

Health On The Hill Transcript: What's The Impact Of The Judge's Order For Fed Appeal In Health Law Challenge

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Two different funding approaches to keep the government operating beyond March 18 – when the current continuing resolution expires – are likely to come before the Senate this week, but neither is expected to hit the 60 vote threshold needed to pass the chamber, setting the stage for negotiations between the House and Senate. Meanwhile, a Florida District Court judge issued a stay of his earlier ruling on the health law that found the law unconstitutional, but he ordered the Obama Administration to file an appeal within seven business days.

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Transcript:

JACKIE JUDD: Good day. I'm Jackie Judd and this is Health on the Hill. Congress and the courts continue to wrangle over the funding and the constitutionality of the health care reform law. To bring us up to date, Mary Agnes Carey, senior correspondent for Kaiser Health News. Welcome back.

The Federal judge who, in January, ruled the reform law unconstitutional, late last week sought to clarify that ruling. What did he say about it and why did he do this?

MARY AGNES CAREY: The administration had asked Judge Vinson to clarify his ruling, and he said in his ruling by clarifying, I think you mean to stay. The issue here is that the original ruling, the judge said Congress did not have the power to require people to buy health insurance, which we know is in the individual mandate.

And since the individual mandate was so central to the law, as the administration had argued, the judge said basically the law could not go forward. So, you had governors with mixed reactions. You had Rick Scott, the Republican governor in Florida, saying to me this ruling means I don't have to implement the law.

You had the same kind of thinking up in Alaska with no implementation, not moving forward, and so the administration wanted to clarify this. The Judge said I will stay my ruling for seven days, but you, the administration, must appeal within that time period.

JACKIE JUDD: And as we speak, the Department of Justice has not yet appealed.

MARY AGNES CAREY: That is right, exactly, but they have said that they will comply with that seven day order.

JACKIE JUDD: And the full expectation is that they will appeal?

MARY AGNES CAREY: They will appeal, but they will go probably to the circuit court of appeals, and not the Supreme Court.

JACKIE JUDD: And not the Supreme Court, as Judge Vinson suggested they might want to consider.

MARY AGNES CAREY: That's right.

JACKIE JUDD: The practical impact of this can already be seen in Alaska, what happened there?

MARY AGNES CAREY: Exactly. Governor Parnell there said we will go forward with implementing the law. We will decide on a case by case basis whether we use federal funding or our own funding, but I will now proceed as if the law is still in place.

JACKIE JUDD: Okay, let's move up to Capitol Hill. The question of funding for the reform law. Some Republicans on the House side have come up with some new ideas about how to defund or underfund the law. What are the latest ideas?

MARY AGNES CAREY: There is a lot of funding in the law that is mandatory, rather than discretionary, and discretionary funding is decided on a year-by-year basis. So, they want to change funding for much of the health law's provisions from mandatory to discretionary.

While that probably has a lot of appeal to Republicans in the House, it could pass the House of Representatives, it will fall to the same fate as all of these amendments on the continuing resolution to defund the health law. They probably will not pass the Senate and even if they did, President Obama would most certainly veto them.

JACKIE JUDD: Okay and the continuing resolution that was voted on a week or so ago is in place until March 18th, next Friday. It means the funding will continue for the federal government. During this period of time, have we gotten anymore clues about what happens to funding of the law when they go back to negotiating the full spending, the budget?

MARY AGNES CAREY: Right, well that is yet to be determined. What is going to happen next is in the Senate, Harry Reid, the Majority Leader, has brought forward a continuing resolution that has no restraints at all on the Department of Health and Human Services to fund implementation of the health law.

As we know in the House, that continuing resolution that was passed there had several restrictions forbidding HHS or the Department of Labor, for example, to fund the health care law. Now, neither one of those proposals has the 60 vote threshold in the Senate, so what Harry Reid has said is we will have a vote. We predict they will both go down, and Republicans and Democrats will have to meet in the middle and that is the focus of negotiations.

JACKIE JUDD: Okay, thank you so much, Mary Agnes Carey, Kaiser Health News.

MARY AGNES CAREY: My pleasure.

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