

Federal Appeals Court Upholds Health Overhaul Law

by JULIE ROVNER

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The first of three U.S. Appeals courts has now weighed in on the constitutionality of law year's health overhaul, and the news couldn't have been much better for backers of the [Affordable Care Act](#).

The three-judge panel in the 6th Circuit, in separate [opinions](#) written by judges appointed by former Presidents Jimmy Carter and George W. Bush, ruled that "the minimum coverage provision" of the law (also known as the individual mandate) "is a valid exercise of legislative power by Congress under the Commerce Clause."

As a result, the court in Cincinnati upheld the lower court ruling also finding the coverage requirement constitutionally acceptable in the case brought by the [Thomas More Law Center](#) in Michigan.

"The minimum coverage provision regulates activity that is decided economic," wrote Circuit Judge Boyce Martin, the Carter appointee. "The activity of [forgoing] health insurance and attempting to cover the cost of health care needs by self-insurance is no less economic than the activity of purchasing an insurance plan."

But what really cheered backers of the law was the concurring opinion by Circuit Judge [Jeffrey Sutton](#), a prominent conservative appointed by the most recent President Bush and a former law clerk to Supreme Court Justice Antonin Scalia.

Sutton squarely punched a hole in conservatives' favorite argument against the law: that if Congress can force people to purchase health insurance, they can force them to purchase virtually anything, including health club memberships or annual checkups.

"In most respects, a mandate to purchase health insurance does not parallel these other settings or markets," Sutton wrote. "Regulating how citizens pay for what they already receive (health care), never quite know when they will need, and in the case of severe illnesses or emergencies generally will not be able to afford, has few (if any) parallels in modern life. Not every intrusive law is an unconstitutionally intrusive law."

The third judge on the panel, Ronald Reagan appointee James Graham, disagreed with Martin and Sutton. He noted that if the mandate was upheld, "it is difficult to see what the limited on Congress's Commerce Clause authority would be."

Still, backers of the law were thrilled with the ruling. "This is a much more sophisticated opinion than we've seen before; a much more thorough examination of the precedents," said Timothy Jost, a law professor at Washington and Lee University.

Plus, there's the matter of who the decision came from. "Judge Sutton is a very highly respected conservative judge who's been talked about as a future Supreme Court nominee," said Jost. Having someone known as an advocate for states rights deliver an opinion so strongly upholding the law will go a long way toward helping people "realize this law isn't going away and they're going to have to start to learn to

live with it," Jost said.

The White House was clearly pleased with the decision but issued a relatively low-key statement. "We are gratified by today's ruling," wrote Assistant to the President Stephanie Cutter on the White House [blog](#).

But Cutter noted that there are still several cases in the pipeline awaiting decisions. Two other cases have already been heard by appeals courts in [Richmond](#) and [Atlanta](#). Decisions in those cases are expected in the coming weeks.

The Associated Press reported that an attorney for Thomas More said the center expects to appeal the decision.

Opponents of the law were notably quiet in the immediate aftermath of the ruling. One who wasn't was [Ilya Shapiro](#), a senior fellow in constitutional studies at the libertarian Cato Institute, who wrote in [blog post](#):

While a progressive like Judge Martin could be expected to accept any exercise of federal power, it is shocking that an avowed constitutionalist like Judge Sutton requires Congress to show only a rational basis behind what it does—a 'reasonable fit' between the means it chooses and the ends of regulating interstate commerce—to survive constitutional scrutiny. Under such logic, Congress can do anything it wants so far as it is essential to a larger regulatory scheme. That cannot be the law.

health overhaul