U.S. Supreme Court to Decide the Future of the Health Care Reform Act on Thursday, June 28, 2012

How will the Decision Affect You?

One of the most anticipated decisions from the United States Supreme Court is scheduled to be released on Thursday, June 28, 2012. The Court will decide if the Patient Protection and Affordable Care Act (the “PPACA”), is to be upheld or invalidated, in whole or in part. The ramifications of the Court’s decision are far-reaching and will impact health care providers, insurers, employers, and every person in America.

The health care attorneys at Schenck, Price, Smith & King, LLP are eagerly awaiting the Court’s decision. We have already received a number of inquiries from clients as to what they can expect if some, or all of the PPACA is invalidated. We have already begun to provide guidance under the various scenarios. We will analyze the decision upon its release and be ready to advise our clients on the impact.

There are three potential outcomes of the Court’s decision. The Court could uphold the PPACA entirely, including the individual mandate (which requires every person to have insurance coverage or pay a fine). The Court could find that the individual mandate is unconstitutional, but uphold the balance of the PPACA. Alternatively, the Court could find that the individual mandate is unconstitutional, and hold that the rest of the PPACA is so dependent upon the individual mandate as the primary funding source, that it strikes down the PPACA in its entirety. Each of these scenarios gives rise to many questions.

If the Court upholds the law in its entirety, then the PPACA and its regulations remain in effect. This raises a number of immediate questions. Will the states be able to establish exchanges for health insurance, which are required by January 1, 2013? If not, then will the federal exchange actually be operational? Alternatively, if the Court strikes down the PPACA entirely, other questions come to mind. How do we deal with all of the programs that have already been implemented, and the millions of dollars spent, in compliance with the law? Finally, if the Court strikes down only the individual mandate, then how will the other programs be funded? Hospitals are facing $155 billion in Medicare cuts over ten years, based on the promise that the additional revenues from the individual mandate would offset these losses. Will the anticipated 16 million additional Medicaid
enrollees be covered, and if so, how will the states be able to afford this expense? What will become of the Accountable Care Organizations and the Medicare Shared Savings Program? Will the insurance companies roll back some of the initiatives already undertaken in compliance with the law, such as the continuity of coverage until age 26, under a parent’s health insurance plan? What will happen to the reform measures such as the prohibition of exclusions based on pre-existing conditions? Will the high-risk insurance pools continue? Many of the PPACA initiatives were undertaken in reliance upon the additional insurance revenues that would be generated under the individual mandate. What happens to the taxes and fees that were included in the PPACA such as the health insurance tax and those imposed on the pharmaceutical and medical device industries? What impact will the changes have on health insurance premiums? These are just a few of the many questions that will need to be answered in the aftermath of the Court’s decision. Thoughtful guidance and strategies will be essential in dealing with the changes that are about to occur.

If you have any questions about how the Supreme Court’s decision and the PPACA will affect you or your organization, or what strategies may be implemented to deal with the changes, you may contact one of the health care attorneys at Schenck, Price, Smith & King, LLP.

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