



September 2011

Appellate Ruling on Individual Mandate Adds to Uncertainty of Its Constitutionality

Several conflicting appellate court rulings practically guarantee the federal health reform law's future will be decided by the U.S. Supreme Court, most likely before the 2012 national election.

In the most recent ruling, the Atlanta-based 11th Circuit Court of Appeals ruled 2-1 that the so-called individual mandate — the portion of the health care law requiring that everyone buy health insurance or face a fine — is unconstitutional. The court ruled the rest of the health care law could stand. Earlier this year, the 6th Circuit Court of Appeals in Cincinnati ruled 2-1 to uphold the entire law, including the individual mandate. The issue is also before the 4th Circuit Court in Richmond, Va., and a federal appeals court in Washington, D.C.

Texas is one of 26 states to file suit challenging the federal health care law and Texas Attorney General Greg Abbott says the most recent ruling brings the health reform bill “closer to an end.”

The Obama Administration is expected to appeal the most recent ruling, but hasn't announced whether it will appeal directly to the Supreme Court or ask the full 11th Circuit Court to re-hear the case.

An appeal directly to the Supreme Court increases the likelihood that the high court would hear the case during its upcoming term and issue a ruling by June 2012.

Childhood Obesity Threatens Adult Health

New research suggests that children need health counseling at an earlier age to prevent obesity and the chronic diseases such as diabetes that are associated with it.

One of the new studies, conducted by the Institute of Medicine, shows that children who are overweight or obese are more likely as adults to be obese and to develop chronic diseases. That's a concern given that the percentage of 2- to 5-year-old children who have weight problems — 20 percent — is double what it was in the 1980s. Even among children under the age of 2, 10 percent are overweight or obese, and 17 percent of children and teens between 2 and 17 years old are obese.

While concern among medical professionals about obesity is growing, the overweight but not obese population is largely ignored, despite indications that the trend toward weight gain is difficult to reverse. For instance, a new study from the University of California-San Francisco showed that between the years 2003 and 2007, doctors in California were not any more likely to discuss diet, physical activity and emotional issues with overweight as with normal weight teens. In fact, doctors became less likely to discuss these issues with patients of any weight over the course of the study years.

Luckily, some schools are recognizing the importance of encouraging students to make healthy choices that will prevent excessive weight gain. State College of Florida Manatee-Sarasota, for instance, offers financial incentives to students who try out wellness programs. It's possible that a modified version of this incentive program could benefit younger students as well.

Birthdays

September

- 1 – Rep. Roland Gutierrez
- 1 – Speaker Joe Straus
- 3 – Rep. Dawnna Dukes
- 4 – Rep. Dwayne Bohac
- 6 – Rep. Sid Miller
- 7 – Rep. George Lavender
- 7 – Rep. John Smithee
- 8 – Rep. Garnet Coleman
- 8 – Sen. Mario Gallegos
- 10 – Rep. Mark Strama
- 12 – Sen. Carlos Uresti
- 16 – Rep. Joaquin Castro
- 18 – Rep. Chuck Hopson
- 18 – Rep. Ron Reynolds
- 19 – Rep. Tom Craddick
- 21 – Sen. Steve Ogden
- 23 – Rep. Bill Callegari
- 26 – Rep. Rafael Anchia
- 26 – Rep. Wayne Christian
- 26 – Sen. Royce West
- 27 – Rep. Marisa Marquez
- 27 – Rep. Sylvester Turner
- 29 – Rep. Joe Driver
- 29 – Rep. Tryon Lewis
- 30 – Rep. Mike Hamilton

Medicaid Will No Longer Reimburse for “Never Events”

Medicaid will no longer reimburse hospitals for so-called “never events,” medical errors so outrageous that professionals believe they should never happen.

About 20 states currently have such policies in place, and changes in federal law require all states to have similar rules in place by July 2012. Never events range from foreign objects left in the body to operating on the wrong body part. About two dozen such events will fall under the nonpay category.

Medicaid is a \$364 billion program funded jointly between states and the federal government to provide health services for the poor and disabled. Medicare, the federal health program for the elderly, has operated under a similar regulation since 2008.

SB 7, passed earlier this year by the Texas Legislature, included measures intended to eliminate what it calls “preventable readmissions and complications.”

SB 7 directs HHSC to adjust Medicaid reimbursements for treatment associated with preventable readmissions and complications. It also requires DSHS to implement public reporting of readmissions and complications across all payers — not just Medicaid.

Nationally, the Centers for Medicare and Medicaid Services said the change will encourage health professionals and hospitals to reduce preventable infections and eliminate serious medical errors. However, some physician groups have opposed the new policy. They said that while never events are regrettable, they are not always preventable.

Blood Test Determines Baby’s Sex at Seven Weeks

A noninvasive test for expectant mothers is highly accurate in determining a baby’s sex starting at only seven weeks, new research reports. Although the test has been available for a few years already, its accuracy has been unclear. According to a new meta-analysis of previous studies published in the August 17, 2011, issue of *The Journal of the American Medical Association*, the test is 95 percent accurate at seven weeks, and 99 percent accurate at 20 weeks.

This test could be beneficial to parents who want to find out as early as possible whether their child could be at risk for gender-linked genetic disorders, such as Duchenne muscular dystrophy, which only affects males. By determining the baby’s sex as early as possible, expectant parents will know whether they need to undergo potentially costly procedures to test for such disorders.

The test works by analyzing fetal DNA in the mother’s blood. If the Y chromosome is detected, the baby is male; if not, the baby is assumed to be female. The use of blood samples rather than amniotic fluid make the test safer for the fetus than amniocentesis and similar procedures, and sex determination is able to come weeks earlier than with ultrasound.

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