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Obama-Roberts Legacies to Be Shaped by Court Health-Care Ruling

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By Greg Stohr

Nov. 15 (Bloomberg) -- The Supreme Court's review of the U.S. health-care overhaul all but guarantees a legacy-shaping ruling for both President Barack Obama and Chief Justice John Roberts.

The court's ruling will help determine Obama's political future as he seeks re-election in November. The court could burnish Obama's credentials as a problem-solver or leave him to go before the electorate stripped of his signature legislative achievement.

For Roberts, the case stands as the most consequential in his six years as chief justice. A ruling striking down all or part of the law would be a legal watershed, putting new curbs on Congress's ability to address national issues and establishing the Roberts court as the bulwark against perceived legislative overreaching. The court, which announced yesterday it will hear the case, probably will rule in late June.

"It's going to end up being one of the big campaign issues," said John Feehery, a Republican campaign consultant. "The Supreme Court is either going to define the issue, or it's going to be the issue."

The law, known as the Affordable Care Act, would expand coverage to an estimated 32 million Americans who lack insurance. The central legal issue is whether Congress had constitutional power to require Americans to either acquire insurance or pay a penalty. Lower courts split on the question.

The court's decision could transform the presidential campaign as both sides use the ruling to make their case to voters. Major Republican candidates seeking the party's presidential nomination routinely attack the health-care law and demand its repeal.

Party Divide

Heightening the stakes is the prospect that the court might divide along party lines, with the five Republican-appointed justices voting to overturn the measure and the four Democratic appointees voting to uphold.

Such a divided court is by no means a certainty. At the appeals court level, the administration won the votes of two Republican-appointed judges, Jeffrey Sutton of the 6th U.S. Circuit Court of Appeals in Cincinnati and Laurence Silberman of the D.C. Circuit in Washington.

At the Supreme Court, supporters of the law talk optimistically about their chances to sway Republican appointees Roberts, Justice Anthony Kennedy and Justice Antonin Scalia.

Kennedy and Scalia voted in favor of robust federal power the last time the court considered the scope of Congress's authority to regulate interstate commerce. In that case, they joined the majority in ruling that the federal government could bar the local cultivation and use of medicinal marijuana.

'Conservative' Justices

"As we've seen with several prominent conservative judges in the federal appeals courts, simply because a judge or justice may be identified as a conservative does not dictate the result in the case," said Elizabeth Wydra, chief counsel of the Washington-based Constitutional Accountability Center, which supports the measure.

Roberts's predecessor as chief justice, William Rehnquist, helped revive the idea that Congress's power over interstate commerce has limits, leading the court in striking down federal laws in 1995 and 2000.

Under Roberts, the court has shown less enthusiasm for that brand of federalism. The health-care dispute will mark the first time Roberts and Justice Samuel Alito, a fellow appointee of President George W. Bush, have taken up a commerce clause case.

For advocates of limited federal power, it has been a long time coming.

'Sole Judge'

"The court will decide whether the Constitution's structure -- federalism and enumeration of powers -- is judicially enforceable or whether Congress is the sole judge of its own authority," said Ilya Shapiro, a senior fellow at the libertarian Cato Institute in Washington. "In other words, do we have a government of laws or men?"

The challengers to the law include a group of 26 states, led by Florida. They are opposing both the so-called individual mandate and the law's expansion of Medicaid, the joint federal-state health-care program for the poor. The states say the Medicaid provision unconstitutionally coerces them into spending more money.

The court's resolution of the case is likely to ripple beyond the presidential election. A ruling upholding the law may undercut the Tea Party movement and its drive to limit the role of the federal government in the lives of ordinary Americans, Wydra said.

“It would really dampen their credibility with the American people if the Supreme Court tells them that their vision of the Constitution and the role of government is fundamentally and fatally flawed,” she said.

House Majority Leader Eric Cantor, a Republican from Virginia, said the Supreme Court’s decision will be “very relevant” in 2012 congressional races.

The decision to hear the case “is a positive signal that there are legitimate concerns surrounding the constitutional aspects of mandating that individuals purchase health care insurance and purchase it according to Washington’s guidelines,” Cantor said.