States Interpret Ruling to Cut Medicaid Now

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Assenting Health-Care Decision Paves Way, Maine Plans to Drop 20,000 Recipients; New Round of Court Battles Possible

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Some cash-strapped states have seized on a section of the Supreme Court's health-law decision to pare their existing Medicaid programs, saying the ruling lifts the March 2010 law's ban on such cuts.

The court, which upheld most of the law, struck down penalties for states choosing not to expand Medicaid. A few states are also trying to go farther, arguing that the ruling justifies cuts to their existing programs.

Within hours of the Supreme Court's ruling on June 28, lawyers in the Maine attorney general's office began preparing a legal argument to allow health officials to strike more than 20,000 Medicaid recipients from the state's rolls—including 19- and 20-year-olds—beginning in October to save $10 million by next July. "We think we're on solid legal ground," Attorney General William Schneider said in an interview. "We're going to reduce eligibility back to the base levels in a couple of areas," he said. Maine, like some other states eyeing cuts, earlier expanded its Medicaid program beyond national requirements.

Other states, including Wisconsin and Alabama, are expected to follow Maine's lead, though there is disagreement over whether the high court gave the states such leeway. That could lead to battles between states and the federal government that could drag the health law back to the courts. New Jersey and Indiana also said they were evaluating the decision and did not rule out challenging the requirements.

The federal Department of Health and Human Services is still examining the court's ruling and its implications for eligibility rules, an official said.

Last week's Supreme Court decision, written by Chief Justice John Roberts, largely upheld the federal health law, but said Washington couldn't penalize states that refuse to enroll millions more low-income people in their Medicaid programs by withdrawing support for their existing programs; the expansion effort is supposed to start in 2014 with a large injection of federal financing.

Some states are now asserting they have more flexibility to manage other aspects of the program. The law had required states to keep their existing eligibility standards for current beneficiaries in place or risk losing federal funding at least until 2014. Some state officials said the Supreme Court ruling nixed that penalty, too.

The federal government currently contributes around 57% of the financing for Medicaid programs carried out by the states, and sets restrictions on how states use the money.

States facing budget crunches have been trying to limit Medicaid eligibility for the last year and a half, but had little sympathy from Washington. Health Secretary Kathleen Sebelius told governors in February 2011 that they should look for cuts elsewhere, such as cutting back on benefits. "This has a game changing potential that goes beyond what people think is just a simple straightforward question about Medicaid expansion," said Dennis Smith, Wisconsin's health secretary. "States are scrambling to see how far they can stretch it."
Wisconsin recently sought to remove 60,000 people, including children, from its Medicaid rolls, but federal officials denied the move. The two sides ultimately reached a deal to strip 17,000 Medicaid beneficiaries.

"I think the logic of the Roberts decision would reopen the matter," said Mr. Smith, who was the top federal Medicaid official during the George W. Bush administration.

Don Williamson, Alabama state health officer, said officials are looking at restricting eligibility for Alabama's children's health insurance program for the fiscal year starting Oct. 1 if federal officials officially lift the ban on changing eligibility. The move is aimed at closing a $15 million funding gap for the program, he said.

Some experts said the court decision didn't clearly give a green light to states that want to change eligibility requirements.

"The court decision was not crystal clear," said Alan Weil, a former Medicaid director and head of the nonpartisan National Academy for State Health Policy. "I've been telling people [the rules] are still there." Still, he said he expects some states will challenge the federal government.

Maine could be the first to test the question. The state had initially planned to ask federal Medicaid officials to waive the rules so they could cut their Medicaid rolls, an action the state legislature approved in May. Maine officials now believe they can make the changes on their own.

The state Medicaid agency is preparing to officially file its changes with the federal government in two or three weeks, said John Martins, a Maine Department of Health and Human Services spokesman. Federal officials could still try to block it, which could trigger a new court battle.