

Another Lawsuit Adds to Uncertainty About ACA

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On November 21, House Republicans filed a lawsuit to challenge certain provisions of the Affordable Care Act (ACA). The suit disputes two actions by the Obama Administration in implementing the law: a delay in the implementation of the employer mandate, and what Republicans deem an "unlawful giveaway" of \$175 billion to insurance companies, which the government pays on behalf of people who meet certain income requirements. The filing of this suit is not unexpected as Speaker of the House John Boehner has been threatening to file it for some time. Last July, the House voted to authorize a lawsuit, alleging that President Obama had exceeded his authority by unilaterally delaying the employer mandate on two different occasions. Just days before filing the suit, the House hired its third lawyer, Jonathan Turley, a George Washington University Law School professor. The first two attorneys handling the case quit. The suit, filed in the United States federal district court in Washington, D.C., names the secretaries of the Treasury Department and the Department of Health and Human Services as defendants. It requests an injunction against the Administration, alleging that "[t]he House has been injured, and will continue to be injured, by defendants' unlawful actions which, among other things, usurp the House's legislative authority." This suit is only one of many legal challenges to the ACA, coming mere weeks after the United States Supreme Court announced that it will hear a case challenging the ability of the government to issue tax credits through health insurance exchanges operated by the federal government rather than those "established by the State," as described in the law. It is unclear whether the court will actually move forward with this most recently filed case as it likely will be difficult to prove that Congress was actually harmed by the Administration's actions. However, challenges to the ACA will likely be ongoing with different provisions challenged and arguments presented in each new case filed. The filing of the suit does not require you or your organization to take any immediate action. However, we recommend you keep abreast of ACA developments and contact the attorneys in Carlton Fields' health care practice group with any specific questions on the suit or any other health care issue.

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