

# Supreme Court Takes Up Health Reform

BY MARY ELLEN SCHNEIDER

**T**he U.S. Supreme Court has agreed to hear arguments on the constitutionality of the Affordable Care Act, with a decision likely to come in June.

On Nov. 14, the high court announced that it would consider arguments related to a well-publicized challenge to the health reform law originally filed in Florida. The Florida case, brought by a coalition of Republican attorneys general and governors from 26 states along with the National Federation of Independent Business, asserted that the individual mandate, which requires all Americans to have health insurance, violates the Constitution. The coalition of states also objected to the law's broad expansion of Medicaid. They argued that requiring states to invest billions of dollars in an enlarged Medicaid program violated state sovereignty.

The Supreme Court has agreed to hear arguments related to the constitutionality of both the individual mandate and the Medicaid expansion. The justices said that if the individual mandate is declared unconstitutional, they will then consider whether the law can stand without it or must be struck down completely.

Opponents of the Affordable Care Act cheered the court's decision to accept the case. Greg Abbott, the at-

torney general for Texas, which is part of the case being considered by the high court, said the court's decision means the law is just one step closer to being tossed out.

But White House officials think they can win. "We know the Affordable Care Act is constitutional and are confident the Supreme Court will agree," White House communications director Dan Pfeiffer said in a statement.

Families USA, a consumer advocacy group that supports the ACA, said it is "surprised and troubled" that the court chose to review the expansion of Medicaid. It is "disingenuous for the states bringing this case to object to this expansion of Medicaid as 'coercive,' because the Affordable Care Act specifies that between 90% and 100% of the costs of this expansion will be paid for by the federal government," Ron Pollack, executive director, said in a statement. "Striking down this Medicaid expansion would jeopardize health care for millions of low-income Americans at a time when they can least afford it."

The first decision in the Florida case came in January when U.S. District Court Judge Roger Vinson ruled that the individual mandate was unconstitutional and voided the entire law. But he disagreed with the states' argument that the Medicaid expansion was unconstitutional.

Next, the 11th Circuit Court of Appeals in Atlanta took up the case, agreeing with Judge Vinson that the



A decision on the constitutionality of the individual mandate is expected from the court in June.

individual mandate violated the Commerce Clause of the U.S. Constitution. But on Aug. 12, the appeals court ruled that the individual mandate could be separated from the rest of the ACA, allowing that law to stand.

Both the federal government and the plaintiffs in the Florida suit petitioned the Supreme Court to take up the case. Court watchers had expected the justices to consider the ACA in its current term since there have been conflicting rulings from the appeals courts on the law. ■

## AMA Delegates to Push for Private Medicare Contracting

BY ALICIA AULT

FROM THE INTERIM MEETING OF THE AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

**NEW ORLEANS** – The American Medical Association's policy-making body wrapped up 2½ days of meetings Nov. 15 by calling for a delay in implementation of the ICD-10 coding system, and reiterating its intention to seek the ability to privately broker fees with Medicare patients.

Physicians have long sought to be allowed to engage in so-called "private contracting" with Medicare patients. Under that scenario, Medicare patients could use their benefits to see a physician that does not accept Medicare. Currently, patients have to pay for the entire visit out of pocket if their physicians do not accept Medicare.

The AMA says private contracting will empower patients, and the group is supporting legislation sponsored by Rep. Tom Price (R-Ga.) that would allow it. The Medicare Patient Empowerment Act (H.R. 1700) was introduced in May; a companion bill was quickly introduced in the Senate by Lisa Murkowski (R-Alaska).

The AMA House of Delegates reaffirmed support of the legislation, but also called upon the AMA to start a grassroots campaign to get patients involved.

"This is a directive to take action," said Dr. Corey Howard, chair of the Florida delegation, which initiated the resolution seeking a public campaign. "It's time to start planting those seeds to help the public begin to look at this in a favorable way."

Alabama delegate Dr. Jeff Terry, president of the Medical Association of the State of Alabama, said that a grassroots campaign "will allow our politicians to do

the right thing." Such a campaign will let politicians know "that we don't want our congressmen to walk out on a political limb not supported by the public."

The emphasis on private contracting was in part a symptom of the high-pressure environment physicians find themselves in, facing a potential 27% cut in Medicare payments as well as high-cost requirements to implement electronic medical records, said Dr. Robert Wah, chairman of the AMA Board of Trustees.

"The fact that patients may be able to take their benefit where they'd like to, to see the doctors they want to see, is a potential safety valve to all this pressure being exerted on physician practices and patients in the Medicare system," Dr. Wah said in an interview. "So we're actively pushing at the local level for people to go to their congressmen and ask them to sign on to this legislation."

The push back against the coming implementation of the new ICD-10 coding system in 2013 is also a sign that physicians feel overwhelmed by their changing practice environment, Dr. Wah said. The House approved a resolution sponsored by the Alabama and Mississippi delegations, along with the American Urological Association and American Association of Clinical Urologists, to take action to stop the implementation.

The ICD-10 will consist of 69,000 codes, compared with the 14,000 in the current ICD-9.

"At a time when we are working to get the best value possible for our health care dollar, this massive and expensive undertaking will add administrative expense and create unnecessary workflow disruptions," AMA President Peter W. Carmel said in a statement. ■

## Residents Heavily Recruited As Doctor Shortage Looms

BY FRANCES CORREA

**D**espite a stagnant economy, young doctors in their final year of residency can look forward to being heavily recruited, according to a recent survey by Merritt Hawkins, a physician-consulting firm.

Among the just over 300 respondents to the survey, 78% had received 50 or more solicitations and 47% received 100 or more.

As the nation faces a shortage of physicians and an aging health care workforce, new doctors in nearly every specialty are in high demand, James Merritt, founder of Merritt Hawkins, said in a statement.

"For primary care, I think you pretty much can write your own ticket," said Dr. Neil Skolnik of the family practice residency program at Abington (Pa.) Memorial Hospital. He added that today's residents look for the best package deal when considering a placement – which could include generous compensation, loan repayment, and regular hours.

"The days are over when doctors want to be on call every night or every other night; they won't do it," Dr. Skolnik said. "They're not willing to make the sacrifices that many in the older generation will."

When asked about practice locales, only 4% of respondents said they would prefer a practice in a small (25,000 people or less) or rural community.

Dr. Jennifer Thuener, a family medicine resident at Abington Memorial Hospital, said that she is among that 4%. ■

"I'm from Colorado so I know that I want to go back out West," Dr. Thuener said. She added that the same is true for her colleagues. "Most people want to be around their family so they do end up going to where they're from."

Despite the onslaught of interest most residents see, 28% of respondents to the Merritt Hawkins survey said they would choose a field other than medicine if they could redo their education – up from 18% in a similar survey in 2008.

Whatever is drawing new doctors to their positions after training, Dr. Skolnik said the high demand for residents may help to resolve the physician shortage and make way for a new generation of a health care workforce.

Merritt Hawkins e-mailed its survey to 10,000 final-year residents, with approximately 30% going to primary care residents and the remainder to specialty residents and fellows. The survey's response rate was 3%. ■

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