

Federal judge in Texas rules Affordable Care Act unconstitutional

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A federal judge in Texas declared the Affordable Care Act unconstitutional on Friday. The ruling by US District Judge Reed O'Connor found that because the tax cut passed by congressional Republicans in 2017 invalidated the ACA's "individual mandate," the remaining provisions of the law are unconstitutional.

Judge Reed was nominated in 2007 by President George W. Bush to a seat on the US District Court for the Northern District of Texas. Twenty Republican-leaning states brought the lawsuit in that court, asserting that the ACA was unconstitutional based on last year's tax overhaul. Opponents of the suit have vowed to appeal.

The ruling came a day before the deadline for open enrollment in the program commonly known as Obamacare in all of the states participating in the ACA's marketplaces, except California. The ruling was opposed by healthcare groups and, if upheld, threatens to throw insurance markets into chaos and strip coverage from tens of millions of Americans.

Some 20 million people have gained insurance under the ACA's expansion of Medicaid coverage in 37 states. The ACA also mandates coverage of certain "essential" insurance benefits, including maternity care. Young adults up to the age of 26 are allowed to remain on their parents' health plans. Insurers are not allowed to discriminate against those with preexisting conditions.

However, the ACA, passed in 2010 under the Obama administration, is an essentially regressive piece of legislation, which maintains the grip of the private insurers, pharmaceuticals and giant hospital chains on the delivery of healthcare.

Under Obamacare, individuals without insurance through their employer or a government program such as Medicare were required to purchase health coverage

from a private insurer on the ACA's marketplace or pay a tax penalty. Under the 2017 tax bill, the penalty for not being insured was eliminated, effective January 1, 2019, while the individual mandate was technically preserved.

Judge O'Connor's sweeping ruling finds that since the "individual mandate 'is essential to' and inseparable from 'the other provisions of the ACA'... the remaining provisions of the ACA... [are] therefore INVALID." He also ruled that Congress would not have approved the rest of the law without the mandate.

President Trump tweeted on news of the ruling: "Wow, but not surprisingly, ObamaCare was just ruled UNCONSTITUTIONAL by a highly respected judge in Texas. Great news for America!"

Insurance and physicians' groups were less enthusiastic. America's Health Insurance Plans (AHIP), the national trade association representing private insurers, wrote in a statement: "The district court's decision is misguided and wrong. This decision denies coverage to more than 100 million Americans, including seniors, veterans, children, people with disabilities, hardworking Americans with low incomes, young adults on their parents' plans under age 26, and millions of Americans with preexisting conditions."

AHIP's opposition to the ruling, however, has little to do with this potential suffering and everything to do with the threat to the insurers' bottom line. The ACA, while providing limited protections for ordinary Americans, has funneled hundreds of millions into the coffers of the private insurers by forcing people to buy insurance or pay a penalty.

A coalition of physicians groups—including the American Medical Association, the American Academy of Family Physicians, the American College of Physicians and the American Academy of

Pediatrics—also opposed the ruling, based on the detrimental impact it would have on doctors' payments.

Despite Trump's celebration of the judge's decision, his administration made clear that the current law remains in effect for now. Seema Verma, administrator for the Centers for Medicare and Medicaid Services, said on Twitter, "The exchanges are still open for business."

Congressional Democrats were quick to oppose the ruling in demagogic fashion. House Democratic leader Nancy Pelosi commented on Friday following the decision: "Tonight's district court ruling exposes the monstrous endgame of Republicans' all-out assault on people with preexisting conditions and Americans' access to affordable health care." She vowed that her chamber would "formally intervene in the appeals process" when her party takes power in the House in January.

Senate Democratic Leader Charles Schumer said he wants a vote in Congress to intervene in the case. He said on NBC's "Meet the Press" on Sunday, "A lot of this depends on congressional intent." The Democrats are arguing that it was never the intent of the lawmakers who wrote the 2017 tax law to repeal the ACA. They say that the tax bill specifically elected to preserve the ACA's consumer protections despite eliminating the individual mandate penalty.

The Democrats, who gained 40 House seats in the midterm elections, campaigned broadly on the healthcare issue, tapping into the widespread anger in the US population against soaring healthcare costs and deteriorating medical care.

However, they have mounted only symbolic opposition to the Trump administration's assault on the social programs depended upon by millions of Americans to survive. Under conditions in which 51 million US households cannot afford a "survival budget" to pay for basic necessities like housing, food and healthcare, they have offered only a limited challenge to the White House drive to impose work requirements in the food stamp and Medicaid programs, and to slash housing subsidies.

They have instead focused their fire on the Trump administration's alleged collusion in Russian meddling in the 2016 presidential elections. At the same time, they have voted to fund the Pentagon's \$717 billion

budget to pursue the US military's criminal interventions across the globe.

For their part, in the wake of the December 14 ruling, the Trump administration and congressional Republicans have promoted the illusion that they will seek to defend protections for those with preexisting conditions.

In fact, the White House pursued the unusual step of intervening in the Texas District Court case to argue that without the tax to enforce the ACA's individual mandate, the law's provisions guaranteeing coverage to people with preexisting conditions and charging them the same rates as others should be struck down and invalidated.



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