

Validity of Obama health care law at issue in appeal hearing

July 9 2019, by Kevin McGill And Rebecca Santana



People wait in line to enter the 5th Circuit Court of Appeals to sit in overflow rooms to hear arguments in New Orleans, Tuesday, July 9, 2019. The appeals court will hear arguments today on whether Congress effectively invalidated former President Barack Obama's entire signature health care law when it zeroed out the tax imposed on those who chose not to buy insurance. A Texas judge in December ruled it was invalid, setting off an appeal by states who support the law. (AP Photo/Gerald Herbert)

An appeals court was to hear arguments Tuesday on whether Congress effectively invalidated former President Barack Obama's entire signature health care law when it zeroed out the tax imposed on those who chose not to buy insurance.

It was unclear when the three-judge panel of the 5th U.S. Circuit Court of Appeals panel would rule in a case that appeared destined for the Supreme Court. The high court has previously reviewed the law, and its coverage and insurance protections for millions of Americans.

The ultimate outcome will affect protections for people with pre-existing conditions, Medicaid expansions covering roughly 12 million people, and subsidies that help about 10 million others afford health insurance.

Tuesday's arguments are the latest in a lawsuit filed by Republican officials in 18 states, led by the Texas Attorney General's Office. It was filed after Congress—which didn't repeal the law, despite pressure from President Donald Trump—reduced to zero the unpopular tax imposed on those without insurance.

In challenging the law anew, "Obamacare" opponents noted the 2012 ruling of a divided Supreme Court that upheld the law. Conservative justices had rejected the argument that Congress could require everyone to buy insurance under the Constitution's interstate commerce clause. But Chief Justice John Roberts, joining four liberal justices, said Congress did have the power to impose a tax on those without insurance.



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With no tax penalty now in effect, the Texas lawsuit argues, the individual mandate is unconstitutional and the entire law must fall without it. Texas-based U.S. District Judge Reed O'Connor agreed in a December ruling. The law's supporters appealed.

In addition to the 18 states, two individual taxpayers are part of the lawsuit. The Trump administration is not defending the law and has filed

arguments in favor of O'Connor's ruling.

California's attorney general represents a coalition of mostly Democratic-led states and the District of Columbia seeking to overturn O'Connor's ruling and uphold the law. The House of Representatives has joined them. Among the arguments by the law's supporters: Those who filed suit have no case because they aren't harmed by a penalty that doesn't exist; the reduction of the tax penalty to zero could be read as a suspension of the tax, but the tax's legal structure still exists; and that, even if the individual mandate is now unconstitutional, that does not affect the rest of the law known as the Affordable Care Act.

When the law was proposed, friends and foes of "Obamacare" agreed that the tax was essential to persuade healthy people to get insured, thereby keeping premiums in check. But this year—the first time no fines will be collected—the number of people signing up for subsidized private insurance through the Affordable Care Act slipped only slightly.

The government said in March that a total of 11.4 million people signed up during open enrollment season, a dip of about 300,000 from last year.



In this Jan. 7, 2015, file photo, a man walks in front of the 5th U.S. Circuit Court of Appeals in New Orleans. The fate of former President Barack Obama's signature health care law, and its coverage and insurance protections for millions of Americans, is again being argued before a panel of judges—this time a federal appeals court in New Orleans, Tuesday, July 9, 2019. (AP Photo/Jonathan Bachman, File)

Scheduled to hear Tuesday's arguments were 5th Circuit Judges Carolyn Dineen King, Jennifer Walker Elrod and Kurt Engelhardt. King was nominated to the appeals court by President Jimmy Carter in 1979. Elrod was nominated by President George W. Bush in 2007. Engelhardt was nominated by President Donald Trump last year.

Democrats in the Senate said Monday that Republicans will pay a

political price if the case results in the loss of popular "Obamacare."

"If they are successful in striking down the Affordable Care Act, Republicans will own all of the consequences," Senate Democratic Leader Chuck Schumer of New York said on a call Monday with reporters.

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