

# US Supreme Court opens health care reform case

March 26 2012, by Jim Mannion

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The US Supreme Court appeared set to press ahead with an explosive review of President Barack Obama's signature health care reform law Monday at the start of three days of complex hearings.

As the nine justices took their seats in a packed [courtroom](#), hundreds of people gathered outside, some chanting and marching for or against the [Affordable Care Act](#), derided by some as "Obamacare."

In Monday's 90-minute hearing, the justices considered arguments on the narrow question of whether they have jurisdiction in the case, or must wait until the law has fully entered into force after 2014 to rule on it.

The justices appeared to lean toward the view that the Anti-Injunction Act -- which bars legal action to impose prior restraint on Congress' power to tax people -- does not apply in this case.

"It seems to make no sense to separate the punishment from the requirement," Chief Justice John Roberts said, referring to the penalties imposed under the law on Americans who refuse to buy health insurance.

The government and the 26 states challenging the [health care reform](#) as unconstitutional both say the [court](#) has jurisdiction, but the court assigned its own lawyer to make the case that it does not.

The justices sharply questioned Robert Long, the court-appointed lawyer, about why the penalty for not buying insurance should be considered a tax, and thus subject to the Anti-Injunction Act.

Justice Antonin Scalia said there was "at least some doubt" about whether the penalty was a tax, and "unless it's clear, courts are not deprived of jurisdiction."

Justice Ruth Ginsburg said the act "does not apply to penalties that are designed to induce compliance with the law rather than to raise revenue."

"There is nothing in the statute that should be treated as a tax," said Solicitor General Donald Verrilli, arguing for the government.

Gregory Katsas, arguing for the states, said for the act to come into play the purpose of the lawsuit has to be to stop the taxes. But he said, "The purpose of this lawsuit is to challenge the mandate, not the tax."

A ruling is not expected until June, but if the court decides it does not have jurisdiction, any action on the law would be set aside at least until 2015.

"I think based on the arguments this morning, that the court is not likely to delay ruling on the merits until the individual mandate goes into effect in 2014," said Elizabeth Wydra, a lawyer with the Constitutional Accountability Center, who filed a brief in support of the [health care](#) law.

The law's most controversial provision -- the so-called "individual mandate" requiring all Americans to buy insurance from 2014 or pay a fine -- is to be taken up Tuesday.

The top US court has set aside six hours for oral arguments in the case,

the longest in the past 45 years. Hearings typically last only about an hour.

Both supporters and opponents of the Affordable Care Act have been holding demonstrations to make their voices heard.

"We love Obamacare, that's why we here," chanted some in the crowd outside the court.

Chris Crawford, a 20-year-old political science student, said he had come to witness history.

"I do not support the law. Giving the government the power to force citizens to buy something is a very dangerous precedent," he said.

Republican presidential candidate Rick Santorum put in an appearance outside the court, highlighting the prominence the issue has taken in the 2012 presidential campaign.

The court's ruling could have enormous political ramifications, analysts say, especially if the court strikes down part or all of the reform.

"If the law is struck down, then the administration's signature achievement is gone," Ilya Shapiro, with the conservative publican policy foundation the Cato Institute, told AFP.

The law, enacted in 2010 but which will not come fully into force until 2014, is Obama's greatest accomplishment, 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 individual liberties, and have vowed to repeal it if elected in the November presidential elections.

Apart from the measure requiring all Americans to purchase personal [health insurance](#), other provisions bar insurance companies from refusing to insure people with pre-existing or chronic conditions.

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

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