

Talking Points for Oral Arguments in *State of Florida et al. v. U.S. Department of Health and Human Services*

On June 8, the United States Court of Appeals for the Eleventh Circuit will hear oral arguments in Atlanta in the case of State of Florida et al., v U.S. Department of Health and Human Services. This case is a challenge to the constitutionality of the Affordable Care Act brought by the Florida Attorney General and joined by Attorneys General of 25 other states. The original case was filed by the Florida Attorney General in the Northern District of Florida. The District Court found that the individual responsibility requirement of the Affordable Care Act is unconstitutional and struck down the entire law. The federal government is appealing that decision.

Key Message: This lawsuit is an effort to take away the health care protections Americans want and need. Those who are trying to strike down the Affordable Care Act would:

- Allow insurers to again deny coverage to people, including children, with pre-existing conditions.
- Take away tax credits that are already helping small businesses provide coverage to their employees.
- Again allow insurers to cancel coverage when people get sick.
- Allow insurers to drop young adults from their parents' coverage.
- Again allow insurers to impose annual or lifetime caps on coverage, therefore forcing sick people into bankruptcy.
- Take away prescription drug coverage and preventive benefits for seniors and people with disabilities who rely on Medicare.

The law is constitutional. The District Court opinion should be overturned.

- Three federal judges so far have found the law constitutional and more than a dozen others have dismissed legal challenges to the law. Two other judges, including Judge Vinson in Florida, have found one part of the law to be unconstitutional. Those two decisions are being appealed and have been widely criticized by legal experts across the ideological spectrum.
- The law is constitutional because Congress has broad authority to regulate interstate commerce. This authority is based in the Constitution's commerce and necessary and proper clauses, and has been undisputed in a long line of Supreme Court rulings dating back at least 75 years.
- The people bringing these lawsuits do not have people's interests in mind. If they had their way, they would take away vital protections for Americans. (*Return to the key message about benefits of the law*).

The law is fair. The individual responsibility provision is a common-sense rule that will ultimately affect about 1 percent of Americans.

- The 83 percent of Americans who have health insurance will not be affected by the rule.
- Most people without health insurance want coverage but cannot get it either because they cannot afford it or are denied coverage because of pre-existing conditions. The Affordable Care Act makes coverage affordable and eliminates exclusions for pre-existing conditions. When these people get coverage, they will not be subject to the penalty either.
- An estimated 1 percent of people are expected to refuse to buy coverage that they can otherwise afford and will not qualify for a religious exemption. These people should pay their fair share, rather than waiting to get sick and shifting the costs of their care onto everyone else.

We've seen challenges like this before. But as more people experience the benefits of the new law, the more they like it.

- All big changes generate opposition. The Social Security Act in the 1930s and Medicare and the Civil Rights Act in the 1960s were bitterly attacked at the time they were passed. The Social Security Act and Civil Rights Act were even declared unconstitutional by lower courts before the Supreme Court upheld them. Now these laws are part of the fabric of American society. The same will happen with the Affordable Care Act.
- People like the consumer protections in the law. They do not want to go back to being at the mercy of insurance companies by giving up the vital protections the Affordable Care Act provides them. (*Return to the key message about benefits of the law*).