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**Supreme Court Upholds Health Care Reform Law**

The U.S. Supreme Court today issued its opinion in the cases challenging the Patient Protection and Affordable Care Act (PPACA or ACA). The Court held that the ACA’s minimum essential coverage provision, commonly called the “individual mandate,” is essentially constitutional. Chief Justice John Roberts joined Justices Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor and Elena Kagan to uphold the law. The ACA survives nearly entirely intact.

*The individual mandate requires every American, with a few limited exceptions, to purchase and maintain health insurance coverage.* The Court held that the command to purchase health insurance itself was not within Congress’ power to regulate commerce; however, it held that the penalty for individuals who do not have insurance is a tax. The Court therefore upheld the mandate as a tax under Congress’ very broad power to tax.

**Understanding the Mandate as a “Tax”**

By upholding the individual mandate as a tax rather than purely as an exhortation or command of law, the Court eliminated the possibility that a person is “breaking the law” if he or she does not purchase health insurance or does not have health insurance provided by an employer or the government. Instead, a person who chooses not to purchase health insurance (or obtain it through the employer or government) will simply pay a not-so-large excise tax for going without health insurance.

**Implications for Other ACA Provisions**

The decision means that provisions of the ACA already in effect remain in place, and provisions coming in 2014 will continue as planned. Key provisions scheduled for 2014 include:

- Individual mandate;

- Establishment of health insurance exchanges;

- Availability of federal government assistance (premium tax credits) for lower-income individuals, to ease the cost of purchasing coverage through the health insurance exchanges; and

- Employer responsibility (for employers with 50 or more employees) to provide affordable health insurance for its employees or pay a penalty.

Church annual conferences should continue to comply with applicable terms of the ACA and plan for the major changes coming in 2014. The General Board will release helpful explanations (as applied to the unique structure of The United Methodist Church) of those impending provisions soon.
About the Supreme Court Decision
The Court had to decide on several questions raised by the ACA’s challengers.

- **Can the U.S. Supreme Court hear the challenge?**

  First, the Court had to decide whether it had jurisdiction to hear the challenge to the individual mandate. A very old federal law called the Anti-Injunction Act prohibits federal courts from hearing challenges to federal taxes by taxpayers until that tax has been assessed and paid. The Court had to determine whether the penalty associated with the individual mandate (for not having insurance) was a tax, and whether the Anti-Injunction Act would then bar it from deciding the issue until someone pays an ACA penalty. The ACA describes the “shared responsibility payment” as a “penalty,” not a “tax.” The Court held that because the payment is called a penalty, the Anti-Injunction Act does not apply. However, somewhat contradictorily, the Court also held that for the determination of whether this payment falls under Congress’ taxing power of the Constitution, the “penalty” label does not matter.

- **Is the individual mandate constitutional?**

  Second, the Court had to decide whether the individual mandate exceeds Congress’ power to regulate commerce among the states under the Commerce Clause of Article I of the U.S. Constitution. As explained above, the Court held that the individual mandate itself was not within Congress’ power to regulate commerce. However, the individual mandate involves a penalty for individuals who do not have health insurance. That penalty is collected like a tax by the Internal Revenue Service. Congress has a very broad taxing power under the Constitution. The Court wrote:

  “Our precedent demonstrates that Congress had the power to impose the exaction in Section 5000A of the ACA under the taxing power, and that Section 5000A need not be read to do more than impose a tax.”

  This is sufficient to sustain the individual mandate. The Court reinforced that individuals can simply not comply with the mandate, and the only effect of not complying is that one pays the tax.

- **Is the individual mandate severable from the remainder of the ACA?**

  Third, because the ACA does not contain a severability clause that would expressly preserve other sections of the law if one section was struck down by a court, the Court had to decide whether the individual mandate was severable from the remainder of the ACA or, if it was not entirely severable, which provisions (possibly the whole law) would have to be struck if the individual mandate was struck. Because the Court held that the mandate was constitutional as a tax, it did not have to decide which other provisions of the law would be struck with it. Upholding the mandate as a tax rendered this question moot.

- **Is the Medicaid expansion in the ACA too coercive on the states?**

  Finally, the Court had to decide whether the expansion of Medicaid coverage in the ACA was so coercive to the states that it exceeded Congress’ spending powers under the Constitution. (This question was not related to the individual mandate.) A majority of the Court held that the Medicaid expansion is constitutional, but that it would be unconstitutional for the federal government to withhold Medicaid funds from states for non-compliance with the expansion provisions. The Court wrote:

  “Nothing in our opinion precludes Congress from offering funds under the ACA to expand the availability of health care, and requiring that states accepting such funds comply with the conditions on their use.
What Congress is not free to do is to penalize States that choose not to participate in that new program by taking away their existing [(pre-ACA)] Medicaid funding.”

The U.S. Constitution requires that states have a choice about whether to participate in the expansion of Medicaid eligibility; if they decide not to participate, they can continue to receive funds for the rest of the program.

The Dissent
Four Justices dissented from the Court’s decision about the individual mandate: Justices Antonin Scalia, Anthony Kennedy, Clarence Thomas and Samuel Alito. The dissenting Justices would have held that the mandate was unconstitutional and that the entire ACA should be struck down with it.

Conclusion
For now, the ACA will continue to be implemented as it was enacted. The individual mandate’s survival as a tax, rather than purely a legal command, may have a marginal impact on the legislation’s efficacy of drawing young, healthy individuals into the health insurance market. Over time, a less effective mandate may lead to greater insurance costs through the exchanges, but that remains to be seen.

The General Board will continue to provide information about the ACA to annual conferences and the denomination, as regulations and guidance are published by the federal regulators.

More Information
More about health care reform is available on the General Board’s health care reform webpage. Please send your questions to healthcarereform@gbophb.org. General information about health care reform is available from the federal government at www.healthcare.gov.

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