



DAN FLYNN

★DISTRICT 2★

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**Representative Flynn joins amicus brief to U.S. Supreme Court challenging ObamaCare**

***Texas Public Policy Foundation brief argues Medicaid expansion provisions are unconstitutionally coercive of state government***

**AUSTIN, TX**— The Medicaid expansion provisions of the Patient Protection & Affordable Care Act (ACA) are a “massive frontal assault on State sovereignty” and unconstitutionally coercive of state governments, argues an [amicus curiae brief](#) submitted yesterday to the United States Supreme Court by the Texas Public Policy Foundation, Representative Flynn, and 35 other members of the Texas Legislature.

Representative Dan Flynn (R) said, “The current administration in Washington continues to have no regard for the 10th Amendment and States Rights. Not only do they continue to create massive debts on the federal level, but they are pushing their spending onto state budgets.”

In late March, the U.S. Supreme Court has set three days of oral argument in [Florida v. HHS](#), one of the main lawsuits challenging the constitutionality of the 2010 federal health care reform law. *Amicus curiae*, or “friend of the court,” may submit briefs with information and analysis that may help the court resolve legal issues in a particular case. The Texas Public Policy Foundation has submitted two such briefs for the Court’s consideration of *Florida v. HHS* – this brief on the Medicaid provisions, and one earlier in January on whether the individual mandate is functionally severable from other elements of the ACA.

“Title II of the Patient Protection and Affordable Care Act...contains Medicaid expansion provisions that will dramatically increase the fiscal burdens on States while drastically limiting their regulatory autonomy in providing health care,” the brief argues. “These burdens will fall disproportionately on Texas, where General Revenue Medicaid spending is projected to increase under the ACA by 48.7 percent in the first 10 years, more than in any other State.”

Medicaid was created in 1965 as a voluntary program jointly operated by the state and federal government. Since then, numerous expansions in the program’s size, scope, and requirements have served to concentrate power at the federal level. Today, federal benefit and eligibility requirements provide very little flexibility for states participating in the program.

The brief from the Foundation and Rep. Flynn focuses on the conditions attached to the Medicaid program. The federal government taxes citizens of all the states to pay for the federal part of Medicaid, but only provides states with a share of those funds if they comply with a myriad of federal conditions.

According to the Foundation’s report, “[Final Notice: Medicaid Crisis](#),” the Medicaid provisions of the ACA would increase Texas’ Medicaid caseload by 3.4 million people in 2014. Medicaid will become the largest line item in the 2014-15 Texas state budget – 46.6 percent of the all-funds budget – and require an additional \$8.8 billion in Texas state revenues.

“The ACA’s Medicaid expansion provides a Hobson’s choice to state governments,” Loyola said. “Continuing in Medicaid allows the federal government to co-opt an ever-increasing share of their state budgets without regard for the policy preferences of their own citizens. Withdrawing from Medicaid means that their citizens are taxed heavily to support Medicaid in other states, and face additional taxes to maintain health care services to their current Medicaid populations – most of whom are subject to the individual mandate.”

“If the Supreme Court allows this massive frontal assault on state sovereignty to stand,” Loyola continued, “they will reduce state governments to nothing more than administrative subdivisions of Washington, DC. That is not the system of federalism enshrined in the U.S. Constitution by our nation’s Founders.”

Representative Flynn went on to say, “I believe it is incumbent on every American to make Washington aware of the precarious position they are putting our country in and draw that line in the sand to say ‘no more.’”

The *amicus* brief from the Foundation and Rep. Flynn was co-authored by [Mario Loyola](#), Director of the Foundation’s Center for Tenth Amendment Studies; and [Richard A. Epstein](#), the Laurence A. Tisch Professor of Law at the New York University School of Law, Senior Lecturer at the University of Chicago Law School, and the Peter and Kirsten Bedford Senior Fellow at the Hoover Institution.

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