

Implications of the Supreme Court's Decision for People with HIV

June 26, 2012

The Supreme Court is expected to release its much anticipated ruling on the Patient Protection and Affordable Care on Thursday, June 28th. The ruling could go in many different directions from upholding the entire law to striking down the requirement that individuals purchase insurance (or individual mandate) to striking down the Medicaid expansion to striking down the entire law. Unless they uphold or strike down the entire law, it will be some time before we know the full ramifications of the ruling. Beginning Thursday at 9 am ET, you can follow the Supreme Court activity [live blog](#) (or scotusblog.wpengine.com).

If the entire law is struck down, it will be a huge setback for people with HIV. Federal and state policymakers will need to work with key stakeholders to develop alternative solutions for providing access to affordable and comprehensive coverage for the nearly 50 million people in the U.S. who are uninsured, including many people with HIV.

This paper provides a very preliminary and general assessment of different scenarios and how they may have affect people with HIV to help organizations craft their own press releases and communications materials. The Treatment Access Expansion Project (www.taepusa.org) will be releasing a detailed analysis following the ruling, and www.HIVHealthReform.org is hosting a webinar on the ruling on Tuesday, July 10 at 2:30 pm ET.

WHY THE AFFORDABLE CARE ACT IS SO IMPORTANT TO PEOPLE WITH HIV

- The Affordable Care Act would address the failings of the current health system by expanding Medicaid to all low-income people, creating open, competitive, fair marketplaces for uninsured and underinsured individuals and families to purchase private insurance and providing subsidies to lower income individuals to make insurance affordable.
- An estimated 1.2 million people are living with HIV in the U.S. and need access to high-quality, uninterrupted health care to stay healthy, reduce new HIV infections, and cut long-term health care costs.
- Science has provided the tools to effectively treat HIV disease and to make significant headway against HIV in the U.S. Research clearly shows that with early access to HIV treatment people with HIV stay healthier and are significantly less likely to transmit HIV to their partners.
- National health care reform will put us on the road to an AIDS-free generation by dramatically expanding access to medical care, life-saving HIV treatment and screening. The National HIV/AIDS Strategy sets a new course for an AIDS-free generation, but its success is in jeopardy without meaningful health care reform.
- Today, around 50% of people with HIV are in regular medical care and only 25% are being effectively treated with HIV medications. Only around 13% of people living with HIV have private insurance coverage and nearly 25% are uninsured.
- The failings of the current health care system contribute to staggering health disparities. African Americans account for 13% of the U.S. population but 46% of people living with HIV, and 64% of all women with HIV are African American. Gay men represent approximately 2% of the general population but 53% of new infections.

For more information, contact HHCAGW co-chairs Andrea Weddle, aweddle@idsociety.org or Robert Greenwald, rgreenwa@law.harvard.edu.

IF THE AFFORDABLE CARE ACT IS UPHELD

- Upholding the Affordable Care Act will be a major victory for people with HIV and countless others who have been shut out of the current health insurance market. By leveling the playing field for people to obtain health insurance coverage, the Affordable Care Act would remove a major roadblock to ending AIDS in America.
- Recognizing the Affordable Care Act as the law of the land will give people living with HIV access to the reliable health coverage that they need to seek and maintain continuous care, without worry of interruptions in their medical care caused by inadequate coverage or an inability to pay.
- Health reform implementation must now proceed full steam ahead. Congress should acknowledge that the Affordable Care Act is the law of the land by fully funding health reform and ending efforts to repeal it. Progress must not be held hostage by politics.
- Education and outreach on what the Affordable Care Act does and does NOT do should occur on a much wider scale across the country so that Americans have accurate information about the law and how it will benefit them.

