Baker Hostetler

Helping you achieve, maintain and defend a leadership position.

HEALTH LAW UPDATE

March 17, 2011

**National Co-Leaders**
Thomas W. Kahle
tkahle@bakerlaw.com
513.929.3414

Christopher J. Swift
cswift@bakerlaw.com
216.861.7461

**Editor**
Kathleen P. Rubinstein, MPA
Policy Analyst
krubinstein@bakerlaw.com
713.276.1650

## Health Reform Update

### Florida Federal Judge Stays His Decision, Government Files Appeal and Review Is Fast-Tracked by 11th Circuit

The January 31 U.S. District Court decision in Florida overturning the Affordable Care Act (ACA) in its entirety has set in motion the appellate machinery that many believe will lead to an ultimate review of the constitutionality of the Obama administration's landmark healthcare reform legislation by the U.S. Supreme Court. On March 11, the U.S. Court of Appeals, 11th Circuit in Atlanta, ordered an expedited schedule of the federal government's appeal (filed on March 8) of Judge Roger Vinson's decision in the Northern District of Florida originally issued on January 31. Judge Vinson's decision upheld the expansion of the Medicaid program under the ACA and declared that Congress did not exceed a state's sovereign powers in such expansion. Additionally, and most notably, Judge Vinson's decision struck down the law's individual mandate and further declared that the mandate was so inextricably linked to the remaining law such that the entire law should be overturned.

Following the decision, the government filed a Motion to Clarify Judge Vinson's decision. On March 3, Judge Vinson granted a stay of his January decision and gave the Obama administration seven days in which to file its appeal. The judge reprimanded the Obama administration for failing to seek clarification promptly but, nevertheless, interpreted the Motion to Clarify as a Motion to Stay and ruled as such, giving the administration seven days to file its formal appeal with the 11th Circuit, stating that "the citizens of this country have an interest in having this case resolved as soon as practically possible." Both sides in the case must begin filing appellate papers supporting their position in the appeal during April, with briefing to be concluded by late May. As yet, there has been no ruling by the Atlanta appellate court on whether the case will be heard before the 11th Circuit's full panel of ten judges.

Judge Vinson's March 3 order included a reassertion of several key points of his prior ruling, namely that Congress exceeded its authority in mandating individuals to purchase health insurance coverage, based on Judge Vinson's review of the entire history of federal Commerce Clause cases, and that Congress, having considered and been fully advised of the likely legal and constitutional challenges to the sweeping legislation, chose not to include a severability clause that would have enabled other parts of the ACA to be implemented, notwithstanding the unconstitutionality of the individual mandate.

For more information, please contact John S. Mulhollan, jmulhollan@bakerlaw.com or 216.861.7484.

Baker & Hostetler LLP publications are intended to inform our clients and other friends of the Firm about current legal developments of general interest. They should not be construed as legal advice, and readers should not act upon the information contained in these publications without professional counsel. The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you written information about our qualifications and experience. © 2011 Baker & Hostetler LLP