

# Supreme Court holds the Affordable Care Act (ACA) is constitutional, but what does the law mean?



BY VALERIE A. POWERS SMITH, ESQ.

The Patient Protection & Affordable Care Act and Health Care & Education Affordability Reconciliation Act (a.k.a., the Affordable Care Act) was passed into law in March 2010.

As many are aware, there has been great debate and legal challenges since its passage. On June 28, the Supreme Court issued its decision ruling that the Affordable Care Act (ACA) is constitutional. One of the most controversial components of ACA decided by the Supreme Court was the mandate that those who can afford to purchase healthcare coverage, do so or face a financial penalty, was held constitutional under the taxation power (not the commerce power) of Congress.

In response, House Republicans are said to seek to overturn ACA; perhaps, as soon as July 2012. In the meantime and without regard to either side of the argument, this article provides a highlight of some of the key points of the law.

Since September 23, 2010, private insurance plans have been prohibited from:

- Excluding or rejecting coverage to any child birth through age 18 based on a pre-existing condition, including a disability.
- Charging higher premiums based on pre-existing conditions.
- Dropping an individual who becomes ill.
- Including lifetime limits on one's coverage.
- Placing annual limits on coverage.

In addition, since September 23, 2010, private insurance plans have been required to provide coverage to beneficiary's dependents up to age 26 regardless of residence or marital status so long as the dependent is not eligible for his or her own group coverage.

Since October 1, 2011, a new state Medicaid option, Community First Choice (CFC), has required participating states to provide self-directed services statewide in the most integrated setting appropriate to an individual.

In October 2012, one will be able to join

and get benefits from a voluntary, enrollment-based insurance program called the Community Living Assistance Services and Supports (CLASS) Program. CLASS will provide assistance to people who need help with daily activities. Under this voluntary program, one can get cash allowances so they can get care and other support to help them keep their independence. Starting January 1, 2014:

- Private insurance plans cannot consider disability and health status when setting premiums; specifically, insurance eligibility rules based on health status.
- Private insurance plans are required to guarantee issue and renewal of policies (that is, they must accept every employer and individual who applies).
- The state-based health insurance marketplace Exchange is intended to increase choice and foster competition by enabling consumers to compare coverage and premiums.

Also in 2014, most adults under age 65 with incomes up to about \$15,000 per year for single individual (higher income for couples/families with children) will qualify for Medicaid in every state. State Medicaid programs will also be able to offer additional services to help those who need long-term

care at home and in the community. Moreover, the Federal government will pay 100% until 2016 (phasing down to 90% in 2020) to states participating in the Medicaid program. Additional expansions to the Medicaid and Medicare program are set to occur in 2013 and 2014, such as:

- State's option to provide health homes for Medicaid enrollees with chronic conditions
- Free annual Medicare wellness visits with assessments and individualized prevention plan
- Elimination of Medicare Part D (drug coverage) co-pays for dual eligibles receiving waiver services
- Improving Medicare Part D access to key anti-seizure, anti-anxiety, and anti-spasm medications

*Valerie A. Powers Smith, Esq. is an attorney with Slovak Baron & Empey, LLP in Palm Springs. In addition to her estates and trust practice, she has concentrated part of her practice in the area of health care law and has vigorously advocated for families and people with disabilities to gain medically necessary care from private insurance companies, Medicaid, Medicare, and other health insurance providers. She can be reached at (760) 322-2275 or powers@sbelawyers.com.*