Appendix

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOHN J DIERLAM,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO.
	§	4:16-CV-00307
BARACK HUSSEIN OBAMA, et al.,	§	
	§	
Defendants.	§	

CLARIFYING MEMORANDUM

Before the Court is plaintiff John Dierlam's Motion for Clarification and Leave to Submit a Third Amended Complaint (Doc. 111). At a hearing on January 28, 2022, the Court **GRANTED** Mr. Dierlam's Motion. The Court now offers this clarification of its rulings and reasoning concerning mootness and standing.

I. FACTUAL BACKGROUND

On February 4, 2016, Plaintiff John Dierlam filed his initial complaint, challenging the Affordable Care Act (ACA) and requesting prospective and retrospective relief for myriad alleged violations of the United States Constitution and the Religious Freedom Restoration Act. *See, generally* Compl., ECF No. 1. However, as Mr.

Dierlam's case was progressing, the ACA was evolving.

The Tax Cut and Jobs Act (TCJA) went into effect a year after Mr. Dierlam filed his lawsuit, reducing the shared-responsibility payment (imposed on individuals who failed to purchase health insurance) to $0, but maintaining the individual mandate language. See Pub. L. No. 115-97, § 11081, 131 Stat. 2054, 2092 (Dec. 22, 2017).

As well, in 2017, the Department of Health and Human Services and the Departments of Labor and the Treasury promulgated two Interim Final Rules (IFR) meant to protect religious objectors to the ACA's contraceptive mandate. "The first IFR significantly broadened the definition of an exempt religious employer." *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367, 2377 (2020). And "[t]he second IFR created a similar 'moral exemption' for employers." *Id.* at 2378. Part of the second IFR also included an "individual exemption," allowing "a willing plan sponsor" or "willing health insurance issuer" to offer a separate policy to individuals with objections to some or all contraceptive services. 82 Fed. Reg. at 47,812. The individual exemption is purely voluntary on the insurer's part, and therefore "cannot be used to force a plan (or its sponsor) or an issuer to provide coverage omitting contraception." *Id.* However, the two IFRs were enjoined until July 2020, when the Supreme Court's decision in *Little Sisters of the Poor* dissolved the nationwide injunction previously affirmed by the Third Circuit. 140 S. Ct. at 2373 (holding that the ACA authorized HHS to exempt or accommodate employers' religious or moral objections to providing no-cost contraceptive coverage).

And while all of this was happening, Mr. Dierlam was litigating his case. In November of 2017, Magistrate Judge Palermo found that the HHS exemption mooted all of Mr. Dierlam's claims for prospective relief, even though the exemption was still enjoined. R. &. R. 9, ECF 67. However, the Government apparently disagreed with her holding, as it (1) orally withdrew its HHS-exemption-based mootness argument during this Court's hearing on Judge Palermo's report, and (2) did not include HHS exemption mootness arguments in its briefing to the Fifth Circuit. Tr. 3:7-11, ECF 80.

As for the TCJA, it went unaddressed by Judge Palermo because it became law after she issued her report. However, this Court ruled from the bench that the TCJA mooted all of Mr.

Dierlam's claims for prospective relief, again conflicting with the Government's more limited understanding of the TCJA as mooting only those of Mr. Dierlam's prospective claims based on the individual mandate's shared responsibility payments. Tr. 38:13-16, ECF 80. Mr. Dierlam consistently held that neither the TCJA nor the HHS exemption mooted any of his claims.

The Fifth Circuit—noting the piecemeal mootness analyses resulting from the way the ACA changed in real time during the course of this litigation—remanded the matter, ordering this Court to conduct a comprehensive mootness analysis in the first instance. *Dierlam v. Trump*, 977 F.3d 471, 478 (5th Cir. 2020), *cert. denied sub nom. Dierlam v. Biden*, 141 S. Ct. 1392 (2021). Specifically, the Fifth Circuit first wanted clarity on what effect this Court thinks the TCJA as on
the mootness of Mr. Dierlam's claims. *See id.* (noting that

"the district court only said: 'I think, prospectively, it seems to be that most recent legislation does take care of the problem.'") Second, the Fifth Circuit wanted an HHS-mootness analysis that was not premised upon the supposed insufficiency of Mr. Dierlam's attempts to search for alternative health-insurance plans. *Id.*

After allowing Mr. Dierlam to amend his complaint, this Court held a hearing on the Government's second motion to dismiss, granting the motion after hearing oral argument on the mootness issue. *See* Min. entry 12.15.2021. Now, having granted Mr. Dierlam's motion for leave to file a third amended complaint, this Court elaborates upon its mootness and standing analyses per Mr. Dierlam's request.

II. DISCUSSION

A. Mootness

i. Legal Standard

The Court adopts in full the Fifth Circuit's articulation of the mootness doctrine[39]: The doctrine of mootness arises from Article III of the Constitution, which provides federal courts with jurisdiction over a matter only if there is a live "case" or "controversy." *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 352 (2006). "Accordingly, to invoke the jurisdiction of a federal court, a litigant must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision." *Chafin v. Chafin*, 568 U.S. 165, 171–72 (2013) (cleaned up). This case-or-controversy requirement persists "through all stages of federal judicial proceedings." *Id.* at 172, 133 S.Ct. 1017.

If an intervening event renders the court unable to

39 *Dierlam v. Trump*, 977 F.3d 471, 476–77 (5th Cir. 2020).

grant the litigant "any effectual relief whatever," the case is moot. *Calderon v. Moore*, 518 U.S. 149, 150 (1996). But even when the "primary relief sought is no longer available," "being able to imagine an alternative form of relief is all that's required to keep a case alive." *Univ. of Notre Dame v. Sebelius*, 743 F.3d 547, 553 (7th Cir. 2014), *judgment vacated sub nom. Univ. of Notre Dame v. Burwell*, 575 U.S. 901 (2015). So "[a]s long as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot." *Knox v. Serv. Emps. Int'l Union, Local* 1000, 567 U.S. 298, 307–08 (2012).

Further, a case is not necessarily moot because it is uncertain whether the court's relief will have any practical impact on the plaintiff. "Courts often adjudicate disputes where the practical impact of any decision is not assured." *Chafin*, 568 U.S. at 175. For example, "the fact that a

defendant is insolvent does not moot a claim for damages." *Id.* at 175–76. And "[c]ourts also decide cases against foreign nations, whose choices to respect final rulings are not guaranteed." *Id.* at 176.

