

Supreme Court misunderstanding on health overhaul?

April 11 2012, By RICARDO ALONSO-ZALDIVAR , Associated Press



In this Oct. 8, 2010 file photo, Chief Justice John G. Roberts is seen during the group portrait at the Supreme Court Building in Washington. An apparent misunderstanding about President Barack Obama's health care overhaul could cloud Supreme Court deliberations on its fate, leaving the impression that the law's insurance requirement is more onerous than it actually is. (AP Photo/Pablo Martinez Monsivais, File)

(AP) -- A possible misunderstanding about President Barack Obama's health care overhaul could cloud Supreme Court deliberations on its fate, leaving the impression that the law's insurance requirement is more onerous than it actually is.

During the recent [oral arguments](#) some of the justices and the lawyers

appearing before them seemed to be under the impression that the law does not allow most consumers to buy low-cost, stripped-down [insurance](#) to satisfy its controversial coverage requirement.

In fact, the law provides for a cheaper "bronze" plan that is broadly similar to today's so-called catastrophic coverage policies for individuals, several insurance experts said.

"I think there is confusion," said Paul Keckley, health research chief for Deloitte, a major benefits consultant. "I found myself wondering how much they understood the [Affordable Care](#) Act. Several times the questions led me to wonder how much (the justices') clerks had gone back into the law in advance of the arguments."

Monthly premiums for the bronze plan would be lower, and it would cover a much smaller share of [medical expenses](#) than a typical employer plan.

"Bronze is a very skinny product," said Keckley.

Starting in 2014, the [health care](#) law requires most Americans to obtain health insurance, either through an employer, a [government program](#), or by buying their own policies. In return, insurance companies would be prohibited from turning away the sick. Government would subsidize premiums for millions now uninsured.

The law's opponents argue that Congress overstepped its constitutional authority by issuing the mandate, while the administration says the requirement is permissible because it serves to regulate interstate commerce. The scope of the mandate was one of several key issues argued before the court.

"If I understand the law, the policies that you're requiring people to

purchase ... must contain provision for maternity and newborn care, pediatric services and substance use treatment," said Chief Justice John Roberts. "It seems to me that you cannot say that everybody is going to need ... [substance use](#) treatment or pediatric services, and yet that is part of what you require them to purchase."

That may be true, but the law's bronze plan isn't exactly robust coverage. It would require policyholders to spend thousands of dollars of their own money before insurance kicks in. That's how catastrophic coverage works now.

It means anyone - particularly younger, healthy people - can satisfy the health care law's insurance requirement without paying full freight for comprehensive coverage they may not need.

Solicitor General Donald Verrilli did not highlight the bronze plan in his defense of the law, an omission that may prove significant.

"I would definitely say that if you listen to the court proceedings it would be easy to come away with the impression that the health care reform law was requiring people to buy Cadillac insurance, which is certainly not the case," said Larry Levitt, head of the Kaiser Family Foundation's Initiative on Health Reform and Private Insurance. The foundation is a nonpartisan information clearinghouse.

The [health care law](#) does impose a minimum set of "essential health benefits" for most insurance plans. Those benefits have yet to be specified, but are expected to reflect what a typical small-business plan now offers, with added preventive, mental health and other services.

On the surface, the minimum benefits requirement does seem to mandate comprehensive coverage. But another provision of the law works in the opposite direction, and the two have to be weighed together.

This second provision allows [insurance companies](#) to sell policies that have widely different levels of annual deductibles and copayments. A "platinum" plan would cover 90 percent of expected health care expenses, but on the bottom tier a bronze plan only covers 60 percent. Employer plans now cover about 80 percent.

"The minimum that people will be required to buy under the health reform law is clearly a catastrophic plan," said Levitt.

In return for taking on more financial risk, you'll pay lower monthly premiums for a bronze plan, making it easier to budget for. You'll be covered for the same kinds of treatments as everybody else, but your plan won't pay the hospital bill until you've spent a good chunk of your own money out of pocket.

A Kaiser study estimated that the annual deductible for a bronze plan could range from \$2,750 to \$6,350. The deductible is the amount a policy holder must pay directly before insurance payments kick in.

A separate study by the foundation found that people buying individual health policies in the current insurance market end up paying an average of 35 percent of their medical costs out of their own pockets, in line with the 40 percent consumers with a bronze plan would face.

While the bronze plan is available to anyone, the law also provides for another level of catastrophic insurance limited to people under age 30, and expected to be even skimpier.

Such nuances were seemingly lost before the Supreme Court. One of the lawyers representing the plaintiffs, Michael Carvin, asserted during the arguments that "Congress prohibits anyone over 30 from buying any kind of catastrophic health insurance."

Verrilli did not challenge Carvin's characterization, but it is raising eyebrows among insurance professionals.

"I don't think that's exactly right," said benefits lawyer Mark Holloway of the Lockton Companies, a major insurance broker serving mid-size companies. "It depends on what you call catastrophic coverage."

Carvin says he stands by his statement in court that the [law](#) prohibits anyone over 30 from buying any kind of catastrophic insurance.

"The bronze plan is not catastrophic coverage," said Carvin, who represents the National Federation of Independent Business.

"It's got all the minimum essential benefits in it," he added. "It's got to have wellness, preventive, contraceptives - all kinds of things a 30-year old would never need. It's not remotely catastrophic."

©2012 The Associated Press. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.

Citation: Supreme Court misunderstanding on health overhaul? (2012, April 11) retrieved 24 April 2024 from <https://medicalxpress.com/news/2012-04-supreme-court-health-overhaul.html>

<p>This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.</p>
--