Supreme Court Ruling on the Affordable Care Act (ACA): Overview & Implications

June 28, 2012

Avalere Health LLC
In a 5-4 Decision, the Supreme Court Upheld the Individual Mandate and Ruled the Medicaid Expansion to Be Optional

- **Individual Mandate:** The Court held that the individual mandate is a constitutional exercise of Congress’s power to levy taxes

- **Medicaid Expansion:** The Court held that forcing states to expand Medicaid is unconstitutional
  - States must be given a choice about whether or not to move forward with the ACA’s Medicaid expansion, and the federal government cannot cut off existing Medicaid funding to states that choose not to proceed with the expansion
  - The Medicaid expansion requirement is severable from the rest of the ACA, so the remainder of the law remains in effect

- The Court’s majority opinion was authored by Chief Justice Roberts and joined in whole or in part by Justices Breyer, Ginsburg, Sotomayor, and Kagan

- Justices Scalia, Kennedy, Thomas, and Alito issued a dissenting opinion and argued that the entire ACA should be struck down
Most States Are Likely to Proceed with the Medicaid Expansion, Limiting the Impact of the Court Decision

- As a result of the Court decision, states can elect **not** to expand Medicaid eligibility in 2014 to 133% FPL

- However, since the federal government will cover 100% of the cost until 2017, most states are likely to proceed with the expansion
  - The FMAP for the expansion phases down to 90% by 2020, but this is still significantly above current federal Medicaid matching rates

- States that do not expand coverage will leave a vulnerable segment of the population unable to attain Medicaid coverage or exchange subsidies, which would likely drive strong political opposition from consumer advocates, providers and the general public

- Stakeholders should closely monitor whether states decide to pursue the Medicaid expansion. This will have significant implications for coverage, particularly in states with Medicaid coverage that is currently below 100% FPL

FPL = Federal Poverty Level
FMAP = Federal Medical Assistance Percentages
Over 14 Million People Will Not Have Access to Medicaid or Exchange Subsidies If States Don’t Expand Medicaid Eligibility

Number of Uninsured Below 100% FPL (2010)*

Uninsured Below 100% FPL: ≤ 100,000 ■ 100,001-299,999 □ 300,000 - 999,999 □ ≥1,000,000

States with Lowest Eligibility Levels for Parents

<table>
<thead>
<tr>
<th>State</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Arkansas</td>
<td>17%</td>
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<tr>
<td>Alabama</td>
<td>24%</td>
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<tr>
<td>Indiana</td>
<td>24%</td>
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<td>Louisiana</td>
<td>25%</td>
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<td>Texas</td>
<td>26%</td>
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<td>Virginia</td>
<td>31%</td>
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<td>West Virginia</td>
<td>32%</td>
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<td>Kansas</td>
<td>32%</td>
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<tr>
<td>Missouri</td>
<td>36%</td>
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<tr>
<td>Idaho</td>
<td>39%</td>
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</tbody>
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Most states do not currently provide coverage for childless adults

**Kaiser Family Foundation, State Health Facts, Income Eligibility Limits for Working Adults at Application as a Percent of the Federal Poverty Level (FPL) by Scope of Benefit Package, January 2012

FPL = Federal Poverty Level
Enhanced Federal Matching Funds and Political Factors Provide Incentive for States to Expand Medicaid… At Least Until 2017

Ruling allows states forgo Medicaid expansion, however there are several incentives to expand:

- **100% FMAP through 2016**
- **Political pressure from beneficiary advocates and providers**
- **Declining to expand leaves gap in coverage for lowest income individuals**

However, some states have vocally opposed the expansion and may opt out of the Medicaid expansion, leaving current levels in place.

*Standard FMAP represents average rate for fiscal year 2013 across the 50 states and DC according to rates published in Federal Register. FMAP = Federal Medical Assistance Percentage*
Texas Case Study: Potential Gap in Coverage if State Chooses Not to Expand Medicaid

The state of Texas has approximately 1.9 million uninsured individuals with incomes under 100% FPL**

Congress may eventually need to devise solutions to address the gap in coverage for individuals in states that choose to opt out of the Medicaid expansion

Current Medicaid Eligibility Levels in Texas and Potential Gap if State Forgoes Expansion*

- **Parents**
  - Medicaid Eligibility: 100%
  - Gap: 26%
  - Exchange Subsidies: 400%
- **Childless Adults**
  - Medicaid Eligibility: 100%
  - Gap: 100%
  - Exchange Subsidies: 400%

*Kaiser Family Foundation, State Health Facts, Income Eligibility Limits for Working Adults at Application as a Percent of the Federal Poverty Level (FPL) by Scope of Benefit Package, January 2012
FPL = Federal Poverty Level
Stakeholder Implications: Plans and Providers

Plans
- Health plans will continue to pursue Medicaid managed care, individual insurance products, regional consolidation, and broader engagement with the care delivery system.
- Plans will have to make operational decisions and design exchange products in an environment of uncertainty, as many states have made few exchange implementation decisions.

Providers
- Physicians will continue to feel financial pressure from ACA provisions such as Medicare reimbursement changes and payment and delivery reforms.
- Hospitals will continue to focus on cost efficiencies to manage reimbursement cuts and payment and delivery reform.
- Many providers will see a greater volume of newly insured patients after 2014, relieving some of the financial burden of uncompensated care.
Stakeholder Implications: Life Science Companies and Employer & Consumers

Life Science Companies

- Pharmaceutical manufacturers will maintain liability for increased Medicaid rebates and Medicare Part D coverage gap closure
- Life science companies will benefit from roughly 30 million new lives coming into the system, which will positively influence drug and device sales and medication adherence
- Implementation of the biosimilars pathway will move forward

Employers & Consumers

- Employers will continue to evaluate whether or not to offer coverage in 2014 once exchanges are operational
- Consumers who have been priced out of the market or denied coverage for preexisting conditions will likely gain access to insurance through exchanges in 2014, although some young and healthy consumers may opt to incur the penalty rather than pay for coverage
Key Takeaways from Supreme Court Decision

- ACA implementation will continue to move ahead at an increased pace
- HHS and the states need to address remaining areas of uncertainty, such as exchange plan benefit design (EHB) and IT requirements
- We expect that most states will implement the Medicaid expansion, given that the federal government is covering the majority of the cost
  - If some states decide not to pursue the Medicaid expansion, it will put pressure on Congress to change the Medicaid program or modify exchange subsidy eligibility levels to apply to this portion of the population
- The outcome of the 2012 federal elections, as well as deficit reduction negotiations, are likely to bring further changes to the ACA
  - Exchange subsidies, in particular, could be threatened by budget pressures
  - Efforts to repeal the ACA will continue into 2013, especially if Romney wins the Presidential election