When conducting a mootness analysis, a court must not "confuse[ ] mootness with the merits." *Id.* at 174. This means that a court analyzing mootness in the early stages of litigation need only ask whether the plaintiff's requested relief is "so implausible that it may be disregarded on the question of jurisdiction." *Id.* at 177. "[I]t is thus for lower courts at later stages of the litigation to decide whether [the plaintiff] is in fact entitled to the relief he seeks." *Id.*

ii. Analysis

The Court's legal research confirmed virtually all of the government's arguments regarding the mootness of Mr. Dierlam's prospective claims. As the Fifth Circuit explained

in remanding this case for a mootness analysis, in 2017, the HHS "created new exemptions to the contraceptive mandate" for religious objectors like Mr. Dierlam, and the TCJA was enacted, reducing the shared-responsibility payment to $0 beginning in tax year 2019. *Dierlam*, 977 F.3d at 473-74. And after the Supreme Court's ruling in July 2020, the HHS exemptions were no longer enjoined.

By law, the definition of exempt religious employers has been broadened, including any employer who "objects ... based on its sincerely held religious beliefs," "to its establishing, maintaining, providing, offering, or arranging [for] coverage or payments for some or all contraceptive services." *Little Sisters of the Poor*, 140 S. Ct. at 2377 (2020) (citing 82 Fed. Reg. 47812 (2017)). This definition includes nonprofits, for-profits, publicly traded entities and non-publicly traded entities, and it exempts them from the contraceptive coverage accommodations of the ACA. *Id.* at 2377-78. As a result, it is not the case, as Mr. Dierlam alleges, that "[a] medical

insurer is compelled to ... provide contraceptive coverage" to Mr. Dierlam or that Mr. Dierlam is "required to purchase medical insurance from [a] medical insurer[] [that] provides contraceptive coverage." Pl.'s Comp. ¶ 14, ECF 94.

And with the shared responsibility payment "zeroed out" by the TCJA, there is no enforcement mechanism to compel Mr. Dierlam to purchase health care coverage at all. *California v. Texas*, 141 S. Ct. 2104, 2114 (2021). Accordingly, the very action Mr. Dierlam demands—an exemption from having to participate in a health plan that covers contraceptive services that are inconsistent with his religious beliefs, *see* Pl.'s Comp. ¶¶ 43-45, ECF 94—has been issued, and any prospective injury Mr. Dierlam could

allege based on the absence of such relief has thus been vitiated. *See Dierlam*, 977 F.3d at 473-74. Accordingly, Mr. Dierlam's requested relief has effectively been granted, and his claims for declaratory and injunctive relief are thus moot.

Mr. Dierlam first argues, citing a *Fox News* article from December 2020 and his personal predictions on the "normal inclination of Democrats", that his claims are not moot because Congress will simply reinstate the shared-responsibility payment. Pl.'s Resp. 10-11, ECF 105. Such unsupported speculation is not sufficient to establish the certainty necessary to invoke the rare exception to the general rule that statutory changes discontinuing a challenged practice moot plaintiff's prospective claims—even more so when such speculation remains unsubstantiated two years into the Biden administration. *See Fantasy Ranch Inc. v. City of Arlington, Tex.*, 459 F.3d 546, 564 (5th Cir. 2006) (recognizing that "statutory changes that discontinue a challenged practice are 'usually enough to render a case moot, even if the legislature possesses the power to reenact the statute after the lawsuit is dismissed.'"); *see also Cammermeyer v. Perry*, 97 F.3d 1235, 1238 (9th Cir. 1996) (commenting that "[t]he exceptions to this general line of holdings are rare and typically involve situations where it is virtually certain that the repealed law will be reenacted.")

Second, Mr. Dierlam argues that, even though the TCJA reduced the shared-responsibility payment to $0, the language of the payment provision still remains and thus the reduction of the payment made "no substantive change." Pl.'s Resp. 11, ECF 105. However, the Supreme Court in *California v. Texas* held directly to the contrary

when it found that the TCJA "effectively nullified the penalty by setting its amount at $0" such that the minimum essential coverage provision "has no means of enforcement." 141 S. Ct. at 2112, 2114. Mr. Dierlam tries to argue that he is injured by the mere existence of the mandatory language, but his "problem lies in the fact that the statutory provision, while it tells [him] to obtain that coverage, has no means of enforcement. With the penalty zeroed out, the IRS can no longer seek a penalty from those who fail to comply." *Id.* Because of this, "there is no possible Government action that is causally connected to the plaintiffs' injury—the costs of purchasing health insurance. Or to put the matter conversely, that injury is not 'fairly traceable' to any 'allegedly unlawful conduct' of which the plaintiffs complain." *Id.* (citing *Allen v. Wright*, 468 U.S. 737, 751 (1984).

Third, Mr. Dierlam argues that despite the Religious Exemption Rule, he is still injured because the previous requirement that all health plans include contraceptive coverage "so skewed the market" that "few if any insurers" will offer a policy without contraceptive coverage, and "[e]ven if a health insurance policy can be identified there is no assurance the insurer will remain in business or the policy can be maintained for other reasons." Pl.'s Resp. 12, ECF 105. However, Mr. Dierlam cannot show causation where his putative injury "results from the independent action of some third party not before the court." *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 41– 42 (1976). Here, where insurers are expressly permitted by law to give plaintiff a religious exemption, their decisions about whether to do so have very little to do with defendants. Similarly, Mr. Dierlam cannot establish redressability since he cannot show that "it is likely, as opposed to

merely speculative, that [his] injury will be redressed by a favorable decision." *Inclusive Cmtys. Project*, 946 F.3d 649, 655 (5th Cir. 2019).

For these reasons, the Court found that the TJCA and the HHS' exemptions moot all of Mr. Dierlam's prospective claims.

B. Standing

The party invoking federal jurisdiction bears the burden of establishing the three elements of standing by first sufficiently alleging "an injury in fact—an invasion of a legally protected interest which is (a) concrete and particularized . . . and (b) actual and imminent, not conjectural or hypothetical." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). Second, a plaintiff must allege "a causal connection between the injury and the conduct complained of—the injury has to be fairly ... trace[able] to the challenged action of the defendant, and not ... th[e] result [of] the independent action of some third party not before the court." Id. (citations omitted). And third, "it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Id.* (citations omitted).

