

MICHAEL C. BURGESS, M.D.  
26TH DISTRICT, TEXAS



WASHINGTON, DC OFFICE:  
2241 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-7772

[www.house.gov/burgess](http://www.house.gov/burgess)

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FORT WORTH, TX 76119  
(817) 531-8454

February 11, 2011

The Honorable Kathleen Sebelius  
Secretary of Health and Human Services  
200 Independence Ave, S.W.  
Washington, D.C. 20201

Dear Secretary Sebelius:

I write to inquire of the Department of Health and Human Services your response to and specifically subsequent implementation decisions made by the Department in the wake of Judge Vinson's ruling in *The State of Florida v. United States Department of Health and Human Services*. As you are well aware, the plaintiff sought declaratory judgment that the Patient Protection and Affordable Care Act is unconstitutional as well as an injunction against its enforcement.

In his opinion, Judge Vinson relied on precedent in *Committee on Judiciary of U.S. House of Representatives v. Miers* to determine that when a court issues a declaratory judgment against federal officials, the "declaratory judgment is the functional equivalent of an injunction." He quoted a previous United States Court of Appeals decision which further addressed his point, "that officials of the Executive Branch will adhere to the law as declared by the court. As a result, the declaratory judgment is the functional equivalent of an injunction . . . There is no reason to conclude that this presumption should not apply here. Thus, the award of declaratory relief is adequate and separate injunctive relief is not necessary."

I would like to request information on how, in light of the declaratory relief issued by Judge Vinson, the Department plans to proceed in its implementation of the Patient Protection and Affordable Care Act.

Thank you for your time and consideration on this issue and I look forward to your response. Should you have any questions, please contact me in my Washington office at (202)225-7772.

Sincerely,

  
Michael C. Burgess, M.D.  
Member of Congress