

District Court Judge Strikes Down ACA as Unconstitutional

December 2018

It's déjà vu all over again for employer health care plans and legal challenges to the Affordable Care Act (ACA).

On December 14, 2018, a U.S. district court judge issued a ruling striking down the ACA as unconstitutional, putting health care reform back on the front burner as the House and Senate, which will be controlled by different political parties, prepare to convene in January 2019.

In a challenge to the ACA brought by 20 state attorneys general (*Texas v. U.S.*), the district court judge ruled that the ACA could no longer be considered constitutional, since the Supreme Court's rationale for the ACA's legality—a tax on not having health insurance—had been zeroed out by Congress in the Tax Cuts and Jobs Act of 2017. The district court judge held that the individual mandate to purchase health insurance was unconstitutional absent the tax and struck down the rest of the ACA as “inseverable” from the mandate.

The decision, however, did not enjoin enforcement of the ACA and defendants will appeal the decision to the Fifth Circuit Court of Appeals. As a result, the ACA remains in effect and employer compliance obligations continue unabated. If the Fifth Circuit upholds the district court's ruling, the Supreme Court is unlikely to hear any appeal or issue any decision before June 2020.

As a result of the decision and the mid-term elections that delivered control of the House of Representatives to the Democrats but kept Republicans in charge of the U.S. Senate, health care reform is likely to remain on the congressional agenda for 2019 into the presidential election year of 2020. The split control of Congress and the lack of consensus on health care reform among House Democrats and Senate Republicans make any health care legislation unlikely in the short term. The Trump Administration remains focused on enacting its health care regulatory agenda (association health plans, individual coverage health reimbursement arrangements, and short-term limited-duration health insurance policies) while Democrats support “Medicare for All” or “Medicare for Some” and oppose any weakening of the ACA.

Resources

The December 14, 2018, ruling is available [here](#).

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