The Court's analysis regarding standing tracks closely with its mootness analysis above because, as the Supreme Court has observed, "[m]ootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Arizonans for Official English v. Arizona*, 520 U.S. 43, 68 & n.22 (1997) (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 387 (1980)). Therefore, this Court finds that Mr. Dierlam lacks standing for his prospective claims for the same reasons that this Court finds such claims moot.

Next is Mr. Dierlam's retrospective claim that the

Government's failure to notify him of his non enrollment (in violation of § 1502(c) of the ACA) "caused . . . harm" and prevented him

from having standing to file suit for retrospective claims sooner. Pl.'s Compl. at ¶ 11, ECF 94. However, Mr. Dierlam "c[an] not [] . . . allege a bare procedural violation, divorced from any concrete harm, and satisfy the injury-in-fact requirement of Article III." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 341 (2016), *as revised* (May 24, 2016). Here, where the purpose of § 1502(c) is to ensure that individuals who have not received minimum essential coverage are aware of coverage
options, where any government notification would have simply directed Mr. Dierlam to HealthCare.gov, and where Mr. Dierlam admits that he was already aware of HealthCare.gov yet chose not to check it, no injury-in-fact exists. *See* § 1502(c); *see also* Pl.'s Compl. at ¶ 10, ECF 94. As such, Mr. Dierlam lacks standing to bring a claim based on the government's § 1502(c) failure to notify.

III. CONCLUSION

For the reasons detailed above, this Court found that Mr. Dierlam's prospective claims are moot as he lacks standing to bring them, and that his retrospective § 1502(c) claim is invalid for lack of standing. Mr. Dierlam should take care to ensure his third amended complaint does not suffer from the same mootness and standing insufficiencies. **SIGNED** at Houston, Texas on this the 8th day of February, 2022.

s/ KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

Appendix B: Case 4:16-cv-00307 Document 136 Filed on 12/12/22 in TXSD Page 1 of 1

United States District Court
Southern District of Texas
ENTERED
December 12, 2022
Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOHN J DIERLAM,	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO.
	§	4:16-CV-00307
BARACK HUSSEIN OBAMA,	§	
et al.,	§	
Defendants.	§	

ORDER

Pending before the Court is Defendants' Partial Motion to Dismiss (Doc. 126). After considering the Motions, the Parties' briefs, oral arguments, and all applicable law, the Court determines that the Motion to Dismiss should be **GRANTED** as to Claims 1, 2 and 4-21 of Plaintiff's Third Amended Complaint in their entirety and Claim 3 to the extent it seeks prospective relief.

IT IS SO ORDERED.

SIGNED at Houston, Texas on the 12th of December, 2022.

/s KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOHN J DIERLAM,	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO.
	§	4:16-CV-00307
Joseph R. Biden JR., et. al,,	§	
Defendants.	§	

ORDER

Pending before the Court is Plaintiff's Motion for Summary Judgment. ECF No. 143. Plaintiff is seeking summary judgment on the retrospective portion of Claim 3 and several forms of prospective relief. Defendant does not oppose Plaintiff's request for a refund in the amount of $5626.22 for the retrospective portion of Claim 3. ECF No. 144 at 2. Defendant opposes Plaintiff's request for prospective relief. Id. at 4.

After considering the Motions, the Parties' briefs, oral arguments, and all applicable law, the Court determines that Plaintiff's Motion for Summary Judgment is **GRANTED** as to the retrospective portion of Claim 3 and **DENIED** as to the extent that it seeks any other relief. The Court finds that Defendant is entitled to retrospective relief in the amount of $5,626.22 for his past payments of the shared responsibility payment. The Court has already

dismissed the prospective portion of Claim 3 and dismissed all other claims in their entirety. ECF No. 136. Therefore, there is no basis for the Court to award prospective relief.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 11th of August, 2023.

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/s KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

Appendix D: Case: 23-20401 Document: 34-1 Page: 1 Date Filed: 02/29/2024

United States Court of Appeals
Fifth Circuit
FILED
February 29, 2024
Lyle W. Cayce
Clerk

United States Court of Appeals
for the Fifth Circuit

No. 23-20401
Summary Calendar

John J. Dierlam,

Plaintiff—Appellant,

versus

Joseph R. Biden, in his official capacity as President of the United States; United States Department of Health and Human Services; Xavier Becerra, Secretary, U.S. Department of Health and Human Services; United States

Department of Treasury; Janet Yellen, Secretary, U.S. Department of Treasury; United States Department of Labor; Julie A. Su, Acting Secretary, U.S. Department of Labor,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:16-CV-307

Before King, Haynes, and Graves, Circuit Judges.
Per Curiam: *

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*This opinion is not designated for publication. See 5th Cir. R. 47.5.

Case: 23-20401 Document: 34-1 Page: 2 Date Filed: 02/29/2024

No. 23-20401

Pro se Plaintiff John Dierlam brought claims challenging the Affordable Care Act (ACA) alleging a myriad of violations of the United States Constitution and The Religious Freedom Restoration Act (RFRA). Dierlam sought both retrospective and prospective relief.

This pro se case was previously before this court in 2020. *See Dierlam v. Trump*, 977 F.3d 471 (5th Cir. 2020). There, we remanded the case so the district court could conduct a full mootness analysis and so Plaintiff could seek a refund of the shared-responsibility payments he made under the ACA from 2014-2017 (a fee imposed on individuals who failed to purchase health insurance) (retrospective relief). *Id.* at 475, 478. As to prospective relief, this court concluded that changes in the law raised questions of standing and mootness which the district court

was to address on remand. Id. at 473-74.

On remand, the district court granted Defendants' Partial Motion to Dismiss finding that Plaintiff's claims were moot and/or lacked standing because the Tax Cut and Jobs Act reduced the shared-responsibility payments to $0; the Department of Health and Human Services (HHS) created exemptions to the contraceptive-coverage requirement, which included an individual exemption for individuals like Plaintiff; and Plaintiff could not state an injury under § 1502(c) of the ACA. After permitting Plaintiff to file a Third Amended Complaint, Defendants filed another Partial Motion to Dismiss which the district court granted. Plaintiff appealed.

This court has considered this appeal on the basis of the briefs and pertinent portions of the record. Having done so, the judgment is affirmed for the reasons stated in the district court's detailed clarifying memorandum on the dismissal of Plaintiff's Second Amended Complaint. Those reasons also apply to Plaintiff's Third Amended Complaint. The district court did not err in granting Defendants' Partial Motion to Dismiss. We AFFIRM.

