

US Supreme Court paves way for health reform

The US Supreme Court surprised oddsmakers on Thursday, June 28, in a split 5-4 vote ruling that the Patient Protection and Affordable Care Act passes constitutional muster—paving the way for a dramatic expansion of the ranks of insured Americans.

“The ruling is a victory for people with cancer and their families nationwide, who for decades have been denied health coverage [and] charged far more than they can afford for lifesaving care”, said John Seffrin (American Cancer Society Cancer Action Network, Washington, DC, USA).

Under the law’s sweeping provisions, signed into law by President Obama in March, 2010, an estimated 32 million uninsured Americans will have to obtain health insurance from 2014 or face tax penalties—the so-called “individual mandate” for compulsory insurance. Half of Americans who currently do not have insurance will be enrolled in expanded state Medicaid programmes, an insurance system for poor families and disabled people jointly funded by the federal and state governments.

“We have more uninsured Americans than there are Canadians”, noted John Marshall (Lombardi Comprehensive Cancer Center, Georgetown University, Washington, DC, USA). “The law, overall, is a good thing.”

The Affordable Care Act represents a grand bargain between the US Government and private insurers by requiring that all adults secure health insurance—thereby swelling the private-sector insurance market—in return for new patient protections (panel). Sandra Swain (American Society of Clinical Oncology, Alexandria, VA, USA) identified the most important of these protections for cancer patients as being free screening, the elimination of lifetime insurance caps that can cost cancer patients their coverage, and prohibitions against denying patients

coverage for pre-existing disorders or for participating in clinical trials.

In August, 2011, the Court of Appeals for the Eleventh Circuit in Atlanta, GA, had ruled the individual mandate unconstitutional. The Supreme Court majority ruled on Thursday, however, that the mandate is constitutional as a tax, while rejecting as unconstitutionally “coercive” a provision allowing the federal government to withhold Medicaid funding from states failing to expand Medicaid enrolment. That leaves Medicaid expansion to the discretion of state governments, many of which have expressed concern about future costs.

“Medicaid was the sleeper issue all along”, said Sara Rosenbaum (George Washington University, Washington, DC, USA). The expansion was bitterly opposed by many state governments, even though the federal government will initially fund 100% of the expansion—a percentage that will incrementally drop to 90% by 2020.

Texas and New Mexico have the highest proportions of uninsured citizens—nearly a quarter are uninsured. But neither state is enthusiastic about expanding Medicaid.

“That’s the big question mark”, said medical economist Vivian Ho (James A Baker III Institute, Rice University, Houston, TX, USA). “Texas is a heavily Republican state. There’s a general fear of government-run health care.”

New Mexico’s Republican Governor Susana Martinez expressed skepticism on Thursday about incurring additional future Medicaid costs—New Mexico already spends nearly US\$1 billion (a fifth of its budget) on Medicaid. Last year, her administration spent \$1.7 million in federal CHIP (Children’s Health Insurance Program) Medicaid bonus funds—intended to expand the number of uninsured children in Medicaid’s ranks—to hire a private contractor to write the state’s Medicaid reform plan, which proposed cost savings by imposing so-called emergency room co-pay fees, among other measures.

“I think New Mexico would be foolish not to expand its Medicaid programme; we have more to gain from that than almost any other state”, said State Senator Dede Feldman, an Albuquerque Democrat.

Medicaid dollars have an “amplifying effect” on local economies, generating as much as \$3 in economic activity

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disparities in the USA see

Editorial *Lancet* 2011; **377**: 1379

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2011; **377**: 1821–22; *Lancet* 2012; **379**: 107

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and the drug industry see **News**

Lancet Oncol 2010; **11**: 417;

Editorial *Lancet Oncol* 2011; **12**: 1



Large turn-out at Supreme Court building for ‘Obamacare’ ruling, Washington, DC, on June 28

Panel: Provisions of Affordable Care Act

- Coverage of adult dependants younger than 27 years on parents' insurance policies
- Insurance plans for patients with pre-existing disorders and diseases (bridge to 2014 antidiscrimination provisions)
- Expanded coverage for early retirees not yet age-eligible for Medicare
- Free preventive care, including mammograms
- Prohibition of insurance companies' withdrawal of policyholders who they do not want to cover
- Elimination of lifetime limits on insurance coverage
- Prohibition of refusal to cover children with pre-existing conditions
- Grants to establish state insurance rate-hike transparency and oversight
- Loan repayment and forgiveness incentives to expand clinician supply
- Establishment of US\$15 billion Prevention and Public Health Fund
- Consumer assistance programme grants to states
- Prescription drug discounts for Medicare patients
- Free yearly wellness visits and personalised prevention plans for Medicare patients
- Health insurance firms must spend 85% or more of premiums on health care
- Accountable Care Organization payment incentives for patient care coordination
- National tracking of persisting ethnic disparities in health outcomes
- Electronic Health Records adoption of incentive payments
- Linking of hospital incentive payments to quality of care
- Expanded free preventive care for Medicare patients
- Introduction of bundled reimbursement
- Deadline for states' implementation of affordable insurance market exchanges
- Expanded state Medicaid enrolment
- Insurers prohibited from restricting coverage for patients participating in clinical trials for cancer or other life-threatening diseases
- Prohibition of yearly restrictions on insurance coverage
- Prohibition of insurance discrimination on the basis of pre-existing disorders or sex
- Increased small business tax incentive credits for employee insurance policies
- Payment reform: quality of care to reward high-quality patient care

Source: <http://healthcare.gov/law>

for each \$1 in federal spending, noted economist Ho.

Thursday's ruling has "immense" implications for cancer patients in New Mexico and nationwide, according to Cheryl Willman (University of New Mexico Cancer Research and Treatment Center, Albuquerque, NM, USA). The law will

tackle persisting ethnic disparities and geographical "zipcode lotteries" in access to cancer screening, treatment, and survival, she believes.

"Over 52% of our patients are ethnic or racial minorities, primarily Hispanic and American Indian, and over 15% lack health insurance", Willman said. "We have been proud

to be one of the few NCI [National Cancer Institute] Cancer Centers that actually provides access and state-of-the-art cancer care to uninsured patients. The Affordable Care Act will support us in our goal to eliminate the tremendous disparities in cancer outcomes."

"The most important thing for cancer survival is early diagnosis, when most forms of cancer are more treatable", Willman said.

But swelling the ranks of the insured might also hasten a looming shortage of oncologists and other clinicians. The Affordable Care Act includes subsidies to train new clinician workforces, but a hostile congress might not fully fund those incentives, cautioned Ho.

"We could have a serious shortage in health care providers, especially given the budget climate", Ho said. "To be honest, without the Affordable Care Act this would've been a festering problem—but with the Affordable Care Act, it will create a crisis situation."

Increased training of mid-level clinicians such as nurse practitioners will probably have to be part of the solution, Swain said.

Another concern is coverage of drugs, said Marshall. "There's variable coverage. My concern is policies will not be clear about what's covered and what is not."

In light of Thursday's ruling, Seffrin called for elected officials to come together to implement the Affordable Care Act. But the ruling has galvanised congressional Republicans—who scheduled a largely symbolic vote to repeal the law for July 11—and all but ensured health reform takes centre stage in this year's presidential elections.

Bryant Furlow