

# AMA fights to preserve coverage gains made since ACA passage

JUL 9, 2019

## Andis Robeznieks

Senior News Writer

**What's the news:** Three judges from the 5th Circuit Court of Appeals in New Orleans heard arguments Tuesday in *Texas v. United States*, a case that seeks to repeal the Affordable Care Act (ACA), possibly causing 32 million to lose their health insurance coverage and creating havoc within an industry that accounts for nearly 18% of the U.S. economy.

**Why it matters to patients and physicians:** A Texas-led coalition of 20 states argued that, because Congress reduced the individual tax penalty down to \$0, the entire ACA should be eliminated also. (Maine and Wisconsin were two of the original plaintiff states and have since withdrawn from the suit.)

Federal North Texas District Judge Reed O'Connor agreed with the plaintiff states in a ruling issued last December.

"The district court ruling that the individual mandate is unconstitutional and inseverable from the remainder of the ACA would wreak havoc on the entire health care system, destabilize health insurance coverage, and roll back federal health policy to 2009," AMA immediate Past-president Barbara L. McAneny, MD, said back in April.

The Trump administration announced that it would not defend the law in the district court. The Justice Department took the position that the individual mandate was unconstitutional and therefore the guaranteed issue and community-rating provisions, which it said relied on the individual mandate, were inseverable. But it argued the rest of the law should remain intact. On appeal, the Justice Department changed course and decided the entire ACA should be invalidated.

A California-led coalition of 16 states intervened to defend the ACA. That coalition has since grown to 20 states and the District of Columbia. The House of Representatives intervened on appeal.

The AMA and 17 other medical societies filed an amicus brief supporting the intervening states in the 5th Circuit.

If the ruling stands, 20 million people who gained coverage since the law's passage would be without coverage. The number of newly uninsured in the U.S. could grow to 32 million by 2026, according to a 2017 Congressional Budget Office report projecting the impact of an ACA repeal.

Repealing the ACA would eliminate:

- | Guaranteed coverage for the 130 million people with preexisting conditions.
- | Ban on annual and lifetime caps on benefits.
- | Federal support for expanded Medicaid eligibility that has helped cover 17 million people.
- | Coverage for 2.3 million young adults up to age 26 via their parents' health plan.
- | Required coverage for mental health and substance-use disorder treatment services.
- | Coverage of preventive health services without deductibles or copays.
- | Premium subsidies for low- and moderate-income individuals and families to buy coverage.
- | Cost-sharing subsidies for low- and moderate-income individuals and families to lower out-of-pocket costs.

"These provisions are fundamental to the delivery of high-quality, affordable care in this country," the amicus brief states. "As leading supporters of the legislation recognized, their invalidation would throw our health care system into chaos and would deprive patients of critical benefits that Congress intended them to have."

The intervening states have argued that repealing the ACA would cost them a combined \$650 billion via multiple revenue streams such as Medicaid, insurance marketplace subsidies and the Prevention and Public Health Fund. In a previous amicus brief, filed in the district court, the AMA and four other medical societies argued that the Texas-led coalition lacks standing in the lawsuit because they could only provide "vague, speculative claims" of indirect harm.

"The plaintiffs do not seek redress for any real, concrete injury because they have suffered none," the brief states. "They simply seek to change the federal government's health care policy through the courts, rather than through the legislature."

The AMA's highest priority is that the millions who have gained coverage under the ACA do not lose it. The AMA has also acknowledged that the ACA has problems that need to be fixed, such as gaps in coverage.

**What's next:** No plan for replacing the ACA has been publicly released. The Texas-led plaintiff states sought an injunction against continued enforcement of the ACA, but Judge O'Connor did not issue



one. The Trump administration had previously announced it would continue to administer the ACA until the U.S. Supreme Court rules on the case.

On June 26, however, the court asked attorneys questions regarding the standing of the interveners, particularly the House of Representatives in light of a June 17 U.S. Supreme Court decision where it ruled that Virginia's House of Delegates did not have standing to appeal the invalidation of Virginia's redistricting plan. This has led to concern the appeal would be dismissed.

Join the AMA today and help us stand up for patients and physicians.