Appendix E: Case: 23-20401 Document: 40-2 Page: 1 Date Filed: 05/07/2024

United States Court of Appeals
for the Fifth Circuit

No. 23-20401

John J. Dierlam,

Plaintiff—Appellant,

versus

Joseph R. Biden, in his official capacity as President of the

United States; United States Department of Health and Human Services; Xavier Becerra, Secretary, U.S. Department of Health and Human Services; United States Department of Treasury; Janet Yellen, Secretary, U.S. Department of Treasury; United States Department of Labor; Julie A. Su, Acting Secretary, U.S. Department of Labor,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:16-CV-307

ON PETITION FOR REHEARING EN BANC

Before King, Haynes, and Graves, Circuit Judges.
Per Curiam:

Treating the petition for rehearing en banc as a petition for panel rehearing (5th Cir. R. 35 I.O.P.), the petition for panel rehearing is

Case: 23-20401 Document: 40-2 Page: 2 Date Filed: 05/07/2024
No. 23-20401

DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (Fed. R. App. P. 35 and 5th Cir. R. 35), the petition for rehearing en banc is DENIED.

Appendix F – Statutes

5 U.S. Code § 706 - Scope of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—
(1) compel agency action unlawfully withheld or unreasonably delayed; and
(2) hold unlawful and set aside agency action, findings, and conclusions found to be—
(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
(B) contrary to constitutional right, power, privilege, or immunity;
(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
(D) without observance of procedure required by law;
(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or
(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.
In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

26 U.S.C. § 1402(g) Members of certain religious faiths
(1) Exemption Any individual may file an application (in such form and manner, and with such official, as may be prescribed by regulations under this chapter) for an exemption from the tax imposed by this chapter if he is a member of a recognized religious sect or division thereof and is an adherent of established tenets or teachings of such sect or division by reason of which he is conscientiously opposed to acceptance of the benefits of any private or public insurance which makes payments in the

event of death, disability, old-age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act). Such exemption may be granted only if the application contains or is accompanied by—

(A) such evidence of such individual's membership in, and adherence to the tenets or teachings of, the sect or division thereof as the Secretary may require for purposes of determining such individual's compliance with the preceding sentence, and

(B) his waiver of all benefits and other payments under titles II and XVIII of the Social Security Act on the basis of his wages and self-employment income as well as all such benefits and other payments to him on the basis of the wages and self-employment income of any other person,

and only if the Commissioner of Social Security finds that—

(C) such sect or division thereof has the established tenets or teachings referred to in the preceding sentence,

(D) it is the practice, and has been for a period of time which he deems to be substantial, for members of such sect or division thereof to make provision for their dependent members which in his judgment is reasonable in view of their general level of living, and

(E) such sect or division thereof has been in existence at all times since December 31, 1950.

An exemption may not be granted to any individual if any benefit or other payment referred to in subparagraph (B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) at or before the time of the filing of such waiver.

(2) Period for which exemption effective An exemption granted to any individual pursuant to this subsection shall apply with respect to all taxable years beginning after December 31, 1950, except that such exemption shall not apply for any taxable year—

(A) beginning (i) before the taxable year in which such individual first met the requirements of the first sentence of paragraph (1), or (ii) before the time as of which the Commissioner of Social Security finds that the sect or division thereof of which such individual is a member met the requirements of subparagraphs (C) and (D), or
(B) ending (i) after the time such individual ceases to meet the requirements of the first sentence of paragraph (1), or (ii) after the time as of which the Commissioner of Social Security finds that the sect or division thereof of which he is a member ceases to meet the requirements of subparagraph (C) or (D).
(3) Subsection to apply to certain church employees

This subsection shall apply with respect to services which are described in subparagraph (B) of section 3121(b)(8) (and are not described in subparagraph (A) of such section).

26 U.S.C. § 5000A - Requirement to maintain minimum essential coverage
(a) Requirement to maintain minimum essential coverage
An applicable individual shall for each month beginning after 2013 ensure that the individual, and any dependent of the individual who is an applicable individual, is covered under minimum essential coverage for such month.
(b) Shared responsibility payment
(1) In general
If a taxpayer who is an applicable individual, or an applicable individual for whom the taxpayer is liable under paragraph (3), fails to meet the requirement of subsection (a) for 1 or more months, then, except as provided in subsection (e), there is hereby imposed on the taxpayer a penalty with respect to such failures in the amount determined under subsection (c).
(2) Inclusion with return
Any penalty imposed by this section with respect to any

month shall be included with a taxpayer's return under chapter 1 for the taxable year which includes such month.
(3) Payment of penalty If an individual with respect to whom a penalty is imposed by this section for any month—
(A) is a dependent (as defined in section 152) of another taxpayer for the other taxpayer's taxable year including such month, such other taxpayer shall be liable for such penalty, or
(B) files a joint return for the taxable year including such month, such individual and the spouse of such individual shall be jointly liable for such penalty.
(c) Amount of penalty
(1) In general The amount of the penalty imposed by this section on any taxpayer for any taxable year with respect to failures described in subsection (b)(1) shall be equal to the lesser of—
(A) the sum of the monthly penalty amounts determined under paragraph (2) for months in the taxable year during which 1 or more such failures occurred, or
(B) an amount equal to the national average premium for qualified health plans which have a bronze level of coverage, provide coverage for the applicable family size involved, and are offered through Exchanges for plan years beginning in the calendar year with or within which the taxable year ends.
(2) Monthly penalty amounts For purposes of paragraph (1)(A), the monthly penalty amount with respect to any taxpayer for any month during which any failure described in subsection (b)(1) occurred is an amount equal to 1/12 of the greater of the following amounts:
(A) Flat dollar amount An amount equal to the lesser of—
(i) the sum of the applicable dollar amounts for all individuals with respect to whom such failure occurred during such month, or
(ii) 300 percent of the applicable dollar amount (determined without regard to paragraph (3)(C)) for the calendar year

