

## ACA Upheld by Supreme Court - Time to Get Back to Work

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Today, the U.S. Supreme Court [ruled](#) [2] on the constitutionality of two provisions of the Affordable Care Act of 2010 (ACA): (1) the requirement that individuals obtain health insurance or pay a “shared responsibility payment,” (commonly referred to as the health insurance mandate) and (2) the provisions barring all federal Medicaid funding for states opting not to adopt the ACA’s Medicaid coverage expansions.

By a vote of 5-4, the Court upheld the ACA’s insurance coverage requirement as a valid exercise of Congress’ power to tax. In essence, the majority dispensed with the rhetorical labels commonly used to describe this provision and instead focused on how it would function. Because individuals could opt out of obtaining health insurance and instead make an annual payment to the IRS (an amount likely to be less than the annual cost of health insurance for most), the majority concluded the requirement could reasonably be viewed as a tax.

With respect to the Medicaid coverage expansions, the majority upheld the coverage expansions but limited the penalty for a state’s failure to only the new federal funding for expansions (and not all of the state’s Medicaid funding). With this modification, the provision was upheld as a valid exercise of Congress’ spending power.

Now that this decision is in the books (and all that remains is for law students to be forever tortured with analyzing the majority opinion’s limits on Congress’ power to regulate under the commerce clause), it’s time to return to the work of implementing important aspects of health reform.

For example, the work of establishing web-based health insurance exchanges, which will allow individuals and businesses to find and compare health plans and apply for any federal or state subsidies for which they may be eligible, will need to be accelerated in order to ensure such exchanges are operational by 2014. To build and maintain the public’s trust in exchanges, CDT [has recommended](#) [3] that exchanges adopt a comprehensive framework of privacy and security policies to protect the personal and sensitive health information collected and used by the exchange.

The ability of individuals to reap the full benefits of new health insurance coverage will depend on whether coverage grants them entry to a system that actually provides high quality, patient-centered health care. The meaningful use of health information technology by both providers and patients (and their families) is key to improving both individual and population health. But the advances promised by health information technology will not occur unless people trust that their personal health information will be protected from inappropriate or unauthorized uses or disclosures. In HITECH Congress began to lay the foundation for a more comprehensive framework of privacy and security protections for personal health data; CDT [calls](#) [4] on the Administration to finalize the regulations to implement those new protections.

Those who have dedicated their professional lives to achieving health care reform likely are breathing a sigh of relief today. But the work to create a better performing, more responsive, and more affordable health care system has only just begun.

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