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Supreme Court Upholds Health Care Reform

B&K UPDATE BENEFITS

SUPREME COURT UPHOLDS HEALTH CARE REFORM

On June 28, 2012, in a landmark 5-4 decision, the Supreme Court upheld the "individual mandate" provision of the Patient Protection and Affordable Care Act ("ACA" or "Act") as a valid exercise of Congress' taxing power. It also upheld the Act's expansion of Medicaid to cover people with incomes up to 133% of the federal poverty level, although it rejected as unconstitutional the provision that would permit the Federal Government to terminate existing Medicaid funds if a state chose not to implement the expansion.

The ACA had been under intense judicial and political scrutiny since its enactment on March 23, 2010. Within seven minutes of President Obama signing the Act into law, the Attorney Generals of 13 states jointly filed a lawsuit in a Florida district court challenging the constitutionality of the Act. Other lawsuits followed. The main focus of attack was the individual mandate, which requires individuals who can afford health insurance coverage to have such coverage in place or pay a financial penalty when they file their federal income tax return.

Among other things, the plaintiffs argued that Congress exceeded its power to regulate interstate commerce by mandating that individuals purchase health insurance. The Court agreed, but a majority, in an opinion written by Chief Justice Roberts, nonetheless found the individual mandate to be a valid exercise of Congress' power to tax:

"In this case . . . . it is reasonable to construe what Congress has done as increasing taxes on those who have a certain amount of income, but choose to go without health insurance. Such legislation is within Congress's power to tax."

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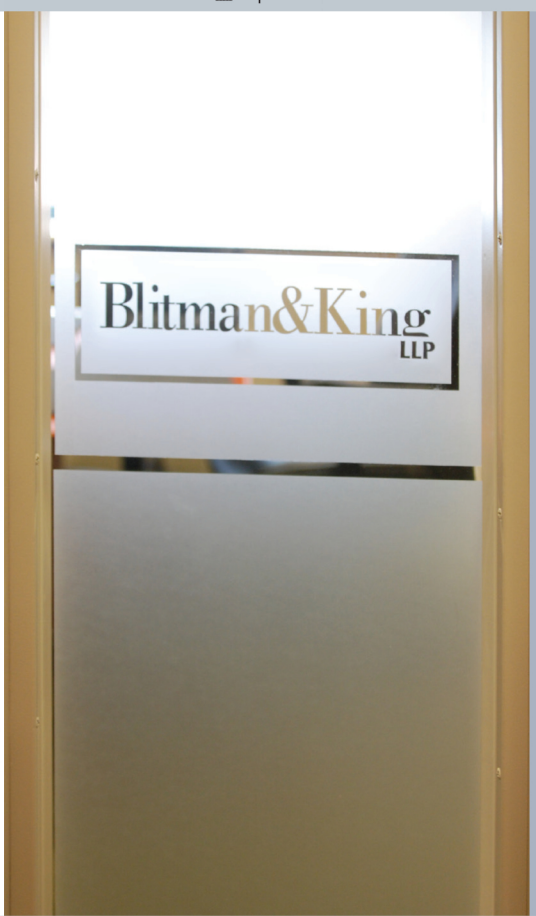
Within minutes of the Court's ruling, Republicans in Congress, as well as GOP presidential candidate Mitt Romney, announced their intent to repeal the ACA. Thus, although the Act has survived its biggest challenge to date, the Supreme Court decision may not be the last word on the reform of the nation's health care system.

In the meantime, plans must continue to comply with the requirements of the Act already in effect and ensure compliance with requirements that will take effect in the coming years, such as the prohibition on waiting periods in excess of 90 days, the requirement that a Summary of Benefits and Coverage be provided to plan participants, the elimination of preexisting condition exclusions for all individuals, and the requirement that employers with more than 200 employees that offer health insurance coverage automatically enroll employees in such coverage.

Please note, too, the Federal Government recently indicated that multiemployer plan coverage could be eligible for treatment as coverage offered through an American Health Benefit Exchange for purposes of providing cost-sharing subsidies to low to moderate income participants, granting tax credits to small contributing employers, and avoiding penalties otherwise applicable to large employers. Unfortunately, the Federal Government has yet to define the requirements that multiemployer plans must meet to be eligible for such treatment.

We will continue to keep you updated as developments occur.



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