

Compliance Alert

The Supreme Court Rules the Affordable Care Act is Constitutional **Release Date: June 28, 2012**

In what may be the most anticipated decision in at least a generation, the Supreme Court has upheld the constitutionality of the so called "individual mandate" contained in the Affordable Care Act (ACA). In a split 5-4 decision, the court has ruled that it is constitutional for the government to require individuals to maintain health insurance or pay a tax if they fail to do so. Since the individual mandate was held to be constitutional the court did not need to rule on issues related to the rest of the law. Consequently, by taking this position on the individual mandate, the court has affirmed that the entire ACA is constitutional, other than a particular provision related to Medicaid expansion explained below.

Medicaid Expansion

The ACA expands Medicaid eligibility to anyone with an income of less than 138% of the Federal Poverty Level (FPL). The federal government will initially pay 100% of the costs of newly Medicaid eligible individuals. States will be responsible for 10% of those costs in future years. Under current ACA rules, states are required to accept expanded Medicaid eligibility or risk losing all federal Medicaid funding.

In a separate portion of the decision, the court ruled that the federal government cannot deny existing Medicaid funds to states that choose not to participate in the Medicaid expansion. This creates an opportunity for individual states to opt out of the expansion without losing existing federal Medicaid funding.

Effect on Employer Sponsored Plans

The decision by the court means that the elements in the ACA which directly impact employer sponsored plans remain in force. Employers will need to implement requirements such as distribution of the new Summary of Benefits and Coverage (SBC), and the limit on health FSA elections scheduled to go into effect in the upcoming months. We also expect regulatory agencies to move forward with pending guidance such as the IRS's proposed alternative definition of full time status.

Obviously the results of the elections this fall have the potential to alter the course of health reform. However, it is now clear that employers need to continue to prepare for the impact the ACA will have on their plans, with an eye toward being ready to implement changes to benefit strategies beginning in 2013 if necessary.

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