

Final day of Supreme Court health law hearings

March 28 2012, by Jim Mannion

The US Supreme Court heard oral arguments Wednesday on whether President Barack Obama's landmark health care law should be struck down if its key requirement that all Americans buy insurance is declared unconstitutional.

The top court's nine justices set aside 90 minutes for the arguments on the third and last day of blockbuster hearings into the [Affordable Care Act](#), which has huge implications for the nation and the 2012 [presidential elections](#).

The justices will hold a separate hour-long hearing later in the day on the reform's expansion of Medicaid, the [public insurance](#) program for the poor, which states oppose as coercive because they stand to lose all federal aid if they refuse to go along with it.

The issue of "severability" -- whether the law as a whole can survive if one provision is deemed unconstitutional -- took on added impetus amid doubts raised in Tuesday's hearings about the so-called "individual mandate."

The 26 states challenging the law argue that Obama's Affordable Care Act must be completely repealed if the requirement that all Americans buy [health insurance](#) -- known as the "individual mandate" -- is found to be unconstitutional.

Lawyers for the plaintiffs have argued that the mandate is "the very

heart of the act itself," arguing that it creates a mammoth subsidy to [insurance companies](#) that make possible other requirements of the law.

Those include requirements that insurance companies sell insurance to anyone who applies and forbids them from denying insurance to people with pre-existing conditions.

The government argues that while those requirements on insurance companies are not severable from the law, the individual mandate could be if it were found to be unconstitutional.

It has argued that "other provisions can operate independently and would still advance Congress's core goals."

The odds that the court would strike down the mandate appeared higher on Tuesday after Justice Anthony Kennedy, who often casts the tie-breaking vote on the nine-member body, appeared openly skeptical about its constitutionality.

"When you are changing the relation of the individual to the government in this... unique way, do you not have a heavy burden of justification to show authorization under the constitution?" he asked.

The 2,700-page [health care law](#) -- Obama's signature domestic achievement -- encompasses the most ambitious reform of the troubled US [health care](#) system in decades, seeking to extend health insurance to 32 million Americans who currently have no medical coverage.

It sets forth wide-ranging incentives and penalties to expand nationwide health care coverage, fining large firms that do not offer employees adequate [insurance](#) while offering subsidies to small businesses to blunt the cost.

But since it was signed into law in 2010, the reform has divided public opinion and emerged as a major issue in the 2012 presidential campaign, attacked by Republicans as an assault on individual liberties.

Protesters on both sides of the issue have gathered each day outside the Supreme Court as political luminaries, lawyers and a small sampling of the public have packed the marble columned court room where the black-robed justices preside.

Polls show weak public support for the law, even though some provisions get high marks.

A tracking poll by the Kaiser Family Foundation, a health advocacy non-profit, found that currently only one in three Americans support its most controversial provision, the individual mandate.

The poll found that not even most Democrats -- 45 percent -- have a favorable view of the mandate.

The justices, who tend to divide along ideological lines that favor conservatives, are not expected to rule on the law before June, making for a potentially explosive decision in the heart of the presidential campaign.

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Citation: Final day of Supreme Court health law hearings (2012, March 28) retrieved 6 May 2024 from <https://medicalxpress.com/news/2012-03-day-supreme-court-health-law.html>

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