



Supreme Court rejects ACA challenge

*By Katharine Marshall and Geoff Manville
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In a 7-2 decision, the US Supreme Court has rejected a constitutional challenge to the individual health coverage mandate in a case that could have invalidated the entire Affordable Care Act (ACA) ([California v. Texas](#), No. 19-840 (US June 17, 2021)). The court found the plaintiffs lacked standing because they failed to show a past or future injury needed to justify the case.

Ruling leaves ACA intact

The constitutionality of the individual mandate became an issue after Congress reduced the penalty for not having adequate health coverage to zero in the Tax Cuts and Jobs Act of 2017. If the penalty-free mandate is unconstitutional, the court had to decide whether the entire law is void or only limited sections— such as the ban on preexisting condition exclusions — are invalid along with the individual mandate.

A majority of the court found that the states bringing the ACA challenge failed to demonstrate that the individual mandate increased their costs, and any alleged injury from other ACA provisions didn't suffice to justify standing in this case. The individual plaintiffs likewise failed to demonstrate injury from an ACA provision that is unenforceable, the court said. The ruling maintains the status quo: The ACA contains an individual mandate with no tax assessment for failing to maintain health insurance.

Significance for employers

For employers sponsoring group health plans, today's decision has no direct consequences. The ACA's mandated preventive-care coverage, ban on annual and lifetime maximums for essential health benefits, prohibition of preexisting condition exclusions, limits on waiting periods, and caps on out-of-pocket expenses have become group health plan features for years and will continue unchanged. The ACA's employer shared-responsibility mandate to offer "affordable" minimum essential coverage to full-time employees or pay a tax assessment also remains intact, along with the annual reporting obligations.

In recent years, proposals to streamline the reporting requirement have languished, partly due to fears of harming the IRS's ability to administer the ACA premium tax credits for eligible individuals with public marketplace coverage. Congress is unlikely to revisit reporting simplification this year since they are focused on other priorities.

Other legal challenges to the ACA

Other legal challenges to specific ACA regulations continue, including litigation over the rules on [association health plans](#), [hospital price transparency](#), [short-term, limited-duration insurance](#), [Section 1557 nondiscrimination](#), [moral](#) and [religious exemptions](#) from the contraceptive coverage mandate, and others. These matters are at various stages in the litigation process. The Biden administration is taking a very different approach than the Trump administration did in defending many of these matters, with the possible exception of the hospital price transparency rule, which enjoys support from congressional Democrats.

Uncertain outlook for Democrats' legislative priorities

President Biden made ACA expansion a core tenet of his healthcare platform on the campaign trail, and Democrats included a two-year increase and expansion of ACA marketplace plan subsidies in the recently enacted American Rescue Plan Act. Biden and Democrats in Congress are looking to make these more generous subsidies permanent as part of the president's [American Families Plan](#). Other proposed ACA changes include fixing the "family glitch" that ties employer plan affordability to self-only coverage and narrowing the healthcare reforms that states can pursue through innovation waivers. Rolling back the Trump administration's short-term, limited-duration insurance rules is also on the agenda. In addition, the Biden administration continues to pursue its health policy agenda through rulemaking and executive action.

Progressive Democrats are championing more ambitious proposals, such as creating a public option plan to compete with private insurers and expanding Medicare. Letting Medicare negotiate drug prices also has broad support within the party. But the outlook for these reforms and even relatively moderate changes to the ACA is uncertain. Though Democrats might be able to pass legislation without Republican support through a special process tied to the budget, they would need backing from all of their own members in the 50-50 Senate and could not lose more than four Democrats in the narrowly divided House.

Employers should watch for any changes to the availability of ACA subsidies in the public marketplace, which could affect the current affordability standard for employer-sponsored plans to avoid penalties.

Related resources

Non-Mercer resources

- [Supreme Court's opinion](#) in *California v. Texas*, No. 19-840 (US June 17, 2021)
- [Appellate opinion](#) in *Texas v. US* (5th Cir. Dec. 18, 2019)
- [Lower court's stay and partial final judgment](#) in *Texas v. US* (N.D. Texas, Dec. 30, 2018)
- [Lower court's partial summary judgment](#) in *Texas v. US* (N.D. Texas, Dec. 14, 2018)

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- [Latest ACA case: Appeals court rules individual mandate unconstitutional](#) (Dec. 19, 2019)
- [2019 compliance and policy outlook for employer-sponsored health benefits](#) (Feb. 6, 2019)

Other Mercer resources

- [Rare signal from justices — ACA may survive](#) (Nov. 12, 2020)
- [Employers will face difficult decisions if ACA ruling stands](#) (Dec. 17, 2018)

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