

US Supreme Court upholds Obama's health care law

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In a 5-4 US Supreme Court decision released on Thursday, Chief Justice John G. Roberts Jr. joined with the nominally liberal wing of the high court to uphold key provisions of the Obama administration-backed health care legislation.

The decision maintains the pro-corporate provisions of the bill, including the “individual mandate” to purchase insurance from private insurers. At the same time, the court undermined the key constitutional arguments used to support corporate regulations. It also ruled that the federal government cannot withdraw existing Medicaid funding from states that decide not to participate in an expansion of eligibility for the program.

The ruling on the constitutionality of the Patient Protection and Affordable Care Act, passed into law in March 2010, was predictably hailed by President Obama. Coming five months before the presidential election, he said it was a “victory for people all over this country whose lives will be more secure.” Congressional Republicans and presumptive Republican presidential candidate Mitt Romney, meanwhile, vowed to work to repeal the legislation in November.

The ruling was also trumpeted by liberal publications as a great victory for health care and for ordinary people. In reality, the decision upholds legislation whose main purpose is to cut costs for corporations and the government, while slashing billions of dollars from Medicare and other social programs.

Every step of the way, the bill was crafted to meet the demands of the private insurers, the pharmaceutical lobby and the giant health care chains. Any vestige of what could be termed a “reform” has been stripped away—including the inclusion of a government-run option on the health care exchange.

What remains is a requirement that all but the poorest individuals purchase insurance or pay a penalty. The insurance industry will be guaranteed a new influx of tens

of millions of cash-paying customers, and there will be no meaningful oversight over what they can charge for premiums. The legislation is still purposefully unclear about what “minimal” standards employers and insurers must meet for coverage.

This is under conditions of a deep budgetary crisis for virtually all US states. Along with the federal government, they have responded by slashing Medicaid and other health care programs. At the same time, corporations are dumping or slashing insurance policies as part of an attack on wages and benefits. The general impact of the law will be to shift these costs onto the backs of individuals, who will be left to the mercy of private insurers offering less and less coverage for higher premiums.

Moreover, millions will likely remain without insurance, unable to afford it given the very limited subsidies, but still forced to pay a penalty of hundreds of dollars.

In his remarks hailing the ruling, Obama placed emphasis on certain provisions of the bill that are popular—such as proscribing lifetime limits on insurance payouts and requiring insurers to offer plans to individuals with preexisting conditions. However, the largest insurers have already modified their cost structures to maintain profit levels with these provisions, and had announced that they would leave them in even if the law were overturned.

The reactionary character of the ruling—and the law that it upholds—was underscored by the fact that the majority opinion was written by Justice Roberts, traditionally part of the four-justice right-wing bloc. He was joined by Justices Sonia Sotomayor, Stephen G. Breyer, Elena Kagan and Ruth Bader Ginsburg. Justice Anthony Kennedy, who had been anticipated as the “swing vote” on the court, sided with justices Samuel A. Alito, Clarence Thomas and Antonin Scalia in their own

thoroughly right-wing dissent.

While upholding the health care reform, the ruling was based on arguments that will serve to undermine corporate regulations and social programs. In particular, Justice Roberts joined with the other right-wing justices in rejecting the administration's argument that the law was constitutional on the basis of the government's ability to regulate interstate commerce (the Commerce Clause of the Constitution). Instead, he based the ruling on the government's taxation powers (likening the penalty for those who do not purchase insurance to an additional tax).

On the Commerce Clause, Roberts wrote, "That Clause authorizes Congress to regulate interstate commerce, not to order individuals to engage in it."

This ruling is highly significant because, beginning in the New Deal era of the 1930s and 1940s, Supreme Court decisions used the Commerce Clause to support the authority to prohibit child labor, regulate corporations and carry out social reforms.

For the past 15 years, the Supreme Court has worked to set limits on the scope of this clause when it comes to social issues. In a separate 61-page opinion, Justice Ginsburg called Robert's arguments on the Commerce Clause "stunningly retrogressive," noting that they harken back to the era before the New Deal "in which the Court routinely thwarted Congress' efforts to regulate the national economy in the interest of those who labor to sustain it."

The one provision of the health care law that the court rejected was the only measure relating to the expansion of government programs for health insurance. Under terms of the act, Medicaid, which is jointly administered by the states and the federal government, would be expanded to cover all individuals under the age of 65 with incomes at 133 percent of the poverty level or less.

The move would account for some 11 million newly insured individuals, who are to receive the bare-bones care provided by Medicaid. According to the legislation, the federal government would provide 100 percent of the funds to cover this expansion of Medicaid up to 2016, gradually decreasing to 90 percent thereafter.

As the bill was written, if a state did not implement this expansion, the federal government could withhold all of its funding for Medicaid to that state. The high court rejected this in the strongest terms, writing, "In this case, the financial 'inducement' Congress has chosen is much more than 'relatively mild encouragement'—it is a gun to the head."

Roberts went on to state, "The original program was

designed to cover medical services for four particular categories of the needy: the disabled, the blind, the elderly, and needy families with dependent children." But under the health care law, he wrote, "It is no longer a program to care for the neediest among us, but rather an element of a comprehensive national plan to provide universal health insurance coverage."

In fact, the Medicaid expansion—and the health care law as a whole—has nothing in common with "universal health insurance coverage." Nevertheless, the intent of the ruling is clear: it aims to limit the ability of the federal government to impose requirements on the states to expand health coverage.

The majority ruling in favor of the legislation is an indication of a general consensus in support of the Affordable Care Act within the ruling political establishment. Roberts clearly made a highly political decision aimed at ensuring that the law not be overturned.

The differences within the ruling establishment over the bill have nothing to do with improving the health and lives of ordinary Americans, and everything to do with how best to impose the savage cuts demanded by the financial elite in health care and other social programs.

A solution to the very real health care crisis faced by millions of working people and their families is not to be found in any of the institutions of the bourgeois state or in either big business party, Democrat or Republican. The answer lies in putting an end to the privately owned health care corporations and medicine-for-profit and the establishment of genuine, socialized medicine.



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