with or within which the taxable year ends.
(B) Percentage of income An amount equal to the following percentage of the excess of the taxpayer's household income for the taxable year over the amount of gross income specified in section 6012(a)(1) with respect to the taxpayer for the taxable year:
(i) 1.0 percent for taxable years beginning in 2014.
(ii) 2.0 percent for taxable years beginning in 2015.
(iii) Zero percent for taxable years beginning after 2015.
(3) Applicable dollar amount For purposes of paragraph (1) —
(A) In general
Except as provided in subparagraphs (B) and (C), the applicable dollar amount is $0.
(B) Phase in
The applicable dollar amount is $95 for 2014 and $325 for 2015.
(C) Special rule for individuals under age 18
If an applicable individual has not attained the age of 18 as of the beginning of a month, the applicable dollar amount with respect to such individual for the month shall be equal to one-half of the applicable dollar amount for the calendar year in which the month occurs.
(4) Terms relating to income and families For purposes of this section—
(A) Family size
The family size involved with respect to any taxpayer shall be equal to the number of individuals for whom the taxpayer is allowed a deduction under section 151 (relating to allowance of deduction for personal exemptions) for the taxable year.
(B) Household income The term "household income" means, with respect to any taxpayer for any taxable year, an amount equal to the sum of—
(i) the modified adjusted gross income of the taxpayer, plus
(ii) the aggregate modified adjusted gross incomes of all

other individuals who—
(I) were taken into account in determining the taxpayer's family size under paragraph (1), and
(II) were required to file a return of tax imposed by section 1 for the taxable year.
(C) Modified adjusted gross income The term "modified adjusted gross income" means adjusted gross income increased by—
(i) any amount excluded from gross income under section 911, and
(ii) any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.
(d) Applicable individual For purposes of this section—
(1) In general
The term "applicable individual" means, with respect to any month, an individual other than an individual described in paragraph (2), (3), or (4).
(2) Religious exemptions
(A) Religious conscience exemption Such term shall not include any individual for any month if such individual has in effect an exemption under section 1311(d)(4)(H) of the Patient Protection and Affordable Care Act which certifies that—
(I) such individual is a member of a recognized religious sect or division thereof which is described in section 1402(g)(1), and is an adherent of established tenets or teachings of such sect or division as described in such section; or
(II) such individual is a member of a religious sect or division thereof which is not described in section 1402(g)(1), who relies solely on a religious method of healing, and for whom the acceptance of medical health services would be inconsistent with the religious beliefs of the individual.
(ii) Special rules
(I) Medical health services defined
For purposes of this subparagraph, the term "medical health services" does not include routine dental, vision and

hearing services, midwifery services, vaccinations, necessary medical services provided to children, services required by law or by a third party, and such other services as the Secretary of Health and Human Services may provide in implementing section 1311(d)(4)(H) of the Patient Protection and Affordable Care Act.
(II) Attestation required
Clause (i)(II) shall apply to an individual for months in a taxable year only if the information provided by the individual under section 1411(b)(5)(A) of such Act includes an attestation that the individual has not received medical health services during the preceding taxable year.
(B) Health care sharing ministry
(i) In general
Such term shall not include any individual for any month if such individual is a member of a health care sharing ministry for the month.
(ii) Health care sharing ministry The term "health care sharing ministry" means an organization—
(I) which is described in section 501(c)(3) and is exempt from taxation under section 501(a),
(II) members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the State in which a member resides or is employed,
(III) members of which retain membership even after they develop a medical condition,
(IV) which (or a predecessor of which) has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999, and
(V)which conducts an annual audit which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.

(3) Individuals not lawfully present
Such term shall not include an individual for any month if for the month the individual is not a citizen or national of the United States or an alien lawfully present in the United States.
(4) Incarcerated individuals
Such term shall not include an individual for any month if for the month the individual is incarcerated, other than incarceration pending the disposition of charges.
(e) Exemptions No penalty shall be imposed under subsection (a) with respect to—
(1) Individuals who cannot afford coverage
(A) In general
Any applicable individual for any month if the applicable individual's required contribution (determined on an annual basis) for coverage for the month exceeds 8 percent of such individual's household income for the taxable year described in section 1412(b)(1)(B) of the Patient Protection and Affordable Care Act. For purposes of applying this subparagraph, the taxpayer's household income shall be increased by any exclusion from gross income for any portion of the required contribution made through a salary reduction arrangement.
(B) Required contribution For purposes of this paragraph, the term "required contribution" means—
(i) in the case of an individual eligible to purchase minimum essential coverage consisting of coverage through an eligible-employer-sponsored plan, the portion of the annual premium which would be paid by the individual (without regard to whether paid through salary reduction or otherwise) for self-only coverage, or
(ii) in the case of an individual eligible only to purchase minimum essential coverage described in subsection (f)(1)(C), the annual premium for the lowest cost bronze plan available in the individual market through the Exchange in the State in the rating area in which the individual resides

(without regard to whether the individual purchased a qualified health plan through the Exchange), reduced by the amount of the credit allowable under section 36B for the taxable year (determined as if the individual was covered by a qualified health plan offered through the Exchange for the entire taxable year).
(C) Special rules for individuals related to employees
For purposes of subparagraph (B)(i), if an applicable individual is eligible for minimum essential coverage through an employer by reason of a relationship to an employee, the determination under subparagraph (A) shall be made by reference to [1] required contribution of the employee.
(D) Indexing
In the case of plan years beginning in any calendar year after 2014, subparagraph (A) shall be applied by substituting for "8 percent" the percentage the Secretary of Health and Human Services determines reflects the excess of the rate of premium growth between the preceding calendar year and 2013 over the rate of income growth for such period.
(2) Taxpayers with income below filing threshold
Any applicable individual for any month during a calendar year if the individual's household income for the taxable year described in section 1412(b)(1)(B) of the Patient Protection and Affordable Care Act is less than the amount of gross income specified in section 6012(a)(1) with respect to the taxpayer.
(3) Members of Indian tribes
Any applicable individual for any month during which the individual is a member of an Indian tribe (as defined in section 45A(c)(6)).
(4) Months during short coverage gaps
(A) In general
Any month the last day of which occurred during a period in which the applicable individual was not covered by

minimum essential coverage for a continuous period of less than 3 months.
(B) Special rules
For purposes of applying this paragraph—
(i) the length of a continuous period shall be determined without regard to the calendar years in which months in such period occur,
(ii) if a continuous period is greater than the period allowed under subparagraph (A), no exception shall be provided under this paragraph for any month in the period, and
(iii) if there is more than 1 continuous period described in subparagraph (A) covering months in a calendar year, the exception provided by this paragraph shall only apply to months in the first of such periods.
The Secretary shall prescribe rules for the collection of the penalty imposed by this section in cases where continuous periods include months in more than 1 taxable year.
(5) Hardships
Any applicable individual who for any month is determined by the Secretary of Health and Human Services under section 1311(d)(4)(H) to have suffered a hardship with respect to the capability to obtain coverage under a qualified health plan.
(f) Minimum essential coverage
For purposes of this section—
(1) In general The term "minimum essential coverage" means any of the following:
(A) Government sponsored programs
Coverage under—
(i) the Medicare program under part A of title XVIII of the Social Security Act,
(ii) the Medicaid program under title XIX of the Social Security Act,
(iii) the CHIP program under title XXI of the Social Security Act or under a qualified CHIP look-alike program (as defined in section 2107(g) of the Social Security Act),

