

## SUMMARY OF THE UNITED STATES SUPREME COURT DECISION ON THE FEDERAL AFFORDABLE CARE ACT - *NFIB V. SEBELIUS*

On June 29, 2012, the United States Supreme Court upheld most of the provisions of the federal Affordable Care Act (ACA). *NFIB v. Sebelius*. The only provision that was not upheld was the portion of the ACA that allowed the federal government to penalize a state that did not accept the Medicaid expansion provision--expanding the Medicaid program to cover all persons up to 133 percent of the federal poverty line who are under age 65, are not pregnant, are not entitled to or not enrolled for benefits under Medicare, and are not otherwise mandatory categorically eligible.

The following table summarizes the issues addressed by the Court, the decisions, and the positions taken by the nine members of the Court:

Issue	Decision	Majority/Concur	Dissent
Whether the Court had jurisdiction to hear the challenge under the federal Anti-Injunction Act	Yes (5-4-0)	Chief Justice Roberts and Justices Ginsburg, Breyer, Sotomayor, and Kagan (Individual mandate is a penalty instead of a tax under the Anti-Injunction Act.)  Justices Scalia, Kennedy, Thomas, and Alito (Mandate is not a tax.)	
Whether the individual mandate is a valid exercise of Congress's power under the Commerce Clause (Article I, Section 8, Clause 3)	No (1-4-1-4)	Chief Justice Roberts (Power does not extend to regulation of economic inactivity.)  Justices Scalia, Kennedy, Thomas, and Alito  Justice Thomas (Commerce Clause powers have grown too broad.)	Justices Ginsburg, Breyer, Sotomayor, and Kagan
Whether the individual mandate is a valid exercise of Congress's power under the Necessary and Proper Clause (Article I, Section 8, Clause 18)	No (5-4)	Chief Justice Roberts and Justices Scalia, Kennedy, Thomas, and Alito	Justices Ginsburg, Breyer, Sotomayor, and Kagan
Whether the tax penalty for not obtaining insurance can be upheld under the taxing and spending power (Article I, Section 8, Clause 1)	Yes (5-4)	Chief Justice Roberts and Justices Ginsburg, Breyer, Sotomayor, and Kagan	Justices Scalia, Kennedy, Thomas, and Alito (disagree with classifying individual mandate as a tax rather than a penalty)
Whether the Medicaid expansion is a valid exercise of the spending power or instead is unconstitutionally coercive	Coercive (3-2-4)  Upheld Medicaid expansion as a voluntary provision. Federal government may not penalize a state for not participating by withholding all Medicaid funding.	Chief Justice Roberts and Justices Breyer and Kagan (States must be allowed to opt-out.)  Justices Ginsburg and Sotomayor (concurred in part)  Justices Scalia, Kennedy, Thomas, and Alito (concurred in part)	Justices Ginsburg and Sotomayor (dissented in part - would have upheld under the Spending Clause)  Justices Scalia, Kennedy, Thomas, and Alito (dissented in part - would have struck down entire Medicaid expansion)