

## Other legal challenges to health overhaul remain

June 25 2015

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If you thought the legal fight over the health care overhaul was finally over, think again. At least four issues related to the Affordable Care Act still are being sorted out in the courts, although none seems to pose the same threat to the law as the challenge to nationwide subsidies that the court rejected on Thursday, or the constitutional case that the justices decided in favor of the law in 2012.

Among the pending lawsuits:

—House of Representatives v. Burwell: House Republicans are spearheading a challenge to some \$175 billion the administration is paying [health insurance companies](#) over a decade to reimburse them for offering lowered rates for poor people. The House argues that Congress never specifically appropriated that money, and indeed denied an administration request for it, but that the administration is paying it anyway. The House says this amounts to unconstitutionally co-opting Congress' power of the purse. The administration insists it is properly relying on an existing pot of money. A trial judge is considering the administration's claim that the House lacks standing to bring the lawsuit.

—Sissel v. Health and Human Services Department: A unanimous three-judge panel of the [federal appeals court](#) in Washington rejected a conservative group's claim that Congress imposed new taxes unconstitutionally when it created the Affordable Care Act. The lawsuit filed by the Pacific Legal Foundation and small-business owner Matt Sissel argued that the "Obamacare" legislation was a bill for raising

revenue and that it violated the Origination Clause of the Constitution because it began in the Senate, not the House. The Constitution requires that legislation to raise revenue must start in the House. The appellate panel said that rather than being a revenue-raising device, the [health care law](#) was intended to increase the number of Americans covered by health insurance and decrease the cost of health care. The full appeals court in Washington has yet to rule on a request to rehear the case.

-West Virginia v. Health and Human Services Department: West Virginia says the White House has undertaken a series of illegal changes and delays to the law. A lawsuit filed in federal court in the District of Columbia points to a November 2013 decision by President Barack Obama to allow insurance companies to offer people another year of coverage under their existing plans even if those plans didn't meet the requirements set out in the health care overhaul. Obama acted in response to mounting frustration over cancellation notices sent to Americans whose health plans didn't meet the law's coverage standards. West Virginia officials said they too support allowing people to keep their health plan, but object that Obama took action without seeking congressional action or inviting comment before any changes took effect. There has not been a court hearing or order since the lawsuit was filed 11 months ago.

—Contraceptive mandate cases: Dozens of religiously affiliated colleges, hospitals and other not-for-profit groups do not like the compromises the administration has put forward to allow women covered under these institutions' health plans to obtain contraceptives at no extra cost, among other preventive services required by the [health care law](#), while still ensuring that groups that hold religious objections to contraceptives do not have to pay for them. The government says the groups have to fill out a form or send a letter stating their objection, but non-profits say that still makes them complicit in providing contraceptives. Four federal appeals courts have sided with the administration, but other cases are

pending and Catholic organizations in Pennsylvania have asked the Supreme Court to decide the issue.

Sources: National Health Law Program, South Texas College of Law professor Josh Blackman

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Citation: Other legal challenges to health overhaul remain (2015, June 25) retrieved 4 May 2024 from <https://medicalxpress.com/news/2015-06-legal-health-overhaul.html>

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