(iv) medical coverage under chapter 55 of title 10, United States Code, including coverage under the TRICARE program; [2]
(v) a health care program under chapter 17 or 18 of title 38, United States Code, as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary,
(vi) a health plan under section 2504(e) of title 22, United States Code (relating to Peace Corps volunteers); [2] or
(vii) the Nonappropriated Fund Health Benefits Program of the Department of Defense, established under section 349 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 1587 note).
(B) Employer-sponsored plan
Coverage under an eligible employer-sponsored plan.
(C) Plans in the individual market
Coverage under a health plan offered in the individual market within a State.
(D) Grandfathered health plan
Coverage under a grandfathered health plan.
(E) Other coverage
Such other health benefits coverage, such as a State health benefits risk pool, as the Secretary of Health and Human Services, in coordination with the Secretary, recognizes for purposes of this subsection.
(2) Eligible employer-sponsored plan
The term "eligible employer-sponsored plan" means, with respect to any employee, a group health plan or group health insurance coverage offered by an employer to the employee which is—
(A) a governmental plan (within the meaning of section 2791(d)(8) of the Public Health Service Act), or
(B) any other plan or coverage offered in the small or large group market within a State.
Such term shall include a grandfathered health plan described in paragraph (1)(D) offered in a group market.

(3) Excepted benefits not treated as minimum essential coverage The term "minimum essential coverage" shall not include health insurance coverage which consists of coverage of excepted benefits—
(A) described in paragraph (1) of subsection (c) of section 2791 of the Public Health Service Act; or
(B) described in paragraph (2), (3), or (4) of such subsection if the benefits are provided under a separate policy, certificate, or contract of insurance.
(4) Individuals residing outside United States or residents of territories Any applicable individual shall be treated as having minimum essential coverage for any month—
(A) if such month occurs during any period described in subparagraph (A) or (B) of section 911(d)(1) which is applicable to the individual, or
(B) if such individual is a bona fide resident of any possession of the United States (as determined under section 937(a)) for such month.
(5) Insurance-related terms
Any term used in this section which is also used in title I of the Patient Protection and Affordable Care Act shall have the same meaning as when used in such title.
(g) Administration and procedure
(1) In general
The penalty provided by this section shall be paid upon notice and demand by the Secretary, and except as provided in paragraph (2), shall be assessed and collected in the same manner as an assessable penalty under subchapter B of chapter 68.
(2) Special rules Notwithstanding any other provision of law—
(A) Waiver of criminal penalties
In the case of any failure by a taxpayer to timely pay any penalty imposed by this section, such taxpayer shall not be subject to any criminal prosecution or penalty with respect to such failure.

(B) Limitations on liens and levies The Secretary shall not —

(i) file notice of lien with respect to any property of a taxpayer by reason of any failure to pay the penalty imposed by this section, or
(ii)levy on any such property with respect to such failure.

28 U.S. Code § 1254 - Courts of appeals; certiorari; certified questions
Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:
(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

28 U.S.C. § 1331 - Federal question
The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

28 U.S. Code § 1340 - Internal revenue; customs duties
The district courts shall have original jurisdiction of any civil action arising under any Act of Congress providing for internal revenue, or revenue from imports or tonnage except matters within the jurisdiction of the Court of International Trade.

28 U.S. Code § 1343 - Civil rights and elective franchise
(a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:
(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;
(2) To recover damages from any person who fails to

prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;
(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;
(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.
(b) For purposes of this section—
(1) the District of Columbia shall be considered to be a State; and
(2) any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

28 U.S. Code § 1346 - United States as defendant
(a) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of:
(1) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws;
(2) Any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort, except that the district courts shall not have jurisdiction of

any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 7104(b)(1) and 7107(a)(1) of title 41. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.

(b)

(1) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act (as defined in section 2246 of title 18).

(c) The jurisdiction conferred by this section includes jurisdiction of any set-off, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.

(d) The district courts shall not have jurisdiction under this section of any civil action or claim for a pension.
(e) The district courts shall have original jurisdiction of any civil action against the United States provided in section 6226, 6228(a), 7426, or 7428 (in the case of the United States district court for the District of Columbia) or section 7429 of the Internal Revenue Code of 1986.
(f) The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States.
(g) Subject to the provisions of chapter 179, the district courts of the United States shall have exclusive jurisdiction over any civil action commenced under section 453(2) of title 3, by a covered employee under chapter 5 of such title.

28 U.S. Code § 1361 - Action to compel an officer of the United States to perform his duty
The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.

28 U.S. Code § 1367 - Supplemental jurisdiction
(a) Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.
(b) In any civil action of which the district courts have original jurisdiction founded solely on section 1332 of this

title, the district courts shall not have supplemental jurisdiction under subsection (a) over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the Federal Rules of Civil Procedure, or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules, or seeking to intervene as plaintiffs under Rule 24 of such rules, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332.
(c) The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if—
(1) the claim raises a novel or complex issue of State law,
(2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,
(3) the district court has dismissed all claims over which it has original jurisdiction, or
(4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.
(d) The period of limitations for any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.
(e) As used in this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

28 U.S. Code § 1391(e) Actions Where Defendant Is Officer or Employee of the United States.—
(e) Actions Where Defendant Is Officer or Employee of the United States.— (1)In general.—A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under

color of legal authority, or an agency of the United States, or the United States, may, except as otherwise provided by law, be brought in any judicial district in which (A) a defendant in the action resides, (B) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (C) the plaintiff resides if no real property is involved in the action. Additional persons may be joined as parties to any such action in accordance with the Federal Rules of Civil Procedure and with such other venue requirements as would be applicable if the United States or one of its officers, employees, or agencies were not a party.

28 U.S. Code § 2201 - Creation of remedy

(a) In a case of actual controversy within its jurisdiction, except with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986, a proceeding under section 505 or 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930), as determined by the administering authority, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

(b) For limitations on actions brought with respect to drug patents see section 505 or 512 of the Federal Food, Drug, and Cosmetic Act, or section 351 of the Public Health Service Act.

