

## E-ALERT | Health Care

December 13, 2010

### HEALTH CARE REFORM: FEDERAL COURT STRIKES DOWN INDIVIDUAL COVERAGE MANDATE; REST OF LAW UNAFFECTED

On December 13, 2010, a federal court in Virginia ruled that a key provision of the Affordable Care Act—the individual coverage mandate—is unconstitutional.

Judge Henry E. Hudson of the U.S. District Court for the Eastern District of Virginia ruled that Section 1501 of the Act exceeds Congress’s regulatory authority under the Commerce Clause of the Constitution. Section 1501 requires that, beginning in 2014, every U.S. citizen, other than those falling within specified exceptions, maintain a minimum level of health insurance coverage or pay a tax penalty.

“Neither the Supreme Court nor any federal circuit court of appeals has extended Commerce Clause powers to compel an individual to involuntarily enter the stream of commerce by purchasing a commodity in the private market,” the court stated. “In doing so, enactment of the [individual coverage mandate] exceeds the Commerce Clause powers vested in Congress under Article I.”

The court further ruled, however, that Section 1501’s requirement to maintain minimum health insurance is severable from the rest of the health care statute—in other words, that the court’s finding of unconstitutionality of the individual coverage mandate does not affect the validity of the remaining provisions. The court also declined Virginia’s request for an order enjoining implementation of Section 1501, noting that the key provisions of Section 1501 do not take effect for another few years.

A copy of the court’s December 13 ruling is available [here](#).

This ruling was handed down in *Virginia v. Sebelius*, Civ. No. 3:10CV188-HEH (E.D. Va.), a case filed by the Attorney General of Virginia, Ken Cuccinelli II, to challenge the constitutionality of the individual coverage mandate. A number of legal challenges to the Affordable Care Act are pending in courts across the country. Covington lawyers are monitoring these lawsuits, as well as any potentially relevant Congressional actions.

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If you have any questions or would like additional information, please contact the following attorneys in our Washington, D.C. office:

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