



Supreme Court Mulls Health Care Bill's Individual Mandate

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The U.S. Supreme Court heard arguments Tuesday on whether the government can force people to purchase health insurance or face a penalty under President Obama's health care overhaul.

The more conservative justices, along with Justice Anthony Kennedy, who is considered a swing vote, questioned whether Congress can force people to buy not just insurance, but other items, which critics were hoping for.

The 26 states challenging the law say Congress overstepped its boundaries, because it did not regulate commerce, which it is entitled to do under the Constitution. Instead, they argue it created commerce, forcing people to buy something that they might not have had before.

The Obama administration argued that the mandate does not require people to purchase health care, but instead merely regulates when and how they will pay for that care.

The defense attorneys faced a barrage of questions from the four right-leaning justices.

"Could you define the market? Everybody has to buy food sooner or later, so you define the market as food. Therefore everybody's in the market. Therefore you can make people buy broccoli," said Justice Antonin Scalia.

Complete Arguments

- To hear Tuesday's full arguments, [get the MP3 audio file](#)
- To view the full transcript, [get the PDF file](#).

Opponents of the law said the questions asked by Justice Anthony Kennedy, considered the wild card on the bench, are a sign that the mandate would be repealed.

"I was a little surprised that he showed his hand as much as he did," said Ilya Shapiro of the Cato Institute. "The questions he was asking made it clear that the idea that the government's position doesn't lend itself to an easy limiting principal is high and forefront in his mind."

But just as those on the right felt vindicated by the line of questioning, those on the left pointed to comments made by Chief Justice John Roberts, who corrected the plaintiffs' attorneys several times for misrepresenting the government's argument. The chief justice and also praised the solicitor general for points he made.

"I thought that was an important part of your argument, that when you need health care the government will make sure that you get it," Roberts said.

So it seems most are looking to Kennedy and Roberts to provide the pivotal votes.

"I think both of their votes are in play and we probably won't know until June how they ultimately come down," said Ian Millhiser of the Center for American Progress.

In the first day of arguments Monday, the justices considered whether it was premature for them to rule on the case, since the part of the law imposing a penalty for not having insurance has not taken effect.

Much of that day's talk centered on whether that controversial part of the law counts as a tax or a penalty.

On Wednesday, justices will hear arguments on whether the rest of the law can take effect, even if the mandate is declared unconstitutional.

The court will also hear whether the law goes too far in making states expand Medicaid by threatening to cut off federal aid if they do not comply.

A court decision is expected to be announced in late June.

