

Search Health 3,000+ Topics

Go

Inside Health

Research Fitness & Nutrition Money & Policy Views Health Guide

Health Law Survives Test in Court of Appeals

By JOHN SCHWARTZ
Published: November 8, 2011

A federal appeals court in Washington upheld the Obama administration's [health care law](#) on Tuesday in a decision written by a prominent conservative jurist.

Related

Times Topic: [Health Care Reform](#)

initiative of the administration.

Of four appellate court rulings on the health care law so far, this is the third to deal with the law on the merits, and the second that upholds it.

The United States Court of Appeals for the District of Columbia Circuit in Washington issued the [37-page opinion](#) by Judge [Laurence H. Silberman](#). In the opinion, Judge Silberman, who was appointed by President Ronald Reagan, described the law as part of the fundamental tension between individual liberty and legislative power.

"The right to be free from federal regulation is not absolute, and yields to the imperative that Congress be free to forge national solutions to national problems, no matter how local — or seemingly passive — their individual origins," he wrote. The fact that Congress may have never issued an individual mandate to purchase something before, a central argument for many opposing the law, "seems to us a political judgment rather than a recognition of constitutional limitations," he wrote.

A [65-page dissent](#) by Judge Brett M. Kavanaugh, a conservative jurist appointed by President George W. Bush, stated that the courts lack jurisdiction until the law's tax penalties take effect in 2015. Citing the 19th-century Anti-Injunction Act, he said that the "important and long-standing" law "poses a jurisdictional bar to our deciding this case at this time."

The split among the appellate courts increases chances that the Supreme Court will hear the case. Tuesday's opinion is the second appeals court decision that upholds the law on the merits. The Court of Appeals for the 11th Circuit, based in Atlanta, struck down the individual mandate in a suit brought by officials of 26 states, and experts say it is most likely to be among those that the Supreme Court will choose to hear if the judges decide to take up the cases at their private conference on Thursday.

The White House posted a [blog entry](#) by Stephanie Cutter, a senior aide to the president, that hailed "yet another victory" for Americans getting benefits from the early elements of the bill.

RECOMMEND

TWITTER

LINKEDIN

SIGN IN TO E-MAIL

PRINT

REPRINTS

SHARE



Log in to see what your friends are sharing on nytimes.com. Privacy Policy | What's This?

Log In With Facebook

What's Popular Now

Ohio Turns Back a Law Limiting Unions' Rights



Penn State Said to Be Planning Paterno's Exit



Six Steps to a Thanksgiving Stir-Fry
November 9, 2011, 10:13 AM

Aging Well Through Exercise
November 9, 2011, 12:01 AM

Gloves Are No Guarantee Your Doctor's Hands Are Clean
November 8, 2011

A Heartburn-Free Thanksgiving
November 8, 2011

Tired of Feeling the Burn? Low-Acid Diet May Help
November 7, 2011

Get the TimesLimited E-Mail



Privacy Policy

Sign Up