

State Bans on Insurance Coverage of Abortion Are Sweeping the Nation, Endangering Women's Health and Taking Health Benefits Away from Women

During the health care reform debates in Congress, insurance coverage of abortion came under unprecedented attack. Fortunately, attempts at the federal level to effectively ban insurance coverage of abortion in private plans failed. However, the new health care law explicitly allows states to pass laws banning private insurance coverage of abortion in any exchange set up in their state.¹ Unfortunately, states have wasted no time taking up this opportunity to attack women's health.

Twelve states (Arizona, Idaho, Indiana, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma, Tennessee, Utah, and Virginia) have enacted laws prohibiting insurance coverage of abortion in state exchanges.² Six of those states – Idaho, Kansas, Missouri, Nebraska, Oklahoma, and Utah³ – go even further and reach all plans in the state, banning insurance coverage of abortion in plans outside the exchange as well. An additional two states – Kentucky and North Dakota – do not explicitly mention the exchange, but also prohibit insurance coverage of abortion in *all* private health insurance plans.⁴ This means that in fourteen states, women will not be allowed to use their own private money to purchase an exchange-based health plan that covers abortion services, and also may not be able to purchase a plan that provides insurance coverage for abortion at all. Most of these states contain exceptions for only the most extreme situations, such as when a woman's life is endangered or when the pregnancy is a result of rape or incest, but two states – Louisiana and Tennessee – do not allow women in even those difficult or life-threatening circumstances to obtain insurance coverage of abortion.

A wave of bills prohibiting insurance coverage of abortion has swept the states in the 2011 state legislative sessions. So far, eleven states (Alabama, Indiana, Kansas, Michigan, Nebraska, Oklahoma, Oregon, South Carolina, Texas, Utah, and West Virginia) have considered bills prohibiting abortion coverage in *all* private insurance plans in the state, including those that will be offered in exchanges established in the state. Eighteen states (Alabama, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Montana, Nebraska, New Jersey, Ohio, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, and Wisconsin) have considered bills banning abortion coverage in exchanges established in the state. Twelve of the bills would prohibit insurers from offering coverage of abortion in any circumstance, even when a woman's life is endangered or when she is a victim of rape or incest; only four bills contain limited exceptions for a woman's health; and only one bill allows insurance coverage of abortion when the fetus has an anomaly or a condition incompatible with life. So far in 2011, three states (Kansas, Nebraska, and Utah) passed bans on all private insurance coverage of abortion, three states (Idaho, Indiana, and Virginia) passed bans on insurance coverage of abortion in exchanges, one state (Montana) passed an exchange ban that was vetoed by the governor, and one state (Oklahoma) clarified that its insurance ban applies to

exchanges and narrowed it so that women who become pregnant as a result of rape or incest will no longer be able to obtain insurance coverage of abortion.



Bans on Insurance Coverage of Abortion are Dangerous to Women's Health

Only four bills have limited, narrow exceptions for women's health. This means that almost all of the bans prohibit insurance coverage for abortions that would protect women from serious, permanent, and even life-shortening health conditions. For example, a woman for whom continuing the pregnancy will result in permanent damage to her health, such as damage to her heart, lungs, or kidneys or a pregnant woman who is diagnosed with cancer and must undergo chemotherapy will not have insurance coverage for these medically necessary abortions. In addition, some women without insurance coverage of abortion will be forced to postpone abortion care while attempting to find the necessary funds. Although abortion is an extremely safe procedure, delays in obtaining care increase the health risks of the procedure.⁵

Bans on Insurance Coverage of Abortion Take Benefits Away from Women and Move the Country in the Wrong Direction

Since most insurance plans cover abortion,⁶ bans on insurance coverage of abortion represent a radical departure from the status quo that will result in women losing benefits

they currently have. Government should be focused on protecting and expanding people's access to health care, not imposing new barriers and restrictions to health services.

