

Howard Gleckman, Contributor

I'm author of the book *Caring for Our Parents*, and at Urban Institute

Forbes - RETIREMENT 3/28/2012

What Would Happen to Senior Care if the Supreme Court Strikes Down Health Reform



The Supreme Court Trauma Center (Photo credit: DonkeyHotey)

The fate of many important health reforms aimed directly at seniors is in the hands of the Supreme Court.

While the public has focused most of its attention on whether the High Court will strike down the individual mandate in the 2010 health reform law, the justices today are hearing arguments about another critical issue: What should happen to the rest of the [Affordable Care Act](#) (ACA) if they do conclude the mandate is unconstitutional?

Many of those other provisions would directly affect both health care and long-term care services for seniors and younger adults with disabilities. In what is a complex and far-reaching law, most would make it easier for them to receive that care, while others may make it more difficult. But if opponents of the law get their way, it all will disappear.

Here are some of the provisions at risk:

Medicaid: The law is filled with important changes to this state/federal program that currently funds nearly half of all paid long-term care services. On one hand, the ACA would greatly expand Medicaid's health coverage for millions of currently uninsured working people. While the federal government promises to pay nearly all of the costs of

that expansion for the next decade, states fear they'd eventually get the bill. If they do, Medicaid benefits for long-term care services—already facing major cuts—would be at even greater risk.

Home and Community-based Care: At the same time, the ACA includes important new incentives for states to expand Medicaid long-term care services for people living at home. Today, nursing homes still get the lion's share of Medicaid long-term care dollars. Yet seniors and adults with disabilities overwhelmingly want to receive assistance at home. The ACA includes a number of new programs to expand those home and community-based programs, but all would die with the law.

Medicare: The ACA slowly closes the “donut hole” for seniors who participate in the Part D drug benefit. That extra assistance would go away. It also includes a small increase in the payroll tax that is aimed at increasing revenues for Medicare, which is under great financial pressure.

Integrated Care: In the long-run, perhaps the most important provisions for seniors are a far-reaching package of experiments aimed at improving the way care is delivered to people suffering from chronic disease, as nearly all seniors do.

For example, the law created a new office to coordinate the health and long-term care of people who receive both Medicare and Medicaid. These “dual eligibles” are often the poorest and sickest seniors. It also includes important incentives to encourage hospitals, nursing homes, doctors, and other providers to work together to improve care for people with chronic disease. These demonstration programs would also disappear.

The CLASS Act: Of course, CLASS has already been abandoned by the Obama Administration, but it does remain on the books. If the entire law is overturned, CLASS would bite the dust as well.

Most of these programs (except for the Medicaid expansion) have nothing at all to do with the controversial insurance reforms in the ACA. But if the Court strikes down the entire law, all of these provisions would die. And don't think Congress would be in any hurry to rewrite the law. Given the ugly partisan fight over the health reform, it may be years before lawmakers will be ready to tackle these issues again. And in many respects that would leave senior health much worse off than they it is now.