

# ACA Returns to Court

Landmark Health Care Law Again Faces Supreme Court Review



**COMMENTARY**

November 10, 2020

**Melissa Schulman**


Senior Vice President,  
Government and Public  
Affairs, CVS Health

Share:   

The future of the Affordable Care Act (ACA) hinges on the outcome of a case scheduled today for oral argument before the Supreme Court of the United States. In *California vs. Texas*, justices will again decide the constitutionality of the individual mandate — this time in the context of a 2017 law that reduced the ACA-established penalty for American adults who do not have health care coverage to \$0.

This case is complex, and the ruling could result in one of several scenarios. A verdict in favor of California would allow the ACA to continue as it does today. Should Texas prevail, the individual mandate may be struck down, and all or some ACA provisions could fall along with it, including:

- Guaranteed issue (i.e., protections for people with pre-existing conditions)
- Community rating
- Exchange subsidies

 Given the significance of the case and the complexity of its potential consequences for tens of millions of Americans, we do not expect a ruling until the end of the current session in June 2021. The ACA will remain in effect pending the verdict.

## Who is Challenging the ACA?

Texas leads a group of 18 states that want the ACA struck down. The other states include: Alabama, Arkansas, Arizona, Florida, Georgia, Indiana, Kansas, Louisiana, Mississippi, Missouri, Nebraska, North Dakota, South Carolina, South Dakota, Tennessee, Utah, and West Virginia. Two individuals from Texas also have joined the suit.

## Who is Defending the ACA?

California leads a group of 21 states that want the ACA upheld. The other states include: Colorado, Connecticut, Delaware, Illinois, Iowa, Kentucky, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington. Six states (Maine, Maryland, New Hampshire, New Mexico, Pennsylvania, and Wisconsin) filed an amicus brief supporting the ACA.

Note: Four states (Alaska, Idaho, Oklahoma, and Wyoming) are not involved in the case. Ohio and Montana filed an amicus brief neither supporting the ACA nor asking it be struck down.

## What's Next?

While a ruling for California would affirm the ACA, a ruling for Texas could produce a range of outcomes. The court could strike down the entire ACA or limit its holding to certain provisions, leaving the remainder of the law intact. Another possible outcome: They could dismiss the case for lack of standing among the plaintiffs.

If the court strikes down the ACA, federal legislation would be needed to restore all or parts of the ACA. In addition, some states already have aligned consumer protection laws such as guaranteed issue, community rating and essential health benefits with ACA standards. These measures may provide some stability in the individual and small group markets.

## ACA Returns to Court

### Public Policy

#### COMMENTARY

November 10, 2020

Share:   

Meanwhile, other states who have not enacted ACA standards into law may explore enacting protections for their constituents.

Open enrollment for 2021 began on November 1 and continues through December 15, likely leaving many millions of Americans curious, to say the least, about how the court will decide.



At CVS Health, our commitment to helping people on their path to better health begins with ensuring access to quality care at the lowest possible cost. As we await the outcome of this important case, we stand ready to help our clients comply with all applicable state and federal regulations.

Do you want to know how we advocate with lawmakers and regulators for public policy that benefits payors and plan members? [Ask Us](#)



#### THIS INSIGHT ADDRESSES:

[Health Care Cost](#)   [Public Policy](#)   [Legislation](#)

## Related Insights

[ACA, After the Elections](#)

[House Votes to Dismantle the ACA – Now What?](#)

[Cadillac Tax](#)

This page contains trademarks or registered trademarks of CVS Pharmacy, Inc. and/or one of its affiliates.

Image source: Licensed from Getty Images, 2020.

©2020 CVS Health. All rights reserved. 106-53176A 111020

Stay up-to-date on pharmacy benefit trends and payor solutions.

[Subscribe](#)

FOLLOW US



 **CVSHealth** Payor Solutions