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Congress has delegated to the Secretary of Health and Human Services the authority to withhold, in whole or in part, federal Medicaid funds from States that fail to comply with the Medicaid Act as originally composed and as subsequently amended. [U.S.C. § 1396c](#). THE CHIEF JUSTICE, however, holds that the Constitution precludes the Secretary from withholding “existing” Medicaid funds based on \*\*2642 States' refusal to comply with the expanded Medicaid program. *Ante*, at 2606. For the foregoing reasons, I disagree that any such withholding would violate the Spending Clause. Accordingly, I would affirm the decision of the Court of Appeals for the Eleventh Circuit in this regard.

But in view of THE CHIEF JUSTICE's disposition, I agree with him that the Medicaid Act's severability clause determines the appropriate remedy. That clause provides that “[i]f any provision of [the Medicaid Act], or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby.” [U.S.C. § 1303](#).

The Court does not strike down any provision of the ACA. It prohibits only the “application” of the Secretary's authority to withhold Medicaid funds from States that decline to conform their Medicaid plans to the ACA's requirements. Thus the ACA's authorization of funds to finance the expansion \*646 remains intact, and the Secretary's authority to withhold funds for reasons other than noncompliance with the expansion remains unaffected.

Even absent [§ 1303](#)'s command, we would have no warrant to invalidate the Medicaid expansion, *contra post*, at 2666 – 2668 (joint opinion of SCALIA, KENNEDY, THOMAS, and ALITO, JJ.), not to mention the entire ACA, *post*, at 2668 – 2676 (same). For when a court confronts an unconstitutional statute, its endeavor must be to conserve, not destroy, the legislature's dominant objective. See, *e.g.*, [Ayotte v. Planned Parenthood of Northern New Eng.](#), [546 U.S. 320, 328–330, 126 S.Ct. 961, 163 L.Ed.2d 812 \(2006\)](#). In this instance, that objective was to increase access to health care for the poor by increasing the States' access to federal funds. THE CHIEF JUSTICE is undoubtedly right to conclude that Congress may offer States funds “to expand the availability of health care, and requir[e] that States accepting such funds comply with the conditions on their use.” *Ante*, at 2607. I therefore concur in the judgment with respect to Part IV–B of THE CHIEF JUSTICE's opinion.