



October 08, 2010 - Topic: Health Care Reform

Michigan Judge Throws Out Challenge to Health Law's Insurance Mandate

On Thursday, U.S. District Court Judge George Steeh rejected a motion by the Thomas More Law Center to institute a preliminary injunction against the federal health reform law because the law's individual health insurance mandate is unconstitutional, the *Washington Post* reports.

The center **filed the complaint** in March on the same day that President Obama signed the overhaul into law (Aizenman, *Washington Post*, 10/7).

Details of the Complaint

TMLC said the law, particularly the individual mandate, represented "an unprecedented encroachment on the liberty" of U.S. residents because the individual mandate -- requiring nearly all residents to obtain health insurance coverage of face a penalty -- "restrict[s] their personal and economic freedoms in violation of the Constitution" (*California Healthline*, 5/13).

Steeh's Ruling

In his ruling, Steeh wrote that Congress had approved the law within its powers to regulate interstate commerce, noting, "The minimum coverage provision, which addresses economic decisions regarding health care services that everyone eventually, and inevitably, will need, is a reasonable means of effectuating Congress' goal" (Norman, *CQ HealthBeat*, 10/7).

He added, "The decision whether to purchase insurance or to attempt to pay for health care out of pocket is plainly economic. These decisions, viewed in the aggregate, have clear and direct impacts on health care providers, taxpayers and the insured population, who ultimately pay for the care provided to those who go without insurance" (Gerstein, *Politico*, 10/7).

Steeh also noted that a person's decision not to obtain insurance coverage qualifies as an example of "activities that substantially affect interstate commerce" -- the standard that the U.S. Supreme Court set for Congress' compliance with the Commerce Clause, the *New York Times* reports (Sack, *New York Times*, 10/7).

"Far from inactivity, by choosing to forgo insurance, plaintiffs are making an economic decision to try to pay for health care services later, out of pocket, rather than now through the purchase of insurance, collectively shifting billions of dollars, \$43 billion in 2008, onto other market participants," Steeh wrote (*CQ HealthBeat*, 10/7).

Representatives for TMLC said they plan to appeal Steeh's ruling (*Washington Post*, 10/7).

Portion of Lawsuit Still Outstanding

According to *Politico*, Steeh did not deliver a ruling on another portion of TMLC's lawsuit related to abortion funding (*Politico*, 10/7). In their complaint, the plaintiffs argued that the penalty fee for failing to purchase health insurance would be directed into a national general fund that could be used to pay for abortions.

Reaction to Ruling

Steeh's ruling represented a "notable victory" for the Obama administration, the first among more than a dozen similar legal challenges that have been filed by state officials and private entities since the law was enacted, including two high-profile lawsuits filed in Florida and Virginia, the *Post* reports (*Washington Post*, 10/7).

The administration welcomed the ruling, noting that it "marks the first time a court has considered the merits of any challenge to this law," according to a statement from U.S. Department of Justice official Tracy Schmalzer.

Ilya Shapiro -- a lawyer for the Cato Institute, which has filed amicus briefs on behalf of plaintiffs in the Virginia lawsuit -- objected to the "economic decisions" language in Steeh's ruling.

Shapiro said, "Finding the individual mandate constitutional would be the first interpretation of the commerce clause to permit the regulation of inactivity -- requiring an individual to engage in economic activity," adding, "Under Judge Steeh's 'economic decisions' theory, Congress could tell people what to study in school or what job to take" (McCarthy, *CongressDaily*, 10/7).

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