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State governors and the Affordable Care Act

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The Supreme Court ruled that the Affordable Care Act is constitutional; however, several states have refused to expand Medicaid to cover citizens who, for whatever reasons, are not able to be covered in the marketplace. Is it possible that these states' governors are in violation of Article 6 and, if not, why not.

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[Joel Kovarsky](#) · 18 minutes ago 🔗

When the SCOTUS decided *NFIB v. Sebelius* (http://www.law.cornell.edu/supremecourt/text/11-393#writing-11-393_SYLLABUS), the act initially not only expanded Medicaid, but created punitive provisions if the state did not do so:

"The Act increases federal funding to cover the States' costs in expanding Medicaid coverage. §1396d(y)(1). But if a State does not comply with the Act's new coverage requirements, it may lose not only the federal funding for those requirements, but all of its federal Medicaid funds. §1396c."

The 11th Circuit Court of Appeals initially upheld this expansion as acceptable (i.e a valid exercise of congressional legislative authority). But SCOTUS did not agree:

"Chief Justice Roberts, joined by Justice Breyer and Justice Kagan, concluded in Part IV that the Medicaid expansion violates the Constitution by threatening States with the loss of their existing Medicaid funding if they decline to comply with the expansion. Pp. 45–58."

Hence the individual states can decide for themselves whether to accept the provisions for Medicaid expansion under the ACA. The reasoning is explained:

"The Spending Clause grants Congress the power "to pay the Debts and provide for the . . . general Welfare of the United States." Art. I, §8, cl. 1. Congress may use this power to establish cooperative state-federal Spending Clause programs. The legitimacy of Spending Clause legislation, however, depends on whether a State voluntarily and knowingly accepts the terms of such programs. *Pennhurst State School and Hospital v. Halderman*, 451 U. S. 1. "[T]he Constitution simply does not give

Congress the authority to require the States to regulate." *New York v. United States*, 505 U. S. 144. When Congress threatens to terminate other grants as a means of pressuring the States to accept a Spending Clause program, the legislation runs counter to this Nation's system of federalism. Cf. *South Dakota v. Dole*, 483 U. S. 203. Pp. 45–51."

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