

A state generally provides funding for the medical care of its residents who cannot afford such care. State law, however, prohibits use of this state funding for surgery for any person who has resided in the state for less than one year, except in emergency situations.

A woman moved to the state two months ago seeking permanent employment. Her physician recommends non-emergency surgery to treat a medical condition. The surgery would qualify for state funding if the woman had resided in the state for a year. The woman has sued to invalidate the state law that prohibits state funding of her surgery.

Should the woman prevail in her action?

- A. No, because the law reasonably conserves the state's limited resources.
- B. No, because the law reasonably prevents the expenditure of state funds on transient nonresidents.
- C. Yes, because the law burdens the woman's fundamental right to health care.
- D. Yes, because the law burdens the woman's fundamental right to travel.

Explanation:

A woman who recently moved to the state was denied access to state funding for a surgery due to a **durational residency requirement**. Laws with this requirement are generally reviewed under the **equal protection** clause since they treat two classes of persons differently—those who have resided in the state for a designated period and those who have not. And since these laws substantially burden the **fundamental right to travel** by discouraging persons from moving into the state, they are subject to **strict scrutiny** and **almost always held unconstitutional**. Therefore, the woman should prevail in her action to invalidate the law.

(Choices A & B) A law's ability to reasonably achieve a legitimate state interest (eg, conservation of state resources or funds) would validate the law under the *rational basis test*. But this test only applies when a law does *not* substantially impact a **fundamental right** or **suspect class** (which triggers strict scrutiny) or a **quasi-suspect class** (which triggers intermediate scrutiny).

(Choice C) There is no fundamental right to health care, so the law will not be invalidated on this basis.

Educational objective:

Since durational residency requirements burden the fundamental right to travel, they are strictly scrutinized and almost always held unconstitutional under the equal protection clause.

References

- Shapiro v. Thompson, 394 U.S. 618, 627 (1969) (invalidating durational residency requirement under strict scrutiny equal protection analysis).

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Levels of scrutiny under equal protection clause

