

# Supreme Court Health Care Ruling Just The Beginning Of Obamacare Legal Challenges

June 18(Reuters) - Even before the U.S. Supreme Court hands down a landmark ruling on President Barack Obama's healthcare law - something expected before the end of June - opponents of the legislation are planning for phase two of the battle, or how to proceed if the nine justices jettison only some provisions of the law, while preserving others.

The most likely scenario: legal challenges to rules that remain, which could stretch out for years to come, said Jonathan Adler, a professor at Case Western Reserve University School of Law. "This is a big opening battle," he said.

Here's a look at the emerging fights.

## FREE BIRTH CONTROL

The rule requiring employers to provide free birth control in their healthcare programs has been one of the most controversial provisions of the Obama administration's healthcare law. It has drawn loud objections from religious institutions, and the debate spilled into popular culture after a Georgetown law school student who defended the provision was attacked by the conservative radio personality Rush Limbaugh. In May, the University of Notre Dame and dozens of other groups filed lawsuits to block the rule. They accused the federal government of forcing them to support contraception in violation of their religious beliefs or face steep fines.

## THE MEDICARE PANEL

The Independent Payment Advisory Board is a 15-member panel created by Congress and appointed by the president to set Medicare policy and payment rates as part of healthcare reform. The board was dubbed the "death panel" by former Alaska Governor Sarah Palin, who complained that bureaucrats would decide which Americans deserved medical care.

In 2010, the conservative watchdog group Goldwater Institute filed a lawsuit, *Coons v. Geithner*, accusing Congress of violating the separation of powers by delegating its legislative powers to an unelected executive agency that can operate without the oversight of Congress, the president or the courts. The case, before an Arizona federal court, is currently on hold, pending the Supreme Court's ruling in the main healthcare

cases

## BLACK-LUNG BENEFITS

Tucked deep within Obama's 2010 Patient Protection and Affordable Care Act is a section that makes it easier for former coal miners and their families to obtain benefits for black-lung disease. The new law presumes that if a miner who worked in a coalmine for at least 15 years suffers from black lung, then coal mining caused the disease. The mining company has the burden of proving otherwise. More than 700 disabled coal miners or their surviving spouses are already receiving benefits thanks to the revised law, said Timothy MacDonnell, director of the Black Lung Clinic at Washington and Lee University School of Law. Some mining companies are challenging the new provisions in court. In a brief filed with the Supreme Court in one of the main healthcare cases, MacDonnell argued that the black-lung benefits should be allowed to stand even if the court strikes down the individual mandate requiring most Americans to have healthcare insurance. But even if the high court agrees, there will still be a fight over whether the new laws apply retroactively and to whom, MacDonnell said.

## DOCTOR-OWNED HOSPITALS

One of the few provisions of the healthcare law to take immediate effect was a rule that limits physician-owned hospitals from starting or expanding. Physician Hospitals of America sued in 2010, claiming that the law was included to curry favor with corporate and community hospitals, which in turn wanted to muffle competition from physician-owned hospitals. The law stopped 100 new hospitals from opening and froze \$4 billion worth of construction projects, said Scott Oostdyk, a lawyer for Physician Hospitals of America. The case is currently before the U.S. 5th Circuit Court of Appeals.

## HEALTH INSURANCE EXCHANGES

Under the new healthcare law, individuals can shop and purchase health insurance through government-created exchanges. If a state refuses to set up its own exchange, the law allows the federal government to set one up instead. Due to a glitch in the original statute, individuals are only eligible for a tax credit if they buy insurance through a state exchange, not a federal one. That allows states to disrupt the system by refusing to set up their own exchanges. To fix this technical problem, the Internal Revenue Service issued a new rule, making the tax credit available for people who purchase insurance on federal exchanges. Conservative watchdogs, including Michael Cannon of the Cato Institute, say the IRS overstepped its bounds and lacked the power to rewrite the law. While no lawsuit has been filed yet, "we're watching the whole exchange issue now," said Diane Cohen of the Goldwater Institute. (Reporting by Terry Baynes; Editing by Eileen Daspin and David Brunnstrom)