

## NAMD statement on SCOTUS Medicaid decision

The Court this morning ruled that the only part of the Affordable Care Act that is unconstitutional is the Medicaid expansion, but only to the extent that it is mandated upon the states and predicated on the penalty for failure being forfeiture of the entirety of the state's federal funding for the program. **The ruling, in effect, makes the ACA's Medicaid expansion optional for states.** The Court's ruling was clear that this does not apply retroactively to previous federally mandated expansions, or necessarily to potential future expansions. The key ruling being that other expansions have been alterations to existing categories, but the ACA expansion represented a fundamental policy shift to cover the entire US population living below 138% of the federal poverty level. Our reading is also that the state's decision will be a "binary" one; to adopt the entire expansion as written in the ACA, or none of it.

Our reading is that the other Medicaid provisions in the ACA would continue to apply in the case of a state opting out. This includes a variety of policies, ranging from the mandated increase in primary care reimbursement rates to the mandated decreases in Disproportionate Share Hospital (DSH) funding. States will also have to determine how their decision to expand or not expand would play into the interaction with the establishment of the Exchanges, whose development may proceed unchanged due to the Court's upholding of the individual mandate, and the flow of federal subsidies to support them in their state, keeping in mind the fact that Exchange subsidies are not available for very low income individuals.

States will now have to make a series of decisions moving forward. Those include the political, fiscal, and policy calculations of whether or not this particular expansion makes sense. They will also have to factor in what may happen in the wake of the November elections, and HHS will assuredly have to promulgate guidance on the issue. The National Association of Medicaid Directors (NAMD) stands ready to assist all states in working through these issues and helping them make informed decisions about the future of the program in a way that meets the unique needs of each individual state.