



Capitol Comments

LEGISLATIVE UPDATE

This month's Capitol Comments is in honor of a fitting national holiday ... Pandemonium Day. Pandemonium Day is celebrated every July 14th and celebrates all things chaotic, disorganized and unpredictable. The federal government is really embracing the spirit of the Pandemonium season this year.

Back in February, Attorneys General from Texas and 19 other states [filed a lawsuit](#) arguing the Affordable Care Act (ACA) is no longer legal after the passage of the Tax Cuts and Jobs Act last year. Quick recap of the Attorneys General argument:

- The Supreme Court ruled in 2012 the ACA was constitutional because the individual mandate is a tax.
- In 2017, Congress set the individual mandate tax penalty at \$0 (they did not repeal the mandate) as part of the Tax Cuts and Jobs Act.
- The individual mandate has been deemed “foundational” to the ACA in multiple legal challenges to the bill. Since the individual mandate penalty is now \$0, the Attorneys General believe this means the individual mandate is no longer constitutional.

At the beginning of June, the Trump administration and Department of Justice [issued a statement](#) saying they will not defend the federal law. The administration believes that just the protections for folks with pre-existing conditions should be thrown out. All this happened right before the deadline for payors to submit proposed plans and premiums for the 2019 plan year: the middle of June. So yes, a bit chaotic, a bit unpredictable.

A [bipartisan collection of nine governors](#) sent a statement requesting the administration rethink its support of the lawsuit against the ACA. Their argument: “Everyone in this country deserves access to affordable, quality health insurance.”

Happy Pandemonium Day to one and all!

Kaiser Family Foundation estimates [52 million Americans](#) have conditions that would have been deemed a pre-existing condition in pre-ACA times. Some of those conditions include: arthritis, cancer, diabetes, obesity, anxiety, pregnancy, migraines, depression, COPD. Really rare, exotic diseases. If these protections go away, payors could deny coverage to folks with pre-existing conditions or charge them higher premiums (beyond the currently allowed 3:1 age rating).

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