



Written by [Raven Clabough](#) on September 14, 2011

## Another Court Rules Against Individual Mandate

Another federal judge has ruled that Obamacare's key individual mandate is unconstitutional. Judge Christopher C. Conner of the U.S. District Court in Harrisburg, Pennsylvania (left), ruled on Tuesday that the federal government cannot mandate American citizens to purchase health care. The ruling addressed one of more than 30 lawsuits nationwide that have been filed against Obamacare since it was signed into law in March 2010.



This particular lawsuit was filed by a Pennsylvania couple, Barbara Goudy-Bachman and George Bachman, who do not have health insurance, but believed they would be subject to the mandate. Conner, a George W. Bush appointee, said that the mandate, which begins in 2014, is an unconstitutional extension of federal authority under the Commerce Clause.

"The nation undoubtedly faces a health care crisis," Conner said. "Scores of individuals are uninsured and the costs to all citizens are measurable and significant. The federal government, however, is one of limited enumerated powers, and Congress's efforts to remedy the ailing health care and health insurance markets must fit squarely within the boundaries of those powers."

Conner, like many other judges have ruled against the individual mandate, contends that the power to regulate interstate commerce does not entitle the government to mandate a lifetime of buying health insurance. He asserts that if the individual mandate remains in effect, the government virtually permits Congress the power to exercise police power.

Conner did, however, reject the couple's argument that the mandate is "disastrous to this nation's future, such as the Bachmans' prediction of America evolving into a socialist state. These suggestions of cataclysmic results...are both unproductive and unpersuasive."

The couple, which has two children and are self-employed, do not qualify for Medicare or Medicaid, and dropped their coverage in 2001 because their healthcare costs surpassed their mortgage payments. Since then, the couple has opted to pay their medical expenses in full.

In the lawsuit, the couple argued that the mandate to pay for health insurance will force them to reorder their finances. In particular, the lawsuit referenced that the Bachman's have to refrain from purchasing a car of their choosing because they will be unable to make the payments when the mandate takes effect.

Conner was careful not to target all of Obamacare. *The Blaze* writes:

While most of the massive law can remain intact, Conner said, certain provisions are linked to the



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health insurance requirement and must also be struck down. Those provisions are designed to guarantee that insurance companies cannot discriminate against or deny coverage to the sick or people with pre-existing conditions.

According to Justice Department spokesman Schmaler, the agency denies the idea that the law is unconstitutional, but she has yet to indicate whether it would appeal the Pennsylvania ruling.

Other lawsuits against the healthcare law have reached appeals courts, with one of those courts, the 11th U.S. Circuit Court of Appeals in Atlanta, ruling [against](#) the mandate. The 11th U.S. Circuit Court of Appeals was reviewing the decision of Florida Judge Roger Vinson, who found the entire 2,700 page healthcare legislation to be unconstitutional. The court ultimately determined that the individual mandate was unconstitutional, but also overturned the lower court's decision to throw out the entire law.

"This economic mandate represents a wholly novel and potentially unbounded assertion of congressional authority: the ability to compel Americans to purchase an expensive health insurance product they have elected not to buy, and to make them repurchase that insurance product every month for their entire lives," the majority said in its 207-page opinion, written jointly by a George W. Bush appointee as well as a Bill Clinton appointee.

Judge Stanley Marcus, a Clinton appointee and the lone judge who ruled against the majority opinion wrote that the majority "has ignored the undeniable fact that Congress' commerce power has grown exponentially over the past two centuries and is now generally accepted as having afforded Congress the authority to create rules regulating large areas of our national economy."

Responding to the ruling was Florida Attorney General Pam Bondi said, "Today we have prevailed in preventing Congress from infringing on the individual liberty protected by the U.S. Constitution."

Last week, however, the movement to overturn the healthcare law in the courts faced a setback when a three-judge panel of the 4<sup>th</sup> U.S. Circuit Court of Appeals in Richmond, VA, rejected two lawsuits on technical grounds. First, the court determined that the penalty for not buying insurance is indeed a tax, and therefore cannot be challenged before the tax is collected. The panel also said that the state of Virginia lacked the legal standing to file the suit.

Also, in June, the 6th U.S. Circuit Court of Appeals ruled that the individual mandate was in fact constitutional, which has now been appealed to the Supreme Court by the plaintiff, the Thomas More Law Center of Ann Arbor, Mich.

It has been widely expected that the Supreme Court would ultimately decide on the healthcare law, but it has not been determined when and how it may do so. As the Supreme Court will not meet again until the start of fall, the earliest the case may be heard is in 2012.



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