IF THE INDIVIDUAL MANDATE IS STRUCK DOWN BUT OTHER PROVISIONS REMAIN

- If the Medicaid expansion is upheld, an important barrier to ending AIDS—lack of access to Medicaid coverage for poor people until they are sick and disabled —will be overcome. But many lower and middle income people with HIV still will not have access to affordable private insurance coverage.
- Expanding Medicaid to very low-income people addresses a significant injustice. Across America, low-income people have relied on a failing system of emergency rooms and free clinics to get medical care for a life-threatening disease. The Medicaid expansion will mean that people with HIV will have reliable access to HIV care and treatment as well as medical care for all of their conditions, from diabetes to mental illness to cancer.
- Our health insurance coverage system works best when as many people as possible participate. The individual mandate was critical to enacting much-needed consumer protections that prohibit insurance companies from denying coverage to people with HIV and other conditions, charging more for their coverage just because they are sick, and establishing annual and lifetime coverage limits. By bringing everyone into the insurance market, the mandate would have kept insurance accessible and affordable for all of us.
- Even if insurers voluntarily elect to continue to some of the protections, such as covering individuals with pre-existing conditions and not terminating coverage when someone gets sick, it will be difficult to ensure that the cost of the coverage is not out of reach for many people with HIV.
- Many of the reforms that are currently in effect – including Pre-existing Condition Insurance Plans that have provided people living with HIV access to comprehensive insurance and reforms that have made Medicare prescription drugs more affordable – are already helping thousands of people living with HIV access lifesaving care and treatment. Regardless of the court's decision, Congress must ensure that these and other provisions already in effect remain intact.
- The Ryan White Program will be needed more than ever to provide lifesaving care and treatment to the many people with HIV that will continue to be left uninsured and to fill gaps in Medicaid-covered services.

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CALL TO ACTION IF VARIOUS COMPONENTS ARE STRUCK DOWN

- Congress must immediately work with the Administration to rebuild all or part of the health law. We must not give up on having a “health care system” that supports access to care and treatment that prevents illness and disease progression rather than a “sick care system” that promotes disability and illness by limiting coverage options.
- If the individual mandate is struck down, Congress and the Administration must consider other options for enacting the consumer protections offered by the Affordable Care Act in a way that makes health coverage affordable for those who need it the most.
- To provide affordable coverage options for individuals, families and small businesses, federal funding should continue to support implementation of state-based exchanges.
- The Affordable Care Act’s premium and cost-sharing assistance provisions must still be enacted to ensure health care coverage is accessible to lower income individuals.
- Private insurers should end current discriminatory practices and move forward with enacting the Affordable Care Act’s consumer protections. Increased resources should be devoted to supporting outreach and enrollment in the plans available through the state-based exchanges.
- Congress should increase funding for the highly successful Pre-Existing Condition Insurance Plans and take additional steps to improve health care coverage access for people with HIV, such as passing the Early Treatment for HIV Act and fully funding the Ryan White Program.
- State legislatures should follow in the footsteps of Massachusetts and California to enact state-level reforms that can dramatically expand access to private health insurance and support healthier and more productive communities.
- The bi-partisan Committee for a Responsible Federal Budget estimates that a full repeal of the Affordable Care Act would add \$119 billion to the federal deficit making inaction unaffordable no matter how you look at it.

MOVING FORWARD— THE ELECTIONS

- Regardless of the Supreme Court ruling, the November elections will be pivotal to the future of national health care reform and will determine if we make our nation’s health a priority. Voters will need to educate themselves on the candidates’ positions on national health reform to determine if their plans will provide meaningful and affordable access to comprehensive insurance coverage.
- If any part of the law is struck down, President Obama and presumed Republican nominee Mitt Romney must offer real plans for ensuring that everyone in the U.S., including people with HIV, has meaningful access to affordable health coverage.

RESOURCES FOR MORE INFORMATION ON THE AFFORDABLE CARE ACT AND THE SUPREME COURT RULING

- HIVHealthReform.org – www.hivhealthreform.org
- Center on Budget and Policy Priorities – www.cbpp.org
- FamiliesUSA – www.familiesusa.org
- HealthAffairs Blog – <http://healthaffairs.org/blog/>
- Kaiser Family Foundation – www.kff.org
- National Health Law Program – www.nhelp.org
- Supreme Court of the United States Blog – <http://www.scotusblog.com/>
- Treatment Access Expansion Project – www.taepusa.org

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