

# Memorandum



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To: AAMC Members

From: Darrell G. Kirch, M.D.  
President and CEO

Subject: **AAMC Applauds Supreme Court Ruling on ACA: Initial Analysis of the Decision**

The AAMC is extremely pleased that the Supreme Court has upheld virtually all of the Affordable Care Act (ACA). This law is an important step toward an improved health care system that gives all Americans access to the care they need when they need it. However, we are closely examining the Court's ruling as it relates to the Medicaid expansion.

As we noted in our [press release](#), America's medical schools and teaching hospitals are committed to improving the nation's health care and have been leading the transformation of health care delivery through innovations in medical education, clinical care, and research. The Court's decision allows the important work of the Center for Medicare and Medicaid Innovation (CMMI), the Patient-Centered Outcomes Research Institute (PCORI), and the programs supported by the Prevention and Public Health Fund to continue.

**AAMC staff have prepared the following initial analysis of the Court's decision. We will provide more information, particularly on the ruling's implications for the law's Medicaid expansion, in the coming days.**

**Q: Is the individual mandate constitutional?**

**A: Yes.** The Court held that the individual mandate is constitutional as an exercise of Congress' taxing power. Although the ACA defined the penalty as a "shared responsibility payment" rather than as a "tax," the Court found it "looks like a tax in many respects" – for example, it is paid into the Treasury by taxpayers when they file their tax returns, it is enforced by the IRS, and it will be determined "by such familiar factors as taxable income, number of dependents, and joint filing status." Because of this holding, the Court did not need to reach the severability question (i.e., whether the entire statute would fall if the mandate fell).

A majority of the Court held that the individual mandate was not constitutional under the Commerce Clause of the Constitution (stating that "the Framers gave Congress the power to *regulate* commerce, not to *compel* it"), but this holding does not prevent the mandate from being constitutional as a *tax*.

**Q: Are the Act's Medicaid expansion provisions constitutional?**

**A:** Under the ACA, States were given generous Federal subsidies and required to accept an expansion in Medicaid recipient eligibility (to cover *all* individuals under age 65 with incomes below 133% of federal poverty) and a minimum benefits package or lose *all* of its existing Medicaid funding. **The Court ruled that Congress can offer States the option to accept expansion under the ACA but cannot put their existing Medicaid funding at risk.** Congress' extension of Medicaid remains available to any State that chooses to participate.

**Q: Did the Court have the authority to decide the case, given that no one had yet been penalized under the Act?**

**A: Yes.** The Anti-Injunction Act prohibits courts from hearing suits brought to the Court before an act is enforced that are brought with the goal of "restraining the assessment or collection of any tax." The Court held that because Congress did not use the word "tax" in the statute, the Anti-Injunction Act did not apply, and the Court could decide on the merits of the case.

**Q: Are the parts of the law that affect academic medical centers (everything from hospital value-based purchasing, to PCORI, to CMMI, to resident slot redistribution, to DSH cuts, to changes to physician quality reporting, etc.) still in effect?**

**A: Yes.** All of these provisions remain in effect. The only provision that is no longer valid is the loss of existing Medicaid funding for States that choose not to accept Medicaid expansion.

**Q: Who wrote the opinion?**

**A: Chief Justice Roberts wrote the 5-4 decision** to uphold the individual mandate, joined by Justices Ginsburg, Breyer, Sotomayor, and Kagan. Justice Roberts also wrote the majority decision to limit the government's ability to penalize states for not participating in Medicaid Expansion. Justice Ginsburg wrote a concurring opinion and was joined by Justice Sotomayor and joined in part by Justices Breyer and Kagan. Justices Scalia, Kennedy, Thomas, and Alito wrote a dissenting opinion, and Justice Thomas wrote a separate short dissent. The AAMC will provide additional information about each of these opinions at a later date.

**The AAMC will provide a more in-depth analysis of the Court's decision in the coming days and weeks.**