These Two Court Cases Could Derail Health Care as We Know It

And yet, you have until December 15 to enroll in Obamacare for coverage beginning January 1.

November 1, 2019 By Trent Straube

Not to be alarmist, but health care is under attack again. The assault is playing out in two separate lawsuits—one to protect Americans' right to care, and one to demolish it. Unlike the 2017 attempt by Republican lawmakers to derail health care coverage by congressional vote, which garnered nationwide protests, the latest battles are being fought in the courts and largely under the radar (thanks in part to the fact that the impeachment drama is diverting everyone's attention).

Before addressing the two lawsuits, here's a bit of good news. The Affordable Care Act (ACA, or Obamacare), which turns 10 years old next spring, is going strong. Over 10 million people have enrolled, and millions others have benefited because nearly two thirds of the states expanded Medicaid. A 2017 analysis found that significantly more people with HIV have insurance thanks to Obamacare. In addition, average premiums for 2020 are expected to drop 4% next year, according to Politico.com, with six states seeing double-digit decreases.

What's more, enrollment is open now until December 15 for coverage that will start January 1. As was the case last year, Americans have only 45 days to enroll in Obamacare. The signup period used to last until the end of January, but, with the blessing of the health care industry, President Trump changed the rules so that folks who get sick in late December and January can't sign up, thus increasing the risk pool.

Visit HealthCare.gov to preview plans and prices, change plans or sign up. The site also offers help applying for health care insurance and can link you to local services. You can also call 800-318-2596.

But if the Trump administration has its way in an impending court ruling, the ACA will soon be toast. That would cause 20 million Americans to lose their insurance and 133 million people with protected preexisting conditions could be disqualified for health insurance or face much higher premiums. POZ summarized the backstory of this court case in a March article titled "Trump Administration Wants the Courts to Strike Down All of Obamacare":

> The Fifth U.S. Circuit Court of Appeals is deciding on a lower court's ruling in Texas v. United States. In that case, a federal judge in Texas ruled that because Congress had ended the

> individual mandate to buy insurance, then the entire Affordable Care Act was unconstitutional. Basically, the judge ruled that once one aspect of a law is struck down—in this case, the individual mandate—then it stands to reason that the entire law is unconstitutional. (To refresh your memory, in 2017, the Republican-controlled Congress passed a tax bill that eliminated the fine for people who didn't have health care.)

As Slate's Dahlia Lithwick and Mark Joseph Stern report in their analysis of the case, a decision from the "notoriously conservative" appellate court is imminent. And yet "this looming catastrophe hasn't come up at a single Democratic debate. It has been absent from the daily news cycle for months. Donald Trump's fiercest critics on the Hill rarely mention it.... If the 5th Circuit guts the ACA, the Supreme Court is going to have to add it to the mounting pile of explosive election year cases it's already got on its plate. And Americans are going to have to relearn a lesson we keep forgetting, which is that the courts are the most important legacy of any presidential election contest and that we always remember that fact, after the fact, when it is far too late."

On another battlefront, there's the lawsuit County of Santa Clara v. HHS, in which civil rights groups and California's County of Santa Clara ask a U.S. district court to strike down the Trump administration's Denial of Care Rule, slated to take effect November 22.

The Denial of Care Rule allows any health care worker—ranging from janitors to nurses and doctors—to deny medical treatment and services because of their personal religious or moral beliefs. The rule was issued in May by the Department of Health and Human Services, according to a press release by Lambda Legal, a group that advocates for the LGBT and HIV communities. Lambda Legal is one of the civil rights groups in the lawsuit.

"For more than five months, this rule has hung over women, LGBTQ people, religious minorities and other already marginalized and vulnerable populations, threatening at any moment to cut them off from critical and in some cases lifesaving care," Lambda Legal senior attorney Jamie Gliksberg said in the release. "Our attorneys today [October 30] made it transparently clear to the court just how devastating implementation of this rule will be, and we look forward to the court issuing a ruling that the facts overwhelmingly support."

The civil rights groups represent several health care providers in the lawsuit, including Bradbury-Sullivan LGBT Community Center in Allentown, Pennsylvania; Center on Halsted in Chicago; Hartford GYN in Connecticut; Los Angeles LGBT Center; Mazzoni Center in Philadelphia; Trust Women Seattle; and Whitman-Walker Health in Washington, DC. Many of these providers offer HIV services and cater to the HIV and LGBT communities.

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