The *California v. Texas* Supreme Court Case and Its Implications for the ACA

November 9, 2020
Agenda

Introduction
• Larry Levitt, Executive Vice President for Health Policy

Presentations
• MaryBeth Musumeci, Associate Director of the Program on Medicaid and the Uninsured
• Robin Rudowitz, Vice President and Co-Director of the Program on Medicaid and the Uninsured
• Cynthia Cox, Vice President and Director of the Program on the ACA

Audience Q&A
Some states are challenging the ACA in *California v. Texas*, while others are defending it.

**Challenging ACA (18 States)**
- AL
- AR
- GA
- FL
- HI
- LA
- MS
- NC
- OK
- SC
- TX
- UT
- WA
- WY
- ND
- SD
- NE
- IA

**Defending ACA (17 States)**
- CA
- OR
- NV
- CO
- KS
- MO
- IL
- IN
- OH
- WV
- VA
- MD
- DE
- NJ
- NY
- MA
- RI
- CT

**Joined ACA defense on appeal (4 States)**
- WA
- OR
- CA
- AK

**Filed amicus brief defending ACA (6 States)**
- ME
- WI
- MD
- DE
- NJ
- NY

**Filed amicus brief supporting neither side (2 States)**
- ND
- SD

**Not involved in case (4 States)**
- ID
- WY
- MT
- NE

**NOTE:** ME and WI initially challenged the ACA but subsequently withdrew from the lawsuit.
The federal government is not defending the ACA in *California v. Texas*.
The Supreme Court is faced with procedural and substantive questions to resolve *California v. Texas*.

**START HERE:**

- **Does at least 1 state or individual plaintiff have standing?**
  - NO: ACA continues
  - YES: Is the individual mandate constitutional?
    - NO: Should the federal government be prohibited from enforcing non-severable provisions nationwide?
      - NO: Individual mandate and all non-severable provisions cannot be enforced against individual plaintiffs only.
      - YES: Individual mandate and all non-severable provisions invalid nationwide. Entire ACA could be struck down.
    - YES: ACA continues without individual mandate

**ACA continues**

**Is the individual mandate constitutional?**

**Is the individual mandate severable from the rest of the ACA?**

**Should the federal government be prohibited from enforcing non-severable provisions nationwide?**
The ACA Medicaid expansion was designed to fill the gaps in Medicaid coverage with enhanced federal matching funds.

NOTE: 138% FPL = $17,609 for an individual and $29,974 for a family of three in 2020
Most states have adopted the ACA Medicaid expansion, but Medicaid eligibility remains limited in 12 states that have not.

NOTES: Current status for each state is based on KFF tracking and analysis of state activity. *Expansion is adopted but not yet implemented in MO and OK. (See link below for additional state-specific notes).

Studies generally find positive effects of the ACA Medicaid expansion on different outcomes.

### Number of Studies Finding:
- **Positive effects**
- **No difference or mixed findings**
- **Negative effects**

<table>
<thead>
<tr>
<th>Category</th>
<th>Positive effects</th>
<th>No difference or mixed findings</th>
<th>Negative effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access &amp; Utilization of Care</td>
<td>115</td>
<td>30</td>
<td>6</td>
</tr>
<tr>
<td>Insurance Coverage</td>
<td>138</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Payer Mix</td>
<td>71</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Health Care Affordability &amp; Financial Security</td>
<td>50</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Provider Capacity</td>
<td>16</td>
<td>19</td>
<td>3</td>
</tr>
<tr>
<td>Self-Reported Health</td>
<td>15</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>State Economy</td>
<td>20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Positive Health Outcomes</td>
<td>9</td>
<td>6</td>
<td>2</td>
</tr>
</tbody>
</table>

What are the potential implications for Medicaid of overturning the ACA?

- At least **15 million** adults currently covered by Medicaid lose a federal pathway to Medicaid eligibility
  - 12 million were made newly eligible by the ACA while the remainder had pre-ACA coverage through waivers
  - States would need to seek waivers or develop state-only programs to cover adults without children
  - States could extend eligibility for some parents at the regular match rate

- States would lose nearly **$80 billion** in enhanced federal matching funds for expansion adults
  - For adults without children, waivers would be matched at the traditional match rate and state programs would require state-only funds (with no match)
  - For parents, states would lose enhanced matching funds
  - States are facing revenue shortfalls due to economic downturn

- Most adults who lose Medicaid coverage would likely become uninsured
  - Individuals who lose jobs due to the economic downturn would have fewer coverage options
  - Though most adults with Medicaid work, few have access to employer coverage
  - Private coverage is prohibitively expensive for low-income people
  - Many adults with Medicaid also have pre-existing conditions
27% of non-elderly Adults have a Pre-existing Condition that would have left them uninsurable in pre-ACA individual market.
If the ACA is overturned, states would be unable to replace federal funding needed to make pre-ex protections affordable.
The ACA’s reforms affect nearly every American in some way.

For more, see our brief with national & state level data:

Potential Impact of California v. Texas Decision on Key Provisions of the Affordable Care Act

Published: Sep 22, 2020
Q&A

Moderator
• Larry Levitt, Executive Vice President for Health Policy

Panelists
• MaryBeth Musumeci, Associate Director of the Program on Medicaid and the Uninsured
• Robin Rudowitz, Vice President and Co-Director of the Program on Medicaid and the Uninsured
• Cynthia Cox, Vice President and Director of the Program on the ACA

Additional KFF Policy Experts
• Samantha Artiga, Vice President and Director of the Racial Equity and Health Policy Program
• Ashley Kirzinger, Associate Director for Public Opinion and Survey Research
• Tricia Neuman, Senior Vice President and Executive Director of the Program on Medicare Policy
• Alina Salganicoff, Senior Vice President and Director of Women’s Health Policy
An archived version of the webinar will be posted online later today. We will notify attendees by email when it is available.

For more analysis of the *California v. Texas* case and other national health issues, visit our website:

KFF.org