28 U.S. Code § 2202 - Further relief

Further necessary or proper relief based on a declaratory

judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

28 U.S. Code § 2465 - Return of property to claimant; liability for wrongful seizure; attorney fees, costs, and interest

(a) Upon the entry of a judgment for the claimant in any proceeding to condemn or forfeit property seized or arrested under any provision of Federal law—

(1) such property shall be returned forthwith to the claimant or his agent; and

(2) if it appears that there was reasonable cause for the seizure or arrest, the court shall cause a proper certificate thereof to be entered and, in such case, neither the person who made the seizure or arrest nor the prosecutor shall be liable to suit or judgment on account of such suit or prosecution, nor shall the claimant be entitled to costs, except as provided in subsection (b).

(b)

(1) Except as provided in paragraph (2), in any civil proceeding to forfeit property under any provision of Federal law in which the claimant substantially prevails, the United States shall be liable for—

(A) reasonable attorney fees and other litigation costs reasonably incurred by the claimant;

(B) post-judgment interest, as set forth in section 1961 of this title; and

(C) in cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale—

(i) interest actually paid to the United States from the date of seizure or arrest of the property that resulted from the investment of the property in an interest-bearing account or instrument; and

(ii) an imputed amount of interest that such currency, instruments, or proceeds would have earned at the rate

applicable to the 30-day Treasury Bill, for any period during which no interest was paid (not including any period when the property reasonably was in use as evidence in an official proceeding or in conducting scientific tests for the purpose of collecting evidence), commencing 15 days after the property was seized by a Federal law enforcement agency, or was turned over to a Federal law enforcement agency by a State or local law enforcement agency.
(2)
(A) The United States shall not be required to disgorge the value of any intangible benefits nor make any other payments to the claimant not specifically authorized by this subsection.
(B) The provisions of paragraph (1) shall not apply if the claimant is convicted of a crime for which the interest of the claimant in the property was subject to forfeiture under a Federal criminal forfeiture law.
(C) If there are multiple claims to the same property, the United States shall not be liable for costs and attorneys fees associated with any such claim if the United States—
(i) promptly recognizes such claim;
(ii) promptly returns the interest of the claimant in the property to the claimant, if the property can be divided without difficulty and there are no competing claims to that portion of the property;
(iii) does not cause the claimant to incur additional, reasonable costs or fees; and
(iv) prevails in obtaining forfeiture with respect to one or more of the other claims.
(D) If the court enters judgment in part for the claimant and in part for the Government, the court shall reduce the award of costs and attorney fees accordingly.

28 U.S. Code § 2674 - Liability of United States
The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and

to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.
If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof.
With respect to any claim under this chapter, the United States shall be entitled to assert any defense based upon judicial or legislative immunity which otherwise would have been available to the employee of the United States whose act or omission gave rise to the claim, as well as any other defenses to which the United States is entitled.
With respect to any claim to which this section applies, the Tennessee Valley Authority shall be entitled to assert any defense which otherwise would have been available to the employee based upon judicial or legislative immunity, which otherwise would have been available to the employee of the Tennessee Valley Authority whose act or omission gave rise to the claim as well as any other defenses to which the Tennessee Valley Authority is entitled under this chapter.

42 U.S. Code § 2000bb–1 - Free exercise of religion protected
(a) In general
Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).
(b) Exception Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and
(2) is the least restrictive means of furthering that compelling governmental interest.
(c) Judicial relief
A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

42 U.S. Code § 18022(a) - Essential health benefits requirements

(a) Essential health benefits package In this title,[1] the term "essential health benefits package" means, with respect to any health plan, coverage that—
(1) provides for the essential health benefits defined by the Secretary under subsection (b);
(2) limits cost-sharing for such coverage in accordance with subsection (c); and
(3) subject to subsection (e), provides either the bronze, silver, gold, or platinum level of coverage described in subsection (d).
(b) Essential health benefits
(1) In general Subject to paragraph (2), the Secretary shall define the essential health benefits, except that such benefits shall include at least the following general categories and the items and services covered within the categories:
(A) Ambulatory patient services.
(B) Emergency services.
(C) Hospitalization.
(D) Maternity and newborn care.
(E) Mental health and substance use disorder services, including behavioral health treatment.

(F) Prescription drugs.
(G) Rehabilitative and habilitative services and devices.
(H) Laboratory services.
(I) Preventive and wellness services and chronic disease management.
(J) Pediatric services, including oral and vision care.
(2) Limitation
(A) In general
The Secretary shall ensure that the scope of the essential health benefits under paragraph (1) is equal to the scope of benefits provided under a typical employer plan, as determined by the Secretary. To inform this determination, the Secretary of Labor shall conduct a survey of employer-sponsored coverage to determine the benefits typically covered by employers, including multiemployer plans, and provide a report on such survey to the Secretary.

42 U.S. Code § 18091(1) - Requirement to maintain minimum essential coverage; findings
Congress makes the following findings:
(1) In general
The individual responsibility requirement provided for in this section (in this section referred to as the "requirement") is commercial and economic in nature, and substantially affects interstate commerce, as a result of the effects described in paragraph (2).
(2) Effects on the national economy and interstate commerce The effects described in this paragraph are the following:

45 CFR 147.130(a)(1) - Coverage of preventive health services.
(a)Services -
(1)In general. Beginning at the time described in paragraph (b) of this section and subject to §§ 147.131, 147.132, and 147.133, a group health plan, or a health insurance issuer

offering group or individual health insurance coverage, must provide coverage for all of the following items and services, and may not impose any cost-sharing requirements (such as a copayment, coinsurance, or a deductible) for-

(i) Evidence-based items or services that have in effect a rating of A or B in the current recommendations of the United States Preventive Services Task Force with respect to the individual involved (except as otherwise provided in paragraph (c) of this section);

(ii) Immunizations for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved (for this purpose, a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention is considered in effect after it has been adopted by the Director of the Centers for Disease Control and Prevention, and a recommendation is considered to be for routine use if it is listed on the Immunization Schedules of the Centers for Disease Control and Prevention);

(iii) With respect to infants, children, and adolescents, evidence-informed preventive care and screenings provided for in comprehensive guidelines supported by the Health Resources and Services Administration;

(iv) With respect to women, such additional preventive care and screenings not described in paragraph (a)(1)(i) of this section as provided for in comprehensive guidelines supported by the Health Resources and Services Administration for purposes of section 2713(a)(4) of the Public Health Service Act, subject to §§ 147.131, 147.132, and 147.133...

