



## NHeLP Breaks Down the Florida Decision and What It Means

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### BACKGROUND

In *State of Florida ex rel. Bondi et al. v. U.S. Dep't of Health & Human Service et al.*, No. 3:10-cv-91 (N.D. Fla.), the Florida plaintiffs made two claims (actually they made a bunch more, but all the rest were thrown out earlier). First, they claimed that the individual mandate was unconstitutional because the Commerce power does not allow Congress to regulate economic “non-activity” – i.e, the choice not to buy health insurance. Second, they claimed that the Medicaid expansion is unconstitutionally coercive for states.

### DECISION

The [decision](#) has four major elements to it.

1. Judge Vinson found for the plaintiffs and determined that the individual mandate is unconstitutional. This was not surprising to NHeLP and other groups based on his statements and questioning throughout the case. This decision matches the Virginia case, but stands in contrast to two other Federal Court decisions.
2. Judge Vinson denied the Medicaid expansion claim. This was excellent news and was somewhat foreshadowed by some of the Judge’s statements and decisions in the past months. NHeLP wrote an [amicus brief](#) on this issue.
3. Judge Vinson decided, in contrast to even the prior Virginia decision and reasonable expectations, that the individual mandate was not severable from the rest of the ACA. This means that Judge Vinson declared the entire ACA unconstitutional.
4. Judge Vinson denied the request for injunctive relief to formally prohibit further ACA implementation. However, at the same time, the Judge indicated that he was opting not to rule for the injunction because his declaration that the ACA is unconstitutional should be sufficient to bar any Federal official from doing anything to implement the law.

### THE OUTLOOK

In terms of the merits of the decision, this result was not a surprise and doesn’t really alter the legal progress of the case. Barring a motion for expedited review of the case directly to the U.S. Supreme Court being filed and granted, the next step will be an appeal to the Circuit Court of Appeal and, after that, to the Supreme Court. Due to the earlier Virginia and Michigan rulings, this process has already been underway.

However, Judge Vinson's ruling on severability and emphasis on the implications of his declaratory judgment, have created some confusion regarding ongoing implementation of health reform by the Federal government and the States. The Federal government clearly could not actually put the individual mandate into effect at this point (and the mandate isn't scheduled to be in place until 2014 in any case). It is unclear whether all other health reform implementation work would be barred by the declaratory judgment. In any event, to avoid the risk of being seen as noncompliant with a judicial order, the Federal government may seek a stay on this matter. Pursuant to Federal Appellate rules, the ordinary course is for the request for a stay to be made to the District Court. And while it may seem counterintuitive, district courts will sometimes stay their own rulings when complex or sensitive matters are being raised. At any rate, the hope is that a stay would issue promptly, thus clarifying that implementation can continue.

Notably, State governments are not bound by this decision. Given the absolute uncertainty of the final outcome (and most constitutional scholars have argued the ACA will ultimately be found constitutional), it would be foolish for a state to stop implementation work. States have a limited window of time to implement reform, and failure to carefully implement reform may have consequences such as loss of Federal funding or Federal control of State health insurance exchanges. For additional reasons states should continue implementation, see [NHeLP's list of 10 Reasons To Say Yes To Implementation](#).