Affordable Care Act Is Under Attack Again, This Time in the Courts

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Earlier this month, a district court judge in Texas agreed with the plaintiffs in a lawsuit filed by officials from 20 Republican-controlled states declaring the Affordable Care Act (the ACA, or Obamacare) unconstitutional. Even before this unexpected decision, the case, Texas v. Azar, was already notable for the Trump administration's refusal to defend the case in court, choosing instead to undermine the ACA by joining with the Republican plaintiffs and opposing the federal law they were charged with upholding.

In his ruling, U.S. District Judge Reed O'Connor sided with the plaintiffs, declaring that Congressional Republicans recent elimination of the ACA's "individual mandate" in their tax bill—where they reduced the fine levied on individuals who neglected to sign up for health insurance to $0—rendered the entirety of the health care law unconstitutional, as, in his view, the individual mandate was inseverable from the ACA as a whole. According to an analysis conducted by The Urban Institute earlier this year, the complete repeal of the ACA would result in a staggering 17.1 million people losing health insurance and enrollment in Medicaid and CHIP falling by 15.1 million.

In a statement following the ruling, The Department of Health and Human Services stated that the ACA will remain in effect while the case is pending appeal and that "HHS will continue administering and enforcing all aspects of the ACA as it had before the court issued its decision." As such, all individuals who have signed up for insurance on the health care marketplace during this current open enrollment period will remain unaffected.

This decision, which was given just one day before the end of the ACA's open enrollment period, is widely viewed by legal experts as faulty at best, with even some of the law's most ardent critics decrying the ruling. Jonathan Adler, a legal scholar who was one of the architects of the last major lawsuit against the ACA, called the reasoning behind the plaintiff's argument both "unmoored" and "absurd," while Phillip Klein, the executive editor of the conservative Washington Examiner, called the ruling "an assault on the rule of law."

It is likely that Judge O'Connor's decision will be overturned in appellate court and eventually find

its way up to the Supreme Court, where Chief Justice John Roberts' previous rulings on the ACA suggest that he will side with the Court's 4 left-leaning judges in upholding the constitutionality of the law. With that being said, Judge O'Connor's ruling in Texas v. Azar could still cause a considerable amount of damage to the ACA and access to health care for people living with and affected by HIV.

While the stability and staying power of the ACA has always been somewhat in question during the past two years as Congressional Republicans and The White House did their best to repeal it, there had been a growing sense in the wake of repeated legislative failures and amidst both growing public support and stabilization of insurance markets, that the ACA was more secure. This latest ruling undoes much of that security, placing the future of the U.S. healthcare system once more into doubt and placing vital protections for people living with pre-existing conditions like HIV at risk, along with a slew of other ACA reforms, like the elimination of annual and lifetime caps on benefits, Medicaid expansion, and requiring health insurers cover essential health benefits like mental health & substance use treatment and care for pregnant women.

It should go without saying that the potential impact of this decision on people living with and affected by HIV is massive. Any chance we have of ending the HIV epidemic by 2025 relies upon our federal government building upon the healthcare infrastructure in this country, not tearing it down. We at AIDS United will continue to fight against any and all attempts to rip health care away from the HIV community and we will keep you abreast of developments in this case as they happen.

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