

# Supreme Court takes up heart of Obama health law

March 27 2012, by Jim Mannion

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The Supreme Court dives into the heart of President Barack Obama's signature health care reform law Tuesday, taking up its most divisive requirement -- that Americans maintain insurance or be fined.

The nine justices appeared satisfied Monday they had jurisdiction in the blockbuster case, clearing the way for a legal review that has huge implications for the nation and the 2012 elections.

The first day of [oral arguments](#) probed when lawsuits can be brought in tax cases and whether the court must wait until after Obama's Affordable Care Act enters fully into force in 2014 to consider [legal challenges](#) to it.

"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," said Elizabeth Wydra, a lawyer with the Constitutional Accountability Center.

"They will be likely to get to the merits, and so that makes the arguments tomorrow on the mandate and Wednesday on [Medicaid](#) even more important," said Wydra, who filed a brief in support of the [health care law](#).

The reform would extend coverage to 32 million Americans who currently lack it, but the individual mandate is a [linchpin](#) because it requires that all Americans maintain minimum [insurance coverage](#) from

2014.

Although exceptions are made for certain categories of people, the government argues that the reform will unravel if people can opt out. So individuals who do not buy insurance will face penalties.

Those provisions have made Obama's greatest legislative achievement the Republicans' biggest target going into the November [presidential election](#).

Supporters hail the law -- the most sweeping reform of the troubled US [health care system](#) in decades -- as a major social advance, while opponents view it as an assault on individual liberties, deriding it as "Obamacare."

The divisions have made for blockbuster hearings, even though the Supreme Court is unlikely to make any rulings before June, when whatever it decides is sure to pour fuel on the election-year fire.

"This is the most important issue in this election," Republican presidential candidate Rick Santorum told the crowd gathered outside the court on Monday.

Frontrunner Mitt Romney has faced blistering criticism from Republican opponents over a [health care law](#) he enacted as governor of Massachusetts that inspired Obama's reforms -- but has vowed to repeal Obama's law if elected.

At a campaign event in California on Monday, beneath a banner reading "Repeal and Replace Obamacare," Romney slammed the president's policies as "an attack on economic freedom unlike anything we have ever seen before."

Several hundred people gathered on the steps of the court Monday, brandishing placards and chanting slogans for and against the federal law, which was enacted in 2010.

"We love Obamacare, that's why we here," some chanted.

Chris Crawford, a 20-year-old political science student who said he came to witness history, said he opposed the law. "Giving the government the power to force citizens to buy something is a very dangerous precedent," he said.

Inside, the court was packed with attorneys, guests of the court like Attorney General Eric Holder, and members of the public lucky enough to get a coveted seat.

The issue before the court on Monday was whether a law called the Anti-Injunction Act -- which bars lawsuits to prevent Congress from assessing or collecting taxes -- applied to challenges to the [Affordable Care Act](#) (ACA).

If it does, the court would have no jurisdiction over the ACA until after people who refused to buy health insurance were forced to pay penalties sometime after 2014.

But in 90 minutes of questioning, the justices appeared to lean strongly in favor of jurisdiction, sharply questioning why the law's penalties should be considered taxes.

"It seems to make no sense to separate the punishment from the requirement," Chief Justice John Roberts said.

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."

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

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

Gregory Katsas, who is representing states challenging the [law](#), said "the purpose of this lawsuit is to challenge the mandate, not the tax."

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