



Supreme Court Might Kill ObamaCare Before Election -- If Obama's Lucky

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September 29, 2011

Why did the Obama administration, after dragging out the various court challenges to ObamaCare, suddenly step on the gas?

The administration surprised court watchers by passing up a chance to slow down ObamaCare's long march to an eventual Supreme Court ruling. In failing to request a hearing by all the appeals court judges of the 11th Circuit -- to overturn an anti-ObamaCare decision by three of its members -- the administration now puts the matter on a faster track to the Supreme Court.

The court will likely agree to hear the case because two appellate circuit courts, the 11th and 6th, have issued contradictory rulings -- one striking down the individual mandate as unconstitutional, and the other upholding it. This confusion practically guarantees a hearing by the top court, probably months before next year's election.

What provoked the administration's change of heart?

Obama supposedly did not want a Supreme Court decision so soon because, pro or con, the ruling figures to play large as a re-election issue. On the other hand, ObamaCare already *is* an issue, with the President's opponent undoubtedly planning to hammer him with it.

But if the court strikes down ObamaCare -- especially with a 5-4 split -- Obama can argue that with his re-election, the next opening gets filled with another Sotomayor/Kagan-like liberal who would have supported ObamaCare. If the vacancy comes from the conservative side, Obama can fulfill a liberal dream of switching the court's majority from center-right -- four conservatives and the Anthony Kennedy "swing" vote -- to a left-wing majority.

Obama's new faster-track tactic might also turn on this: Obama expects the Supreme Court to side with him. If the President wins in court, his Republican opponent will still argue against the merits of ObamaCare. But he or she could no longer flatly call it "unconstitutional," since the court would have just ruled otherwise.

So how would a Supreme Court defeat make Obama lucky in his bid for a second term?

ObamaCare remains unpopular, with a plurality of Americans wanting it repealed. Unlike major historic safety-net legislation like Social Security, Medicare and Medicaid, ObamaCare received no opposition

party Senate votes -- none. A majority of state attorneys general either filed or joined lawsuits to overturn the mandate that requires practically all Americans to purchase health insurance.

Romneycare, used as a model for ObamaCare, at best fails to live up to its promises. True, most residents of Massachusetts support Romneycare, and Gov. Mitt Romney's successor praises it. An AP "fact-check" on Romneycare, relying on an MIT economist who helped design Romneycare, pretty much pronounced it a success. But the free-market think tank **National Center for Policy Analysis** sees the Massachusetts health plan differently. Among its findings:

"There has been no apparent change in self-reported unmet needs. Remarkably, one-third of adults within 300 percent of the federal poverty level report that they were unable to meet a health care need within the past 12 months for 'any reason.' ...

"But (there has been) a statistically significant increase in ER traffic among those within 300 percent of the federal poverty level! This is consistent with a survey of 11 Massachusetts-area hospitals that found ER use rose 4 percent. ...

"New patients must wait from a month to six weeks to see a family doctor or an internist. Make that two months in Boston for a family practitioner. ... About half of all family doctors and internists won't see new patients or accept the insurance provided in the Commonwealth Connector (Massachusetts state authority's broker for private insurance). This was up sharply from 2006."

The Economist, a British center-left magazine, calls Romneycare "a legacy (Romney) can be proud of." But, the Economist points out: "He contrasts (Romneycare) with ObamaCare by claiming that (Romneycare) introduced no new taxes. This is pretty clearly a fib. The law wasn't implemented until after he was gone, and the fact that he didn't raise taxes to pay for it simply meant he refused to deal with the funding issue. His successor ... had to hike business fees by \$100 million and to raise the cigarette tax by \$1 a pack in 2008 to pay for the program's subsidies. In any case, Commonwealth Care is funded partly through matching funds from the federal Medicaid funding" A legacy to be proud of?

Two-thirds of doctors, according to Investors Business Daily polls, "oppose" ObamaCare and predict lower-quality health care. A poll by the consulting firm McKinsey & Co. finds that nearly one-third of businesses plan to drop health insurance for their employees after 2014, when much of ObamaCare goes into effect.

True, the American Medical Association supports ObamaCare. But only 17 percent of doctors belong to the organization, and many dropped their membership because of AMA's support of ObamaCare. Americans consistently rank physicians among the most respected of professionals. Yet the President, a man with virtually no private-sector experience, arrogantly ignores doctors' objections.

Obama, as with his fight to end Bush-era tax rates for the "rich," will also lose this battle -- if he is lucky. A Supreme Court rejection of the ObamaCare mandate would immediately boost the economy and, by extension, Obama's prospect for re-election.