

Legal Alert

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TRIAL COURT FINDS HOSPITAL ASSESSMENT FOR AHCCCS IS CONSTITUTIONAL

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In 2013 the Arizona Legislature passed H.B. 2010. This bill authorized the AHCCCS Administration to create a methodology for and impose an assessment on hospitals to fund the state match for the Medicaid expansion under the federal Affordable Care Act (ACA). Thirty-six legislators challenged H.B. 2010 arguing that it created a “tax” and therefore required a two-thirds super-majority vote under Article IX §22 of the Arizona Constitution.

In a 20 page minute entry Maricopa County Superior Court Judge Douglas Gerlach ruled on August 26, 2015 that the assessment did not qualify as a “tax.” In summary, Judge Gerlach found the assessment was not a tax because (1) the amounts are established by the AHCCCS Administration and could be adjusted by the Administration as needed; (2) the assessment ultimately had significant benefit to the very entities that were assessed (hospitals), who were voluntarily in business; and (3) the funds were not placed in the general fund for general public benefit and were instead maintained for a specific use.

This undoubtedly will not be the end of the legal challenges and the Plaintiff legislators are expected to appeal. Unless the case is transferred directly to the Arizona Supreme Court (which is extremely rare) there will first be an intermediary appeal through the Arizona Court of Appeals. A final resolution could take as long as 18 -24 months.

Until the recession, Arizona was one of only six states that provided Medicaid coverage to childless adults 18-64 with incomes below the federal poverty limit (FPL). Arizona’s expanded eligibility was the result of the voter-enacted Prop 204 in 2000. Due to the budgetary pressures of the Great Recession, the Arizona Legislature began a phase out of the Prop 204 eligibility group in 2011 and by December 31, 2014 this group was reduced from approximately 250,000 enrollees to approximately 50,000 enrollees. As a result of the funding made available through the assessment, Arizona has been able to restore its Prop 204 eligibility. As of August 2015, the state provides coverage to approximately 280,000 Prop 204 eligible individuals and an additional 60,000 Arizonans who fall into the new ACA expansion group of 100-137% of FPL.

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