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# *Health-care changes may not all disappear even if justices overturn the law*

**By** N.C. Aizenman**,** Published: March 22

Since the 2010 health-care bill became law two years ago Friday, it has launched fundamental changes to Medicaid, Medicare and the private health-insurance system relied on by millions of Americans.

Its most transformative — and controversial — provisions are not set to take effect until 2014, but a complex web of new rules has already extended coverage and expanded benefits across the country.

So what happens to the existing provisions if the Supreme Court, which will hear challenges to the law next week, ultimately decides to go with its most sweeping option: overturning the law in its entirety?

The answer depends on where you live, who you work for and how you get your insurance.

Take one of the law's most well-publicized provisions: the requirement that insurers allow parents to keep adult children on their health plans until age 26. The administration estimates that an additional 2.5 million young adults have been able to get health insurance coverage as a result.

Overturning the law would immediately release insurers from the federal rule. But it is hard to predict how many would actually exercise their right to revert to their original policies.

Compared with other provisions, the young-adults requirement proved fairly uncontroversial among insurers. Many even volunteered to comply well before the deadline set by the law, noted Robert Zirkelbach, spokesman for America's Health Insurance Plans, an industry group.

In addition, nearly all states, which regulate many forms of private insurance, have already codified the young-adult rule at the state level. In some cases this was done through actions that could be easy to undo. For instance, South Dakota's law adopting the young-adults requirement included the proviso that if the health-care law is found unconstitutional, the state statute would automatically be repealed as well.

But in plenty of other states, insurers would not be free of the rule unless state leaders rolled back the statutes or regulations they adopted to implement the health-care law.

The same is true of the host of other mandates the federal law currently imposes on insurers. These include prohibitions against imposing lifetime limits on insurance payouts or dropping someone's coverage after they get sick on the grounds that their insurance application contained inaccuracies.

There's also the requirement that private insurers cover preventive services such as mammograms and colonoscopies without imposing co-pays or other out-of-pocket charges. About 54 million Americans now have expanded coverage of at least one preventive service as a result, according to an analysis by the Kaiser Family Foundation.

Lawmakers are unlikely to unwind these rules in many states, predicted Sabrina Corlette, a Georgetown University professor and co-author of a study analyzing state actions to align their insurance rules with the health-care law. "These are market reforms that are really very popular," she said.

But Michael Cannon, director of health policy studies at the libertarian Cato Institute and an opponent of the law, argued that scrapping these requirements could actually benefit many Americans. They have driven up the cost of many insurance plans, he said. So without them, "there will be more affordable coverage options."

The likely impact of a court decision invalidating the law is more evident when it comes to another well-known feature: The discount that drug manufacturers must currently offer to seniors who fall into Medicare's prescription drug coverage gap — commonly referred to as the "doughnut hole."

According to the Obama administration, last year 3.6 million Medicare beneficiaries saved more than $2.1 billion on prescription drugs — an average of $604 per person — as a result of the discount. And it would no longer be available if the law were overturned.

Seniors would also lose access to the law's requirement that Medicare cover preventive services, including an annual physical, with no out-pocket charges — an option about 32.5 million took advantage of in 2011.

There are also large categories of people who would likely lose their insurance coverage altogether.

These include approximately 50,000 Americans currently insured through temporary "high risk" pools set up for people unable to obtain private insurance because they have a pre-existing health condition. The pools were intended to tide such people over until 2014, when the law will bar insurers from discriminating against them.

Many of the pools are run by states with federal dollars. And the states could choose to maintain them at their own expense. But it's hard to say how many would opt to do so amid the financial pressure the sluggish economy has put on state budgets.

Budget concerns could also prompt states to respond to an invalidation of the health-care law by dropping millions of residents from their Medicaid rolls.

Currently the law bars states from tightening their eligibility rules for Medicaid before 2014, when the program will be expanded to cover a larger share of the poor, almost entirely at the federal government's expense.

State leaders across the country have complained that this "maintenance of effort" requirement has imposed a crushing burden, forcing them to shortchange other priorities such as education.

"I would think almost all of them would want to revisit their eligibility rules," said Cannon, "and they should because there's a lot of people in Medicaid who don't need to be there."

That assessment was hotly contested by Ronald Pollack, executive director of the advocacy group Families USA, which supports the law.

"People in Medicaid today are the poorest of the poor," he said. "In many cases their total annual income is less than the average premium for a family insurance plan. So there is no way in the world they can afford insurance."

Still, Pollack said his concern over the issue was lessened by his conviction that even if the Supreme Court strikes down part of the law it will leave the bulk of it — including the Medicaid provisions — in place.

“To invalidate all provisions of the [law] would require a Herculean effort to avoid decades of precedents,” he said.