

## Affordable Care Act: Timeline

At least 34 cases have been filed challenging the Affordable Care Act. Of these, 30 have either upheld the law or were dismissed on procedural grounds. Three court of appeals panels said that the Affordable Care Act is constitutional. One court of appeals panel tossed out a trial judge's decision against the law on jurisdictional grounds. Only one court of appeals has struck down the law.

These five cases are\*:

- ***Thomas More Law Center (TMLC) v. Obama*** – challenge to minimum coverage provision filed in Michigan and upheld by the Sixth Circuit.
- ***Liberty University, Inc. v. Geithner*** – challenge to minimum coverage provision filed in Virginia and declared constitutional by the Fourth Circuit.
- ***Seven Sky v. Holder***– challenge to minimum coverage provision filed in DC and upheld by the DC Circuit.
- ***Virginia v. Sebelius*** – challenge to minimum coverage provision filed in Virginia and dismissed for lack of jurisdiction in the Fourth Circuit.
- ***Florida v. HHS*** – challenge to minimum coverage provision and Medicaid expansion filed in Florida. Medicare expansion upheld and minimum coverage provision struck down by the Eleventh Circuit – now being heard by the Supreme Court.

## Federal District and Circuit Court of Appeals Timeline

- **March 23, 2010:** President Obama signed the ACA into law.
- **October 7, 2010:** ***TMLC v. Obama (Judge Steeh)***—ACA upheld
- **November 30, 2010:** ***Liberty University, Inc., v. Geithner (Judge Moon)***—ACA upheld
- **December 13, 2010:** ***Virginia v. Sebelius (Judge Hudson)***—Minimum coverage provision struck down
- **January 31, 2011:** ***Florida v. HHS (Judge Vinson)***—Minimum coverage provision struck down; Medicaid expansion upheld.
- **February 22, 2011:** ***Seven Sky v. Holder (Judge Kessler)***—ACA upheld
- **June 29, 2011:** ***TMLC v. Obama (Sixth Circuit)***—ACA upheld, concurring opinion by conservative former Scalia clerk Judge Jeffrey Sutton
- **August 12, 2011:** ***Florida v. HHS (Eleventh Circuit)***—Eleventh Circuit Court of Appeals held that the individual mandate provision was unconstitutional
- **September 8, 2011**
  - ***Liberty University, Inc. v. Geithner (Fourth Circuit)***—Dismissed for lack of jurisdiction, but majority of the judges say ACA is constitutional.
  - ***Virginia v. Sebelius in VA (Fourth Circuit)***—Dismissed for lack of jurisdiction
- **November 8, 2011:** ***Seven Sky v. Holder (D.C. Circuit)*** — ACA upheld in an opinion by conservative Judge Laurence Silberman

\* **Blue: Upheld; Red: Stuck down in part; Black: No Jurisdiction**

## Affordable Care Act: What's At Stake

The Supreme Court will consider four questions in this case:

1. **Minimum Coverage:** Whether Congress' broad authority to regulate the national economy under the Commerce, Necessary and Proper and Taxing Clauses of the Constitution includes the power to regulate the national health care market by requiring most Americans to carry insurance.
2. **Tax Anti-Injunction Act:** The Tax Anti-Injunction Act prevents individuals from suing to prevent a tax from being collected—they must first pay the tax and then seek reimbursement. Because the minimum coverage requirement operates by effectively imposing a tax on the uninsured, the Court will consider whether the Anti-Injunction Act prevents a challenge to that requirement from moving forward until someone actually pays the tax in 2015.
3. **Medicaid Expansion:** The Affordable Care Act expands Medicaid to cover all Americans who earn up to 133% of the poverty rate. States may either participate in this program, or they may exercise their legal right to opt out of Medicaid. Nevertheless, the plaintiffs argue that the Medicaid expansion somehow “coerces” states into not exercising this legal right. The justices will decide whether this novel reading of the word “coercion” is valid.
4. **Severability:** In the unlikely event that the Supreme Court strikes down part of the Affordable Care Act, it will need to decide whether some other parts of the law must be struck down along with it.

## Affordable Care Act: Supreme Court Timeline

- **November 14, 2011:** Supreme Court grants Certiorari
- **January 6, 2012:** Department of Justice files brief on minimum coverage ; court appointed *amicus* brief filed on Anti-Injunction Act; Plaintiffs' briefs due on severability
- **January 10, 2012:** Plaintiffs' Medicaid brief filed
- **January 27, 2012:** DOJ brief due on severability
- **February 6, 2012:** Plaintiffs' briefs due on minimum coverage; DOJ & plaintiffs' brief due on Anti-Injunction Act
- **February 10, 2012:** DOJ brief on Medicaid due
- **February 17, 2012:** Court-appointed *amicus* brief due on severability
- **February 27, 2012:** Reply briefs due on Anti-Injunction Act
- **March 7, 2012:** DOJ files reply brief on minimum coverage
- **March 12, 2012:** Court-appointed *amicus* brief due on Anti-Injunction; Plaintiffs' reply brief on Medicaid due
- **March 13, 2012:** Reply briefs due on severability
- **March 26, 2012:** Oral arguments on anti-injunction act
- **March 27, 2012:** Oral arguments on constitutionality of minimum coverage
- **March 28, 2012:** Oral Arguments on severability and arguments on Medicaid Expansion