Bans on Insurance Coverage of Abortion Punish Women

If women are unable to access insurance coverage for abortion, they may face high out-of-pocket costs for these services. On average, women already have lower incomes than men and therefore have greater difficulty paying premiums, are more likely than men to have higher out-of-pocket health care expenses, and use more health care services than men.⁷ Bans on insurance coverage of abortion only worsen these barriers women face.

Offering Supplemental Insurance Coverage for Abortion Only Further Encourages the End of All Private Insurance Coverage of Abortion

Some bans on insurance coverage of abortion allow insurance companies to offer supplemental coverage for abortion. However, existing data shows that supplemental coverage for abortion is unworkable and does not provide a genuine option for coverage.⁸ Obtaining supplemental coverage for a specific procedure is impractical and undermines the purpose of health insurance. Moreover, many of the pending bills banning insurance coverage of abortion impose new restrictions on insurers and employers who might want to offer supplemental coverage, essentially guaranteeing that it will never exist. This further guarantees that women will be without any option for purchasing comprehensive health insurance that includes coverage of abortion.

Bans on insurance coverage for abortion are dangerous to women's health, take away access to health benefits that most women already have, and reflect an effort by state politicians to punish private health decisions and private health insurance, with the ultimate goal of further restricting access to abortion. At a time of severe state budget crises, state politicians should be focused on more pressing and urgent priorities.

¹ Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1303(a)(1) (2010).

² ARIZ. REV. STAT. § 20-121; S.B. 1115, 61st Leg., 1st Reg. Sess. (Idaho 2011) (to be codified at IDAHO CODE § 41-1848); H.B. 1210, 117th Gen. Assem., 1st Reg. Sess. (Ind. 2011); H.B. 2075, 2011 Leg., 2011 Sess. (Kan. 2011); LA. REV. STAT. § 22:1014; MISS. CODE ANN. §§ 41-41-97, 41-41-99; MO. ANN. STAT. § 376.805(3); L.B. 22, 102d Leg., 1st Reg. Sess. (Neb. 2011); S.B. 547, 53d. Leg., 1st Reg. Sess. (Okla. 2011) (to be codified at OKLA. STAT. ANN. tit. 63, § 1-741.3); TENN. CODE ANN. § 56-26-134; H.B. 354, 2011 Gen. Sess. (Utah) (to be codified at UTAH CODE ANN. § 31A-22-726); H.B. 2434, 2011 Reconvened Sess. (Va.).

³ IDAHO CODE ANN. §§ 41-2142, -2210A, -3439, -3924; H.B. 2075, 2011 Leg., 2011 Sess. (Kan. 2011); MO. ANN. STAT. § 376.805; L.B. 22, 102d Leg., 1st Reg. Sess. (Neb. 2011); S.B. 547, 53d. Leg., 1st Reg. Sess. (Okla. 2011) (to be codified at OKLA. STAT. ANN. tit. 63, § 1-741.3); H.B. 354, 2011 Gen. Sess. (Utah) (to be codified at UTAH CODE ANN. § 31A-22-726).

⁴ KY. REV. STAT. ANN. § 304.5-160; N.D. CENT. CODE § 14-02.3-03.

⁵ Heather D. Boonstra, et. al., Guttmacher Institute, *Abortion in Women's Lives* 15-17 (2006), <http://www.guttmacher.org/pubs/2006/05/04/AiWL.pdf>.

⁶ Guttmacher Institute, *Memo on Private Insurance Coverage of Abortion* (Jan. 19, 2011), <http://www.guttmacher.org/media/inthenews/2011/01/19/index.html>.

⁷ Elizabeth M. Patchias & Judy Waxman, National Women's Law Center, *Women and Health Coverage: The Affordability Gap* (The Commonwealth Fund, pub. 1020, vol. 25), Apr. 2007, http://www.commonwealthfund.org/usr_doc/1020_Patchias_women_hlt_coverage_affordability_gap.pdf.

⁸ See National Women's Law Center, *Supplemental Insurance Coverage for Abortion Only Further Guarantees the End of All Private Insurance Coverage of Abortion*, available at <http://www.nwlc.org/resource/supplemental-insurance-coverage-abortion-only-further-guarantees-end-all-private-insurance-#node-5697>.