NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES

If H.R. 3 Becomes Law: One Woman's Story

H.R. 3 is a dangerous and misleading bill that punishes private health decisions by imposing tax increases on families and small businesses with insurance plans that include coverage of abortion. Right now, most insurance plans include coverage of abortion. By changing the tax code to raise taxes on individuals with insurance plans that cover abortion, H.R. 3 will likely force individuals and businesses to drop abortion coverage from their otherwise comprehensive insurance plans to avoid these potentially devastating increases. H.R. 3 will also raise taxes on some individuals who use their own private funds to pay for abortion services.

Since H.R. 3 does not include any exceptions for abortions needed to save a woman's health, women who need an abortion because they are facing serious health conditions or diseases will find themselves without needed coverage and denied certain tax benefits. Below is a hypothetical example of one woman's experience if H.R. 3 is signed into law.

- A 39 year-old woman named Nora is diagnosed with leukemia and her doctors recommend that she start chemotherapy immediately. She is also pregnant with her second child. Patients with leukemia confront increased risk of both bleeding and infection and pregnancy compounds those risks, particularly if one needs ongoing chemotherapy throughout the pregnancy.[1] Nora is confronted with the difficult decision of whether to continue her pregnancy. After consultation with her doctors and her family, she decides to terminate the pregnancy.

- Nora has a health insurance plan that she purchased in 2014 through the newly created exchange in her state. She was told at the time of purchase that if she wanted to take advantage of the premium assistance tax credit that she was eligible for under the Affordable Care Act, she was limited to plans without abortion coverage. Although she had wanted to purchase a comprehensive plan, she knew that she could not afford health insurance without taking advantage of the premium assistance credit.[2] Nora even inquired about using her own money to pay for separate abortion coverage but there was none available in her state.

- When Nora makes the appointment for the abortion, the doctor's office informs her that the procedure will not be covered by her health insurance. The doctor's office also tells her that the procedure will be complicated and will therefore cost approximately $10,000.[3]

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[1] Letter from Chasing Hammond, Director, Section of Family Planning & Contraception, Nw. Feinberg Sch. of Med. to Subcomm. on Select Revenue Measures of the Comm. on Ways and Means (March 23, 2011) (regarding recent Congressional testimony on H.R. 3 and H.R. 358).

[2] The refundable premium assistance credits will be provided to eligible individuals and families with incomes between 133-400% of the FPL to purchase insurance through the Exchanges. The premium assistance credits will be set on a sliding scale such that the premium contributions are limited to certain percentages of income for specified income levels. I.R.C. § 36B (2010).

[3] Abortions can cost thousands of dollars if it is a complicated procedure and/or later in a woman's pregnancy. For example, D.J. Feldman learned when she was 11 weeks pregnant that her fetus had anencephaly, meaning it had

- Nora was surprised to learn that even in this exceptional situation, her insurance plan will not cover the abortion. H.R. 3 does not provide for any exceptions in situations where a woman's health is at stake. This includes cases where continuing the pregnancy could result in long-lasting or even permanent damage to a woman's health, including damage to her heart, lungs or kidneys. There is also no exception for cases in which treatment for cancer is incompatible with pregnancy. Even though Nora needs an abortion because her pregnancy will exacerbate the effects of leukemia and put her health in further jeopardy, she will have to pay for it out-of-pocket because she does not have a comprehensive health care plan.

- In addition to health insurance, Nora also has a Flexible Spending Arrangement under a cafeteria plan which allows her to reduce her salary and save a portion of her income, on a tax-free basis, to use for medical expenses. She has saved $2500 and plans to put it towards the cost of the abortion.[4] However, because H.R. 3 requires individuals to pay taxes on funds in tax preferred savings accounts if they use those savings for abortion services, Nora is told that if she uses her savings to pay for her abortion, she must include it in her gross income when she pays her taxes.

- Nora and her family will have to spend a large percentage of their income to pay for her abortion out-of-pocket, leaving them short on money to pay their other bills. Since they will spend so much on Nora's medical costs, they plan to deduct the cost of the abortion as part of the deduction for high medical costs. This deduction is for medical costs that exceed 10% of the taxpayer's adjusted gross income.[5] However, Nora is informed that the $10,000 for the abortion cannot be deducted. H.R. 3 specifically prohibits women from including the cost of an abortion in the deduction for high medical expenses. This also means that she may have to forgo the deduction altogether unless her other medical expenses alone exceed 10% of her income.

Because of H.R. 3, Nora is forced to pay out-of-pocket for an immediate and costly abortion that is needed due to a serious cancer diagnoses. This is despite the fact that Nora has health insurance as well as a tax preferred savings account. If H.R. 3 is signed into law, stories like Nora's will not be uncommon. H.R. 3 will leave millions of women without comprehensive insurance when they need it most.

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almost no brain, a condition which is always fatal. Because she was a federal employee, her health plan was prohibited from covering her pregnancy termination, which cost $9,000. Joe Davidson, *A Woman Who Had Little Choice Enlightens Health-Care Debate*, Wash. Post, Dec. 1, 2009, *available at* http://www.washingtonpost.com/wp-dyn/content/article/2009/11/30/AR2009113004065.html.

[4] $2500 is the maximum amount currently allowed for contribution to a Flexible Spending Arrangement. I.R.C. §125 (i) (2010).

[5] Currently, the deduction is for expenses that exceed 7.5% of the taxpayer's adjusted gross income. I.R.C. § 213(a) (2010). The rate becomes 10% after December 31, 2012. Patient Protection and Affordable Care Act, Pub. L. No. 111-148, Title IX, §9013, 124 Stat. 868 (2010).