



State of Arizona

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Governor Jan Brewer Continues Fight for States' Rights

Oral Arguments Held Today In ObamaCare Lawsuit

PHOENIX – Governor Jan Brewer announced today that the State of Arizona and the multistate coalition continued its fight for state sovereignty against ObamaCare with oral arguments presented before the United States District Court Northern District of Florida.

“ObamaCare is not only a massive intrusion and violation of states’ rights under the Tenth Amendment, but also a program that all but guarantees financial ruin for the states,” said Governor Brewer. “Arizona’s AHCCCS funding is currently almost \$1 billion in the red as a result of the President’s federal stimulus bill and ObamaCare legislation, which prohibits us from enacting meaningful cost containment solutions in our Medicaid program.”

The Medicaid program is slowly taking over Arizona’s state budget. State obligations for Medicaid have grown from 18 percent of the state General Fund budget in FY2007 to 30 percent in FY2011. During that time, spending on Medicaid has soared by 63 percent, while the State has slashed spending in almost all other areas of state government. This is not sustainable. If the Medicaid portion of the state General Fund continues to grow with the unfettered Obama mandates, it will most certainly consume other priority state spending.

If Congress and President Obama repeal their federal mandate, and soon, then states could prioritize and create the Medicaid program the state needs and wants, with the services our citizens see as important and with the coverage extending to a population of a size that is both affordable and sustainable for Arizona. Until then, it is estimated that Arizona taxpayers will be required to provide over \$11 billion to pay for this new federal mandate.

Congress and the President have overreached by requiring individuals to purchase health insurance and penalizing them if they do not. This mandate tramples on the Constitution’s notions of limited government and individual liberty. In transforming Medicaid to suit its new objective of near-universal healthcare coverage, Congress knew that it was going far beyond the mere persuasion of a funding “carrot,” and that instead it was wielding a “stick” over the States in violation of federalism and dual-sovereignty principles. It is Congress’s imposition of a mandate directly on virtually every American under the *commerce power*, regardless of any actual economic or commercial activity in which individuals may be engaged, that violates the Constitution.

The burden on the States from having to provide healthcare services is greatly intensified by the serious looming shortage of providers, including Medicaid providers. The burden of providing services puts the States in a terrible dilemma: either (1) somehow find the *additional* monies to induce adequate numbers of

providers to participate in Medicaid on behalf of the Affordable Care Act (ACA) -expanded pool of eligible recipients; or (2) face potentially huge liabilities and the possible loss of all federal funding for failing to meet the ACA's requirements.

In October, Judge Vinson in a 65-page ruling, rejected the U.S. Department of Justice's arguments and allowed two critical claims raised by the States' to move forward: (1) the individual mandate is an unconstitutional exercise of Congress's authority under the Commerce Clause; and (2) the costly expansion of Medicaid and the States' inability to effectively opt-out of the program amount to an unconstitutional coercion of the States at the hands of Congress.

With respect to the individual mandate, the court said the issue of its constitutionality "is not even a close call". The court held that the mandate is based solely on an individual's "citizenship and on being alive," which is an unprecedented and unconstitutional application of the Commerce Clause. The court said with emphasis, "[t]he government has never required people to buy any good or service as a condition of lawful residence in the United States."

With respect to the claim that the Medicaid expansion amounts to an unconstitutional coercion of the States, the States have stated a proper claim that Congress's financial inducement to participate in Medicaid as set forth in ObamaCare is so coercive that the pressure upon the States to join the program has now turned into compulsion in violation of U.S. Constitution. The court acknowledged the critical point made by the States in that ObamaCare forces upon them the choice of either accepting the sweeping changes to Medicaid, which will "explode their state budgets," or withdrawing from the system entirely.

On Monday, U.S. District Court Judge Henry Hudson in Virginia ruled that the provision in ObamaCare requiring Americans to buy insurance is unconstitutional.

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