



REPRODUCTIVE RIGHTS & HEALTH

## THE AFFORDABLE CARE ACT REPEAL BILL'S PUNITIVE ABORTION RESTRICTIONS THREATEN WOMEN'S HEALTH AND ECONOMIC SECURITY

The American Health Care Act, the budget reconciliation proposal to repeal the Affordable Care Act (ACA), seeks to eliminate a woman's ability to purchase a comprehensive health insurance plan that includes abortion. By manipulating the tax code to punish individuals and small businesses who purchase plans that cover abortion, it could end abortion coverage in the private market and threaten the health and economic security of women and their families.

### THE ACA REPEAL BILL MANIPULATES THE TAX CODE TO PUNISH WOMEN AND BUSINESSES WHO WANT COMPREHENSIVE HEALTH INSURANCE PLANS THAT INCLUDE ABORTION

**Penalizing Individuals Who Want to Buy a Comprehensive Plan that Includes Abortion:** The ACA Repeal Bill denies individuals the bill's already significantly limited tax credits simply for purchasing a health insurance plan in the individual market that includes coverage of abortion. This provision unfairly penalizes women for purchasing insurance coverage that covers their health needs. An individual who needs financial assistance in order to afford insurance coverage will be forced to forgo abortion coverage in order to receive the financial help she needs to purchase health insurance.

**Penalizing Small Businesses that Want to Provide Employees with A Comprehensive Plan that Includes Abortion:** In an effort to coerce small businesses into excluding abortion coverage, the ACA Repeal Bill denies small businesses the tax credit they receive to help pay for employee coverage if the plan includes abortion.<sup>1</sup> The ACA Repeal Bill will force small businesses to choose between providing their employees with comprehensive health insurance that includes abortion or

forgoing a tax break available to other small businesses.

### THE ACA REPEAL BILL DIS-INCENTIVIZES INSURERS FROM COVERING ABORTION

In 25 states and the District of Columbia, insurance companies can decide for themselves whether or not to cover abortion, and many plans in the ACA marketplaces in those states are choosing to cover abortion in order to be responsive to the needs of their consumers.<sup>2</sup> The ACA Repeal Bill incentivizes insurers to exclude abortion coverage from their insurance plans in order to accept customers who receive the tax credits. As a result, the repeal bill could lead to the entire private insurance market dropping abortion coverage entirely.

### THE ACA REPEAL BILL FORCES STATES TO CHOOSE BETWEEN ENSURING THEIR RESIDENTS HAVE ABORTION COVERAGE OR FINANCIAL ASSISTANCE

In California<sup>3</sup> and New York,<sup>4</sup> state laws require insurance companies to provide coverage of abortion. The ACA Repeal Bill could put these states – and others that are considering such requirements – in a bind: either allow plans not to cover abortion in violation of state law or force small businesses and residents in the state to forgo tax credits available to others.

### THE ACA REPEAL BILL'S PROMISE OF SEPARATE ABORTION COVERAGE IS A FALSE PROMISE

The ACA Repeal Bill allows insurance companies to offer separate coverage for abortion. However, existing data shows that supplemental coverage for abortion is unworkable and does not provide a genuine option for coverage.<sup>5</sup> In fact, insurers in several states where such coverage is allowed have reported that no such plans are actually offered.<sup>6</sup> That is because obtaining supplemental coverage for a specific procedure is impractical and undermines the purpose of health insurance. Health insurance companies do not require individuals to guess which surgeries, specialist visits, or medication they might need. Unintended or problem pregnancies are by definition unplanned, which means that even if such plans existed, women would rarely purchase separate abortion coverage in anticipation of these circumstances.



## THE ACA REPEAL BILL THREATENS WOMEN'S HEALTH AND ECONOMIC SECURITY

Abortion is an essential part of comprehensive reproductive health care for women, and one of the most common surgical procedures in this country. Eliminating that coverage would deny women meaningful access to basic health care and endanger women's health.

The ACA Repeal Bill contains a very narrow, limited exception, only allowing health plans to provide insurance coverage of abortion if the woman's life is in danger or the pregnancy is the result of rape or incest. This means a woman cannot obtain coverage even in cases where her pregnancy could lead to major complications or exacerbate a current health condition but in which her life is not immediately in danger. For example, a woman with cancer could not get coverage even if continuing her pregnancy means she will not be able to receive chemotherapy. This narrow exception ignores the serious circumstances a real woman may face when deciding whether or not to continue a pregnancy.

