

Court ruling could widen health coverage disparities among states

By Noam N. Levey Tribune Washington Bureau (MCT) | June 29th, 2012

WASHINGTON — President Barack Obama, in his drive for a national health care overhaul, strove to provide a new guarantee that all Americans, no matter where they live, would have basic protection against sickness and disease, ending decades of variation among states.

The Supreme Court did not dismantle that guarantee Thursday. But while upholding the Affordable Care Act, the court opened the door to something the president and other champions of the law sought to avoid - widening disparities between red and blue states in who gets health care.

Under the court's ruling, states will be free to elect not to cover all their poor residents through their Medicaid programs.

That may mean that liberal states that have embraced the health care law such as California, Illinois and Maryland will effectively offer all their residents health coverage in 2014, a key goal of the law Obama signed two years ago.

But conservative states such as Florida and Texas, which have refused to implement the law while they challenged it in court, could reject federal aid, leaving hundreds of thousands of their residents without medical insurance.

And while Republican governors will be under immense pressure to take money from the federal government for their residents, they have demonstrated a willingness to spurn it. Political pressure is sure to remain high to obstruct further implementation of Obama's law, which remains highly unpopular among conservative voters nationwide.

After the decision Thursday, Wisconsin Gov. Scott Walker, a tea party favorite, announced that his state "will not take any action to implement Obamacare" and held out hope that a victory by Republican presidential candidate Mitt Romney in November would make implementation unnecessary. Romney has pledged to repeal the law.

In Nevada, a spokeswoman for GOP Gov. Brian Sandoval said he "does not intend to automatically accept the Medicaid expansion. These serious budgetary implications, including the impact on education spending, require further analysis." In Florida, Gov. Rick Scott, an ardent opponent of the law who said last week he would implement the law if it was upheld, said he was reviewing the decision but was still "concerned for our state's costs."

"This is going to be a complicated decision for some states," said Matt Salo, executive director of the National Association of Medicaid Directors.

The Medicaid expansion in the Affordable Care Act received substantially less attention than the controversial insurance requirement that dominated legal debate about the legislation. But the joint state-federal health care program for the poor is arguably more important to the law's

success than the insurance mandate.

Under the law, the federal government plans to spend nearly \$1 trillion over the next decade to help states cover all Americans who make less than 138 percent of the poverty line, or about \$15,400. That is the single largest expense in the law, according to the Congressional Budget Office.

The expansion was designed to standardize a program that for most of the last half century has varied widely across the country.

While all states are required to cover poor children, many states have not extended Medicaid coverage to their parents. As of 2009, 17 states only covered working parents who made less than half the federal poverty line, or \$5,415, according to data collected by the nonprofit Kaiser Family Foundation.

In Arkansas, a working parent had to make less than \$1,841 to qualify for Medicaid. And 45 states excluded childless adults entirely from Medicaid, no matter how little they earned.

By doing away with these exclusions, Obama's law was expected to extend coverage to some 17 million people, more than the number expected to gain coverage in new insurance exchanges. Today, approximately 50 million Americans get Medicaid coverage.

"When we wrote the law, we worked very hard to make sure that low-income Americans who aren't currently eligible for Medicaid, but still can't afford to pay for health insurance, are given an affordable option through the expansion of Medicaid," Sen. Jay Rockefeller, [D-W.Va.](#), said Thursday. Rockefeller expressed concern that the Supreme Court "could have seriously undermined their health care options."

To ease the burden on states of insuring all these new people, the law directs the federal government to fully fund the expansion for the first several years. Medicaid funding is currently split between states and the federal government, with Washington picking up on average 57 percent of the tab.

That new 100 percent federal contribution - which drops to 90 percent after 2020 - could mean billions of dollars for states. And hospitals and other medical providers, who are facing other reductions in federal health care spending, will almost certainly pressure elected officials, even in very red states, not to forego the new aid.

"We need the coverage expansion to work," said John Hawkins, senior vice president of the Texas Hospital Association. Texas is expected to receive \$52.5 billion in federal aid in the first five years of the expansion, while having to pay \$2.6 billion itself, according to estimates from the Urban Institute and the Kaiser Commission on Medicaid and the Uninsured.

Rejecting the Medicaid money would also put a state in the odd position of guaranteeing middle-income residents health care through the new insurance exchanges, which were upheld by the court, while denying coverage to the very poor.

But for states already struggling to maintain schools, highways and other state services, the prospect of saving money by rejecting the federal Medicaid funding may be appealing.

"The court's ruling makes not expanding Medicaid a zero-cost proposition," said Michael Cannon, director of health policy at the libertarian Cato Institute. Cannon has urged states not to implement any part of the law.

Limiting the Medicaid expansion also may protect states from future federal cutbacks, which many anticipate next year as Congress and the White House turn again to deal with the budget

deficit.

George Mason University health economist Len Nichols, a supporter of the law who has been advising several red and blue states, said some could decide to scale back their Medicaid expansions, while not rejecting the federal aid altogether. Such a move, which was already under discussion by some GOP governors, would ease the burden of a massive expansion on cash-strapped states.

It would likely require sign off from the Obama administration. But the court's decision to give states the option to simply reject Medicaid aid may strengthen their bargaining position in any negotiation.

"It would be wise for the administration to entertain that conversation," Nichols said