

# Judge in Va. strikes down federal health care law

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This 2010 handout photo provided by US District Judge Henry Hudson, shows Hudson at the court in Richmond, Va. Hudson declared a key provision of the Obama administration's health care law unconstitutional Monday, siding with Virginia's attorney general in a dispute that both sides agree will ultimately be decided by the U.S. Supreme Court. (AP Photo)

(AP) -- A federal judge declared the foundation of President Barack Obama's health care law unconstitutional Monday, ruling that the government cannot require Americans to purchase insurance. The case is expected to end up at the Supreme Court.

U.S. District Judge Henry E. Hudson rejected the government's argument that it has the power to enact the requirement under the Commerce Clause of the Constitution.

He wrote that no court had extended the clause to allow regulation of a person's decision not to buy a product, and that the government's reasoning could also apply to decisions about transportation, housing or nutrition.

"At its core, this dispute is not simply about regulating the business of insurance - or crafting a scheme of universal health insurance coverage - it's about an individual's right to choose to participate," Hudson wrote.

In his order, he said he will allow the law to remain in effect while appeals are heard, meaning there is unlikely to be any immediate impact on other provisions that have already taken effect. The insurance coverage mandate is not scheduled to begin until 2014.

Even so, Republicans in Congress celebrated the ruling as validation of the arguments they had made for months while the law was pending. Rep. Eric Cantor, R-Va., issued a statement urging the White House to agree to expedite a final ruling by appealing directly to the Supreme Court without first stopping at an appeals court.

Hudson is the first federal judge to strike down a key part of the law, which had been upheld by fellow federal judges in Virginia and Michigan. Several other lawsuits have been dismissed and still others are pending, including one filed in Florida by 20 states.

White House health reform director Nancy-Ann DeParle said the administration is encouraged by the two other judges who have upheld the law. She said the Justice Department is reviewing Hudson's ruling.

Hudson sided with Virginia Attorney General Kenneth Cuccinelli, who argued the mandate overstepped the bounds of the Constitution.

"The ruling is extremely positive for anyone who believes in the system

of Federalism created by our founding fathers," Cuccinelli said. "It underscores that the Constitution's limitations on federal power really do mean something."

The Department of Justice stood by its argument that Congress was within its rights to enact the law.

"We are disappointed in today's ruling but continue to believe - as other federal courts in Virginia and Michigan have found - that the Affordable Care Act is constitutional," said Justice Department spokeswoman Tracy Schmalzer.

The lawsuit was filed by Cuccinelli, a Republican, in defense of a new state law passed in reaction to the federal overhaul that prohibits the government from forcing state residents to buy health insurance.

Cuccinelli argued that while the government can regulate economic activity that substantially affects interstate commerce, the decision not to buy insurance amounts to economic inactivity that is beyond the government's reach.

Hudson, a Republican appointed by President George W. Bush, sounded sympathetic to the state's case when he heard oral arguments in October, and the White House expected to lose this round.

Administration officials told reporters last week that a negative ruling would have virtually no impact on the law's implementation, noting that its two major provisions - the coverage mandate and the creation of new insurance markets - don't take effect until 2014.

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