

## MEMORANDUM

To: Members of the Joint Select Committee on Health Reform Implementation  
From: Staff of the Joint Select Committee on Health Reform Implementation  
Date: July 25, 2012  
Re: Short Summary of *NFIB v. Sebelius*

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As you know, the United States Supreme Court released an opinion on June 28 upholding the constitutionality of most of the Patient Protection and Affordable Care Act (PPACA). *NFIB v. Sebelius*, 183 L. Ed. 2d 450 (2012). The following is a short summary of the decision. Part I of this memorandum provides some background on the limits of Congressional power and the PPACA. Part II then summarizes the ruling.

### **I. Background**

#### **A. The Limits of Congressional Power**

Under the federal constitution, the federal government may only pass laws and regulations pursuant its constitutionally enumerated powers, including:

- The Commerce Clause, which grants the federal government the power to regulate interstate commerce and prohibits the states from regulating the same;
- The Taxing and Spending Clause, which grants the federal government the power to levy taxes and spend federal funds (including attaching conditions to the receipt of such funds); and
- The Necessary and Proper Clause, which grants the federal government the power to enact laws that are necessary and proper for carrying out its other enumerated powers.

#### **B. The PPACA**

Enacted in 2010, the PPACA affects a wide variety of topics including health insurance, Medicaid, Medicare, long term care, and public health. The two main provisions at issue in *NFIB v. Sebelius* were the *individual mandate* and the *Medicaid expansion*.

- Under the individual mandate, most Americans must purchase “minimum essential” insurance coverage or face a penalty in the form of a tax assessment.
- Under the Medicaid expansion, state Medicaid programs must cover most individuals below 133% of the federal poverty level. States that do not comply with the Medicaid expansion could lose all of their federal Medicaid funding.

### **II. The Ruling**

The plaintiffs in *NFIB v. Sebelius* alleged that both the individual mandate and the Medicaid expansion exceeded the federal government's constitutionally enumerated powers.

### **A. The Individual Mandate**

In response to the plaintiffs' claims, the federal government claimed that the individual mandate was justified by three of its enumerated powers: the Commerce Clause, the Taxing and Spending Clause, and the Necessary and Proper Clause. A majority of the Court ruled that the federal government does not have the authority to force people to buy a product under the Commerce Clause or the Necessary and Proper Clause. However, a majority of the Court upheld the mandate under the Taxing and Spending Clause since the sole consequence for failing to purchase insurance is a tax; in other words, the PPACA can be read as taxing people who fail to buy insurance, which is within the authority of the federal government.

### **B. The Medicaid Expansion**

A majority of the Court ruled that threatening states with the loss of all Medicaid funding if they do not comply with the Medicaid expansion is unconstitutional. According to the Court, the potential loss of such a large sum of federal money essentially deprived states of the option not to comply with the expansion. A majority of the Court ruled that the remedy for this constitutional violation is to preclude the federal government from withdrawing existing federal funding to states that do not comply. In other words, the Court ruled that states that do not comply with the Medicaid expansion would only lose the matching funds for the newly eligible population; existing Medicaid funding would not be affected. States that elect to proceed with the Medicaid expansion would presumably be unaffected by the ruling.