Moreover, the burden of these provisions will fall on women who are least able to afford it. Women who seek abortion care but are denied coverage may face high out-of-pocket costs and many will be forced to postpone care while attempting to raise the necessary funds – a delay that can exacerbate both the costs and the health risks of the procedure.<sup>7</sup> The costs may also force a woman to postpone paying for other basic needs like food, rent, heating and utilities in order to save the money needed for an abortion. Provisions like these that deny insurance coverage of abortion

exacerbate the economic instability of women and their families and actually increase the risk that women and their families will be forced into a cycle of poverty.<sup>8</sup>

## THE ACA REPEAL BILL EXACERBATES BARRIERS TO ABORTION COVERAGE WOMEN ALREADY FACE

The ACA Repeal Bill expands already existing restrictions on public and private coverage of abortion. Since the passage of the Hyde Amendment in 1976—a yearly appropriations rider that primarily withholds abortion coverage from lower-income individuals enrolled in Medicaid—politicians who want abortion to be illegal have continually pushed bans on health coverage and funding for abortion. These restrictions fall particularly hard on those who already face barriers to accessing care, such as low-income women, immigrant women, LGBTQ people, and women of color.

The ACA treats abortion differently—and worse—than other benefits, allowing states to limit private coverage of abortion. So far, 25 states have done so.<sup>9</sup> The law also imposes burdensome and unnecessary requirements for plans that cover abortion, which has limited the availability of comprehensive coverage.<sup>10</sup>

The ACA Repeal Bill takes these already cumbersome and dangerous restrictions and makes them worse. All health insurance plans should provide coverage for a full range of pregnancy-related care, including abortion. But instead of supporting the health and economic security of women and families, the ACA Repeal Bill takes the country in the wrong direction.

- 1 Under current law, small businesses that have fewer than 25 full-time employees and that meet other criteria are not required to provide their employees with health insurance coverage. In order to encourage these small businesses to provide this benefit, small business that provide health insurance coverage to their employees are eligible for a “small business health care tax credit” which helps the business pay for its employee's coverage.
- 2 See NAT'L WOMEN'S LAW CTR., STATE BANS ON INSURANCE COVERAGE OF ABORTION ENDANGER WOMEN'S HEALTH AND TAKE HEALTH BENEFITS AWAY FROM WOMEN (Dec. 2016), available at <http://nwlc.org/resources/state-bans-insurance-coverage-abortion-endanger-women%E2%80%99s-health-and-take-health-benefits-away-women/>.
- 3 Knox-Keane Health Care Service Plan Act of 1975 Cal. Health & Safety Code § 1340-1399.864.
- 4 N.Y. INS LAW § 3217 (McKinney 2015); see e.g. N.Y. COMP. CODES R. & REGS. tit. 11, § 52.2 (2016).
- 5 See NAT'L WOMEN'S LAW CTR., SUPPLEMENTAL INSURANCE COVERAGE FOR ABORTION ONLY FURTHER GUARANTEES THE END OF ALL PRIVATE INSURANCE COVERAGE OF ABORTION (Dec. 2013) available at <http://nwlc.org/resources/supplemental-insurance-coverage-abortion-only-further-encourages-end-all-private-insurance-coverage-abortion/>.
- 6 Peter Slevin, Insurers Report on Use of Abortion Riders, WA. POST, Mar. 14, 2010 available at: <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/13/AR2010031302139.html>.
- 7 HEATHER D. BOONSTRA ET AL., GUTTMACHER INST., ABORTION IN WOMEN'S LIVES, 16 (2006), available at <http://www.guttmacher.org/pubs/2006/05/04/AiWL.pdf>.
- 8 See Diana Greene Foster, Sarah C. M. Roberts & Jane Mauldon, *Presentation at the American Public Health Association Annual Meeting & Expo: Socioeconomic Consequences of Abortion Compared to Unwanted Birth* (Oct. 30, 2012), available at <https://apha.confex.com/apha/140am/webprogram/Paper263858.html>.
- 9 See STATE BANS ON INSURANCE COVERAGE, *supra* note 2.
- 10 See Kinsey Hasstedt, Guttmacher Inst., *Abortion Coverage Under the Affordable Care Act: The Laws Tell Only Half the Story* 17 Guttmacher Policy Review (March 13, 2014), available at <https://www.guttmacher.org/gpr/2014/03/abortion-coverage-under-affordable-care-act-laws-tell-only-half-story>.

