

Obama health reform faces Supreme Court test

March 23 2012, by Chantal Valery

US President Barack Obama's landmark health reform faces a make-or-break test in the Supreme Court next week in a historic case likely to shape the nation's future political landscape.

The nine justices of America's highest court will meet from Monday for an unprecedented three days to hear arguments into different aspects of the [constitutionality](#) of the ground-breaking legislation.

Some political analysts say the [health care law](#), enacted in 2010 but which will not come fully into force until 2014, is Obama's greatest accomplishment, finally realizing a long-held dream of generations of Democrats.

But Republicans seeking to thwart Obama's bid for a second term in the White House see it as an assault on cherished individual liberties, and have vowed to repeal it if elected in the November [presidential elections](#).

The law intended to provide [health coverage](#) to 32 million uninsured Americans risks being carved up by a largely conservative Supreme Court as they hear lawsuits by more than half the states, an employers' organization and individuals.

The main controversy focuses on a measure that requires all Americans to purchase personal [health insurance](#) from 2014 or face fines.

"If they can force you to buy health insurance, they can force you to buy

a car, asparagus, a gym membership," said Kenneth Cuccinelli, attorney general of Virginia, one of 28 states seeking to overturn the [Patient Protection](#) and [Affordable Care](#) Act.

"This case fundamentally is not about health care, it is about liberty," Cuccinelli, a Republican, told AFP.

Other provisions bar [insurance companies](#) from refusing to insure people with pre-existing or [chronic conditions](#), who are often now rejected for coverage or forced to pay exorbitant premiums.

The companies must also provide certain kinds of coverage that previously were excluded, such as contraception.

Five lawsuits argue Congress exceeded its constitutional authority by approving the law. Under the commerce sections of the US Constitution, individuals cannot be forced to buy products.

Ilya Shapiro, a senior fellow for the conservative public policy foundation Cato Institute, said the health care reform dispute could cost Obama his job.

"If the law is struck down, then the administration's signature achievement is gone," Shapiro told AFP. "If it's upheld, that would energize the Tea Parties, the Republican base and even independents, who are all overwhelmingly against 'Obamacare.'"

The US Justice Department has hit back arguing the law is within the authority of Congress to regulate commerce and to tax citizens.

"Congress was reacting to 50 million people being uninsured in this country," said former Obama administration acting solicitor general, Neal Katyal.

Americans who lack health care are less productive and often push their unpaid health bills onto taxpayers, who are forced to subsidize emergency room visits, according to the Obama administration.

Two-thirds of Americans believe the Supreme Court should either overturn the entire law or at least remove the provision requiring the purchase of health insurance, according to a recent ABC News/Washington Post survey.

However, the requirement to purchase health insurance also makes the law work, argued Ruth Marcus in a Washington Post opinion piece.

Without the health insurance requirement, uninsured Americans would use \$116 billion of health care each year but rarely pay for it, which drives up insurance rates for everyone else.

The Supreme Court has set aside an unprecedented six hours to hear the case, the longest time for arguments in the past 45 years, with most hearings being only about an hour long.

It also plans to release audio recordings of the debates on the same day as the hearings, which are expected to be packed with visitors in the marble-columned courtroom. Attorney General Eric Holder plans to attend.

Among the nine [Supreme Court](#) justices, five were appointed by Republican presidents and four by Democrats.

While a ruling is not expected until June, the justices must first decide whether they can rule on a law that has not yet taken effect. Then the court must decide whether the health insurance requirement violates the constitution.

Some legal experts say that without the health insurance requirement, the entire law will be made useless.

"Once you take the heart out of a body, it doesn't matter if the fingers can still move," said Michael Carvin, attorney for the National Federation of Independent Business.

The Supreme Court's ruling is likely to depend on Justice Anthony Kennedy, Shapiro said. Kennedy is known for his "swing votes" in which he sides with conservatives sometimes and liberals at other times.

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