



PUBLIC INTEREST INSTITUTE

FACT SHEET

Number 11-03

July 15, 2011

ObamaCare is Unconstitutional

Individual Mandate:

The Patient Protection and Affordable Care Act, or “ObamaCare” health care reform law, forces Americans to purchase qualifying health insurance or pay a fine to the government, collected by the IRS. This “individual mandate” is unconstitutional. The government should not have the power to fine a person for not doing something. Judge Henry Hudson, in his opinion in *Commonwealth of Virginia v. Sebelius*, wrote that “an individual’s personal decision to purchase – or decline to purchase – health insurance from a private provider is beyond the historical reach of the Commerce Clause, the Necessary and Proper Clause does not provide a safe sanctuary.”¹

“By imposing such a mandate, the law exceeds the powers of the United States under Article I of the Constitution and violates the Tenth Amendment to the Constitution. Additionally, the tax penalty required under the law constitutes an unlawful direct tax in violation of Article I, sections 2 and 9 of the Constitution,” said Bill McCollum, the former Florida Attorney General who filed the lawsuit asking the courts to strike down the ObamaCare health reform law.² Twenty-five additional states, including Iowa, have joined Florida in this lawsuit.³

Medicaid Expansion:

ObamaCare forces the states to expand Medicaid programs, expanding coverage to more Americans and requiring states to come up with additional funding to cover the future added costs. Currently, 16 percent of Iowa’s population is enrolled in Medicaid. Iowa’s Medicaid population is predicted to increase by 25 percent by 2019 under the new guidelines of ObamaCare.⁴ “Reform measures could add 80,000 to 100,000 Iowans” to our state’s Medicaid program, “said Jennifer Vermeer, Iowa Medicaid Enterprise director.”⁵

Former Florida Attorney General Bill McCollum states that “the health care reform law infringes on the sovereignty of the states by imposing onerous new operating rules that [the states] must follow as well as requiring the state[s] to spend billions of additional dollars without providing funds or resources to the state[s] to help subsidize the cost of implementation of the law.”⁶ “This unfunded Medicaid mandate is unfair and unsustainable. The results are potentially devastating to the State’s budget,” said Dave Heineman, Governor of Nebraska.⁷

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Forces States to Administer Health Benefit Exchanges:

ObamaCare requires states to establish a health benefit exchange “to provide a government-regulated health insurance marketplace for small businesses and consumers who do not receive health insurance through their employer.”⁸ “States must have an operational exchange by Jan. 1, 2014, or the federal government will operate an exchange for the state.”⁹

Forcing the state to set up and administer a health benefit exchange, or the federal government stepping in and running an exchange in our state would “violate the 10th Amendment, which reserves to the states all government power not expressly delegated to the national government; and the 11th Amendment, which protects states from being used as mere instrumentalities of the national government. This constitutional construct is known as federalism.”¹⁰

In *New York v. United States* (1992), the U.S. Supreme Court “struck down federal rules requiring states to take ownership of certain radioactive waste and to expose themselves to liability.”¹¹ Justice Sandra Day O’Connor, writing in favor of the Court’s ruling, stated “no matter how powerful the federal interest involved, the Constitution simply does not give Congress the authority to require the States to regulate.”¹²

Endnotes:

¹ *Commonwealth of Virginia v. Sebelius*, United States District Court for the eastern District of Virginia, December 13, 2010, p. 24.

² “Florida Attorney General McCollum Sues Federal Government Over Health Care Reform Legislation,” News Release, March 23, 2010, <<http://www.myfloridalegal.com/newsrel.nsf/newsreleases/2426DBDB65C843D7852576EF005DB3A4>> accessed on December 14, 2010.

³ “The States’ Lawsuit Challenging the Constitutionality of the Health Care Reform Law,” Office of the Attorney General of Florida, <www.healthcarelawsuit.us/> accessed on July 12, 2011 and E-mail from Christie Herrera, Director, Health and Human Services Task Force, American Legislative Exchange Council, July 12, 2011. The Florida lawsuit has 26 states as plaintiffs. Virginia, Oklahoma, and Missouri Lt. Gov. Peter Kinder have each filed separate lawsuits challenging Obamacare.

⁴ “Iowa Facts At-A-Glance,” and “Medicaid Expansion to 133% of Federal Poverty Level (FPL): Estimated Increase in Enrollment and Spending Relative to Baseline by 2019,” Statehealthfacts.org, accessed on December 14, 2010.

⁵ Cindy Hadish, “Beginning Phase for Iowa’s Health Insurance Exchange Under Way,” KCRG-TV9 News, December 14, 2010, <<http://www.kcrg.com/news/local/Begginning-Phase-for-Iowas-Health-Insurance-Exchange-Under-Way-111895629.html>> accessed on December 16, 2010.

⁶ “Florida Attorney General McCollum Sues Federal Government Over Health Care Reform Legislation.”

⁷ Governor Dave Heineman, Letter to Jess Wolf, President, Nebraska State Education Association; John Bonaiuto, Executive Director, Nebraska Association of School Boards; and Mike Dulaney, Executive Director, Nebraska Council of School Administrators, on federal health care reform and Medicaid expansion, August 25, 2010.

⁸ David Drucker and Michael D. Tanner, “What the Health Care Bill Means for You,” Cato Institute, December 13, 2009, <http://www.cato.org/pub_display.php?pub_id=11050> accessed on December 16, 2010.

⁹ Cindy Hadish.

¹⁰ Clint Bolick, “The Health Care Freedom Act: Questions & Answers,” Goldwater Institute, February 2, 2010, p. 3, <<http://goldwaterinstitute.org/article/4371>> accessed on December 16, 2010.

¹¹ *Ibid.*

¹² *Ibid.*, p. 4.

A Publication of: **Public Interest Institute at Iowa Wesleyan College**

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