§ 147.132 Religious exemptions in connection with coverage of certain preventive health services.

(3) An entity established under title I of the ACA.
Department means the U.S. Department of Health and Human Services...

45 CFR § 92.101 Discrimination prohibited.
General.
(1) Except as provided in title I of the ACA, an individual must not, on the basis of race, color, national origin, sex, age, disability, or any combination thereof, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any health program or activity operated by a covered entity.
(2) Discrimination on the basis of sex includes, but is not limited to, discrimination on the basis of: (i) Sex characteristics, including intersex traits; (ii) Pregnancy or related conditions; (iii) Sexual orientation; (iv) Gender identity; and (v) Sex stereotypes.
(b) Specific prohibitions on discrimination.
(1) In any health program or activity to which this part applies:
(i) A recipient and State Exchange must comply with the specific prohibitions on discrimination in the Department's implementing regulations for title VI, section 504, title IX, and the Age Act, found at 45 CFR parts 80, 84, 86 (subparts C and D), and 91 (subpart B), respectively. Where this paragraph (b) cross-references regulatory provisions that use the term "recipient," the term "recipient or State Exchange" shall apply in its place. Where this paragraph (b) cross-references regulatory provisions that use the term "student," "employee," or "applicant," these terms shall be replaced with "individual."
(ii) The Department, including Federally-facilitated Exchanges, must comply with specific prohibitions on discrimination in the Department's implementing regulations for title VI, section 504, title IX, and the Age Act, found at 45 CFR parts 80, 85, 86 (subparts C and D),

and 91 (subpart B), respectively. Where this paragraph (b) cross-references regulatory provisions that use the term "a recipient," the term "the Department or a Federally-facilitated Exchange" shall apply in its place. Where this paragraph (b) cross-references regulatory provisions that use the term "student," "employee," or "applicant," these terms shall be replaced with "individual."
(2) The enumeration of specific prohibitions on discrimination in paragraph (b)(1) of this section does not limit the general applicability of the prohibition in paragraph (a) of this section.

45 CFR § 92.206 Equal program access on the basis of sex.
(a) A covered entity must provide individuals equal access to its health programs and activities without discriminating on the basis of sex.
(b) In providing access to health programs and activities, a covered entity must not:
(1) Deny or limit health services, including those that have been typically or exclusively provided to, or associated with, individuals of one sex, to an individual based upon the individual's sex assigned at birth, gender identity, or gender otherwise recorded;
(2) Deny or limit, on the basis of an individual's sex assigned at birth, gender identity, or gender otherwise recorded, a health care professional's ability to provide health services if such denial or limitation has the effect of excluding individuals from participation in, denying them the benefits of, or otherwise subjecting them to discrimination on the basis of sex under a covered health program or activity;
(3) Adopt or apply any policy or practice of treating individuals differently or separating them on the basis of sex in a manner that subjects any individual to more than de minimis harm, including by adopting a policy or

engaging in a practice that prevents an individual from participating in a health program or activity consistent with the individual's gender identity; or
(4) Deny or limit health services sought for purpose of gender transition or other gender-affirming care that the covered entity would provide to an individual for other purposes if the denial or limitation is based on an individual's sex assigned at birth, gender identity, or gender otherwise recorded.
(c) Nothing in this section requires the provision of any health service where the covered entity has a legitimate, nondiscriminatory reason for denying or limiting that service, including where the covered entity typically declines to provide the health service to any individual or where the covered entity reasonably determines that such health service is not clinically appropriate for a particular individual. A covered entity's determination must not be based on unlawful animus or bias, or constitute a pretext for discrimination. Nothing in this section is intended to preclude a covered entity from availing itself of protections described in §§ 92.3 and 92.302.
(d) The enumeration of specific forms of discrimination in paragraph (b) of this section does not limit the general applicability of the prohibition in paragraph (a) of this section.

45 CFR § 92.207 Nondiscrimination in health insurance coverage and other health-related coverage.
(a) A covered entity must not, in providing or administering health insurance coverage or other health-related coverage, discriminate on the basis of race, color, national origin, sex, age, disability, or any combination thereof.
(b) A covered entity must not, in providing or administering health insurance coverage or other health-related coverage:
(1) Deny, cancel, limit, or refuse to issue or renew health insurance coverage or other health-related coverage, or

deny or limit coverage of a claim, or impose additional cost sharing or other limitations or restrictions on coverage, on the basis of race, color, national origin, sex, age, disability, or any combination thereof;
(2) Have or implement marketing practices or benefit designs that discriminate on the basis of race, color, national origin, sex, age, disability, or any combination thereof, in health insurance coverage or other health-related coverage;
(3) Deny or limit coverage, deny or limit coverage of a claim, or impose additional cost sharing or other limitations or restrictions on coverage, to an individual based upon the individual's sex assigned at birth, gender identity, or gender otherwise recorded;
(4) Have or implement a categorical coverage exclusion or limitation for all health services related to gender transition or other gender-affirming care;
(5) Otherwise deny or limit coverage, deny or limit coverage of a claim, or impose additional cost sharing or other limitations or restrictions on coverage, for specific health services related to gender transition or other gender-affirming care if such denial, limitation, or restriction results in discrimination on the basis of sex; or
(6) Have or implement benefit designs that do not provide or administer health insurance coverage or other health-related coverage in the most integrated setting appropriate to the needs of qualified individuals with disabilities, including practices that result in the serious risk of institutionalization or segregation.
(c) Nothing in this section requires coverage of any health service where the covered entity has a legitimate, nondiscriminatory reason for denying or limiting coverage of the health service or determining that such health service fails to meet applicable coverage requirements, including reasonable medical management techniques such as medical necessity requirements. Such coverage denial or

limitation must not be based on unlawful animus or bias, or constitute a pretext for discrimination. Nothing in this section is intended to preclude a covered entity from availing itself of protections described in §§ 92.3 and 92.302.
(d) The enumeration of specific forms of discrimination in paragraph (b) of this section does not limit the general applicability of the prohibition in paragraph (a) of this section.

Appendix G – Constitutional Provisions

Art. I, §9, cl. 4 of the US Constitution
No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be maintained. (modified by sixteenth amendment)

Art. I, §2, cl. 3 of the US Constitution
[Representatives and direct Taxes shall be apportioned among the several States which may be included within the Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.] (modified by section 2 of the fourteenth amendment) The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence-Plantations one, Connecticut five, New-York six, New