



Written by [Michael Tennant](#) on March 3, 2020

## Supreme Court Agrees to Hear Major ObamaCare Challenge

The Supreme Court said Monday it will hear a case that could lead to a complete overturning of ObamaCare, making healthcare an even more significant issue in this year's presidential election.

The justices agreed to consider a case in which two lower courts ruled that the Affordable Care Act (ACA) is unconstitutional by virtue of Congress' repeal of the individual mandate, which required Americans to purchase government-approved health insurance or pay a tax penalty.



The Supreme Court, with Chief Justice John Roberts the deciding vote, upheld the law in 2012 on the theory that while Congress could not force people to buy health insurance, it could tax them for not buying it. (*Forbes'* [Chris Conover](#) observed that Roberts' opinions in both this and a 2015 case finding most of the ACA constitutional "required death-defying legal gymnastics.")

After Congress, with President Donald Trump's blessing, repealed the individual-mandate penalty in 2017, a coalition of Republican-led states challenged the ACA in federal court, arguing that without that provision, the rest of the law could not stand. The next year, U.S. District Judge Reed O'Connor agreed that the individual mandate is now invalid but did not issue an opinion on which other parts of the law, if any, had to go.

Democrat-led states and the Democrat-controlled House of Representatives, which assumed the defense of ObamaCare when the Trump administration declined to defend it, appealed to the Fifth Circuit Court of Appeals. The court upheld O'Connor's decision but remanded the case to him to decide which provisions should be invalidated along with the mandate.

Democrats immediately appealed to the Supreme Court, asking the justices to expedite the process so as to have a decision by June. The court [denied their request](#) but left open the possibility that it would review the case at a later time.

According to [Politico](#), "It's unlikely the justices will rule before the election on the lawsuit, which could wipe out the Affordable Care Act's insurance protections and coverage for millions of people. The court is expected to hear the case during its next term starting in October, but the justices did not say when it will hear oral arguments."

The high court's willingness to hear the case before it has been thoroughly litigated in lower courts "underscores the monumental stakes" involved, the news site noted. After a decade, ObamaCare has wormed its way into every facet of American healthcare, and overturning it, while undoubtedly the proper course of action, would be highly disruptive. And should oral arguments occur in October, the case could greatly affect the outcome of the election.



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Democrats, who believe they have the upper hand in the healthcare debate, are relishing the opportunity to use the case to win votes, as they did in the 2018 midterms.

“This case is a stark, life-and-death reminder how much is at stake this fall and what’s on the ballot right now: Democrats must nominate the candidate whom they know can beat Trump and bring along the Senate, to ensure we can protect our health care for generations to come,” former Vice President Joe Biden said in a statement.

Some Republicans are eager to have the court rule on the matter. Texas Attorney General Ken Paxton said, “The federal government cannot order private citizens to purchase subpar insurance that they don’t want, and I look forward to finally settling the matter before the U.S. Supreme Court.”

Others may not be so sure. Trump, who has yet to offer an ObamaCare replacement, reportedly [berated Health and Human Services Secretary Alex Azar](#) in January when polls indicated voters trusted Democrats more than Republicans on healthcare. Assuming those polls are accurate, Trump is unlikely to want ObamaCare to be front and center come November. Other Republican candidates will also be under pressure to say how they plan to prevent the disruptions that overturning the ACA would create.

How the Supreme Court will ultimately rule is anybody’s guess. Many analysts expect Roberts to ride to the rescue again, preserving as much of the ACA as he thinks he can. On the other hand, perhaps the Trump-appointed justices will be able to persuade him that it’s time to apply the Constitution as written and junk ObamaCare.

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