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Health care plan unconstitutional

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Obamacare, or the Patient Protection and Affordable Care Act, was introduced in 2009. The health care act is the most comprehensive of federal programs since social security. Obamacare will affect every single American in one way or another. This program is mostly overseen by the Department of Health and Human Services.

Obamacare has a variety of different subject areas focusing on the various fields that are reformed. The new law states that new patients can no longer be denied health insurance because of pre-existing conditions. This is important for those with chronic illnesses and diseases, such as cancer. Although the program does have some good changes, it is unconstitutional and needs to be repealed.

As of now, 28 states have filed cases regarding Obamacare. Virginia Attorney General Ken Cuccinelli filed suit against the government regarding this case shortly after it was passed and signed into law. On Dec. 13, 2010, in the U.S. District Court, Obamacare's individual mandate was ruled unconstitutional in Virginia. This individual mandate requires those who do not purchase the health care to pay a fee to the government. The judge in this Virginia case relied on the powers enumerated in the constitution to Congress. The plaintiff, or Virginia in this case, stated that Congress was trying "to compel an individual to involuntarily enter the stream of commerce by purchasing a commodity in the private market."

This power has not been previously supported in the federal court system. The ruling took note of the individual mandate being enacted under the necessary and proper clause, as well as the regulating of interstate commerce, but ultimately decided the individual mandate was unconstitutional. Judge Hudson stated, "the unchecked expansion of congressional power to the limits suggest by the Minimum Essential Coverage Provision (the individual mandate) would invite unbridled exercise of federal police powers." He concluded this mandate is simply not about regulating business, but about the individual's right to participate, which should be considered a basic freedom from government interference. He also stated, "the final word will undoubtedly reside with a higher court," and in this case the Supreme Court.

The case was then appealed to the judge panel of the 4th U.S. Circuit Court of Appeals. On Sept. 8, 2011, the court ruled the state does not have a right to bring a lawsuit against Obamacare. This overturns the lower decision and does not specify if the individual mandate is unconstitutional. The appellate judges stated the individual mandate is considered a "tax" by the federal government. This "tax" is not a source of revenue, but a punishment for not complying with something the government is requiring, which is completely different.

The court also dismissed a similar case that was brought by Liberty University. This ruling was extremely disappointing and a loss of liberty for every American citizen. Although disappointing, Illya Shapiro of the Cato Institute said the ruling does not affect any of the other cases currently going through the appellate process. He also stated the Liberty University case should only speed up the Supreme Court's consideration of the Virginia case. He said, "As President Obama unveils yet another plan to stimulate job creation, it's time to finally put an end to the uncertainty over the fate of his most economically damaging piece of legislation."

Shapiro is exactly on point, if President Obama expects companies to figure out their long-term plans for health insurance coverage of their employees, there needs to be a common decision. That is why the

Supreme Court needs to hear the case as soon as possible.

The Supreme Court will most likely hear the Florida Obamacare case sometime in the 2012 term. If the justices choose not to hear the case, they will be responsible for creating major distrust in the judicial system. They may simply refuse to hear the case because of the politics surrounding it, which would be an injustice to the American people. The Supreme Court is there to determine the supreme law of the land and if statues are constitutional. Without the Supreme Court's ruling on this controversial case, uncertainty will prevail and harm the private sector, individual's freedoms and the trust in our court system.

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