reform to be a key issue in that election.

We now know that Obamacare is constitutional but nothing else about it has changed.

Consequences

All the problems with the law remain. It still increases federal spending, taxes and debt.

It still adds new burdens to struggling businesses, making it harder for them to grow and hire new workers.

It still drives up the cost of health insurance, especially for the young and healthy, and it still puts in place structures that will almost inevitably lead to the rationing of care.

But none of that is the responsibility of the Supreme Court. As Chief Justice John Roberts wrote in his majority opinion: "It is not our job to protect the people from the consequences of their political choices."

Politicians, Justice Roberts continued, "can be thrown out of office if the people disagree with them".

Republicans, and in particular the Tea Party, who always saw the healthcare law as a costly over-reach, will be energised to do just that.

And while Republican presidential candidate Mitt Romney might be a flawed vehicle for criticising the president, given his own enactment of a similar law in the state of Massachusetts, he will nonetheless become the outlet for all those who oppose Obamacare.

In fact, Mr Romney's campaign reportedly saw a dramatic spike in donations in the first hour after the court's ruling.

Meanwhile, without wasting any time, Republicans in the House have already scheduled a largely symbolic vote to repeal the law for July 11.

'President Obama lied'

Opponents of the law have also been handed a potent new political weapon.

President Obama and Democrats in Congress had argued vociferously that the healthcare law did not increase taxes on most Americans. In particular, the president insisted that the mandate "is absolutely not a tax increase".

But in upholding the law, the court did so precisely on the grounds that the mandate is a tax.

If so, it would amount to the largest middle-class tax hike in recent history. In today's political climate, that is not something that President Obama wants to defend. In fact, that's why he spent so much time denying it was a tax hike.

Moreover, by declaring that the mandate was a tax, the court was effectively saying that the president was lying in saying it was not.

Americans may already cynically discount most of what politicians say, but it cannot be good for the president to get a reputation for being less than forthright.

On the other hand, winning is always better than losing - and on this one the president won.

Replacing Obamacare

If the court had thrown all or most of the law out, the president would have lost his signature accomplishment and looked as if he had wasted much of his first term.

And the court's decision leaves Mr Romney in the position of arguing not just against the law generally, but also against some of the law's more popular provisions, such as allowing children to stay on their parents' policy until age 26 or guaranteeing coverage for individuals with pre-existing conditions.

We can expect Mr Romney to push a plan to make health insurance more personal and portable by giving workers the same tax break for buying individual insurance as they currently receive for employer-provided insurance.

He will also seek more competition in the insurance market by allowing people to buy insurance across state lines.

And he will attempt to inject more consumer choice into the government's other big healthcare programs: Medicare and Medicaid.

But he will also be pressed to get more specific about how he will "replace" Obamacare, not just repeal it. So far, he has not been particularly strong in answering those questions.

Overall the law remains unpopular. In the days leading up to the court's decision, polls showed strong majorities of voters opposing the law and/or seeking its repeal.

Support for the law may get a bit of a bump in the wake of the court's ruling, but in the long run it is likely to remain a drag on the president's re-election.

No matter what, anyone who thinks the court's decision was the last word on healthcare, probably is in need of a bit of treatment themselves.

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