



REPRODUCTIVE RIGHTS & HEALTH

THE HYDE AMENDMENT CREATES AN UNACCEPTABLE BARRIER TO WOMEN GETTING ABORTIONS

The federal laws that withhold insurance coverage of abortion from qualified women threaten women's health and well-being. These restrictions, commonly known as "the Hyde Amendment," particularly harm low-income women and women of color. These restrictions must be overturned so that a woman has the insurance coverage she needs to make a real decision about whether or not to end a pregnancy.

POLITICIANS ENACTED THE HYDE AMENDMENT TO KEEP WOMEN FROM GETTING ABORTIONS

In 1973, *Roe v. Wade* legalized abortion for all women. Women in the Medicaid program – the joint federal-state program that provides low-income individuals with basic healthcare services – were able to access abortions just like other health care services. Just three years after *Roe*, however, Congress passed a prohibition on covering abortion in Medicaid. The prohibition – known as the Hyde Amendment – became effective in 1977 and has been reauthorized every year by Congress as part of budget appropriations for the Department of Health and Human Services.¹ The Hyde Amendment treats abortion differently than other services in the Medicaid program, and limits coverage of abortion to limited circumstances.

The Hyde Amendment was created to make it impossible for women to get abortions. Representative Henry Hyde, the amendment's main proponent, stated very clearly that this was the goal: "I would certainly like to prevent, if I could legally, anybody having an abortion: a rich woman, a middle class woman, or a poor woman. Unfortunately, the only vehicle available is the... Medicaid bill."² It is wrong for politicians to withhold insurance coverage just because they do not want women getting abortions.

THE HYDE AMENDMENT WITHHOLDS EXISTING RESOURCES FROM QUALIFIED WOMEN

Although the language of the Hyde Amendment has changed over the years, it currently prohibits federal Medicaid coverage of abortion unless the pregnancy is the result of rape or incest or the woman's life is in danger.³ Although states can go beyond the Hyde Amendment, and cover medically necessary abortions for qualified women with their own state funds, only 17 states do so.⁴ This means that the vast majority of low-income women in the U.S. who receive coverage of their health care needs through Medicaid are denied coverage of abortion.

THE HYDE AMENDMENT ENDANGERS WOMEN'S HEALTH

The Hyde Amendment does not cover abortion when a woman's health is in jeopardy. In Florida, for example, Medicaid refused to cover the abortion of a woman with cancer who needed chemotherapy but could not receive treatment because she was pregnant. Although delaying chemotherapy would likely cause her death, death was not considered "imminent," so her case did not fit within the narrow life exception.⁵

THE HYDE AMENDMENT CREATES ECONOMIC BARRIERS AND HEALTH CONCERNS FOR LOW-INCOME WOMEN

Low-income women denied abortion coverage under the Hyde Amendment may have to postpone paying for other basic needs like food, rent, heating, and utilities in order to save the money needed for an abortion. Moreover, because of the high cost of the procedure, low-income women are often forced to delay obtaining an abortion because they need time to raise the money. In one study, more than one-third of women that had an abortion in the second trimester stated that they would have preferred to have the procedure earlier but could not because they needed to raise money.⁶ The greater the delay in obtaining an abortion, the more expensive and less safe the procedure becomes, catching poor women in a vicious cycle. In a 2011 study, women paid an average of \$397 for a first trimester abortion but \$854 for a second trimester abortion.⁷



Women who cannot pay for an abortion may resort to ending her pregnancy in unsafe and ineffective ways, including receiving care from untrained, unlicensed practitioners.⁸ Rosie Jimenez, a Latina college student who was unable to pay for a legal abortion, became the first woman to die from a back alley abortion after the passage of the Hyde Amendment.⁹ Providing insurance coverage ensures that she will be able to see a licensed, quality health provider. Other women may be forced to carry an unwanted pregnancy to term, which could harm their future well-being. For example, one study showed that one year after attempting to obtain an abortion, women denied an abortion were more likely to live below the federal poverty level and receive public assistance than those who received an abortion.¹⁰ Being forced to forego an abortion could push more women and their families closer to poverty and others deeper into the poverty they endure.

THE HYDE AMENDMENT PARTICULARLY BURDENS WOMEN OF COLOR

Restrictions on Medicaid coverage of abortion disproportionately affect women of color. In 2012, 20 percent of Medicaid enrollees were African-American, 29 percent were Hispanic, and 9 percent were Asian-American, Native Hawaiian, Pacific Islander, American Indian, Aleutian or Eskimo.¹¹ African-American and Latina women are more likely than White women to rely on Medicaid for coverage of family

planning services, and they are also more likely than White women to face financial barriers when seeking abortions.¹² Furthermore, women of color are more likely to experience unintended pregnancy, due to racial, ethnic, gender, and economic healthcare inequalities.¹³

RESTRICTIONS ON ABORTION EXTEND TO OTHER WOMEN RECEIVING COVERAGE THROUGH THE FEDERAL GOVERNMENT

Congress has similarly restricted abortion coverage for other women who rely on the federal government for insurance coverage. These restrictions reach more than 20 million women, such as those women serving in the U.S. military and Peace Corps, residents of the District of Columbia, women in federal prisons, women covered by the Indian Health Service, and teens from low-income families under the age of 19 who rely on the State Children's Health Insurance Program (S-CHIP).¹⁴

POLITICIANS MUST STOP WITHHOLDING HEALTH COVERAGE FROM QUALIFIED WOMEN

Because the Hyde Amendment is part of the annual appropriations bill which must be passed annually, there is an opportunity to eliminate these restrictions. Defeating the Hyde Amendment ensures that women can make a real decision when faced with an unintended pregnancy.

- 1 The Supreme Court upheld the constitutionality of the Hyde Amendment in a 5-4 opinion in *Harris v. McRae*, 297 U.S. 323 (1980) (reasoning that although the federal government funded prenatal and maternity care for women on Medicaid, its refusal to pay for abortion was permissible because the government may choose to "encourage childbirth over abortion").
- 2 123 CONG. REC. 19,700 (1977) (statement of Rep. Henry Hyde).
- 3 For an analysis of the inadequacy of these exceptions, see Stephanie Poggi, Ctr. for Am. Progress, *Abortion Funding for Poor Women: The Myth of the Rape Exception*, Apr. 28, 2005, available at <http://www.americanprogress.org/issues/2005/04/b615981.html>.
- 4 Kaiser Family Foundation, *State Funding of Abortions under Medicaid* (April 1, 2017), available at <http://kff.org/medicaid/state-indicator/abortion-under-medicaid/>.
- 5 Carol Cohan, *A Grandmother's Commitment to Abortion Rights*, MIAMI HERALD, Oct. 17, 2006.
- 6 Lawrence B. Finer et al., *Timing of Steps and Reasons for Delays in Obtaining Abortions in the United States*, 74 *Contraception* 334, 335 (2006).
- 7 Rachel K. Jones, Ushma D. Upadhyay & Tracy A. Weitz, *At What Cost? Payment for Abortion Care by U.S. Women*, 23(3) *WOMEN'S HEALTH ISSUES* e173, e175 (2013), available at <https://www.guttmacher.org/sites/default/files/pdfs/pubs/journals/j.whi.2013.03.001.pdf>.
- 8 Shawn Towey et al., Nat'l Network of Abortion Funds, *Abortion Funding: A Matter of Justice*, 6 (Oct. 2010) available at: http://www.fundabortionnow.org/sites/default/files/national_network_of_abortion_funds_-_abortion_funding_a_matter_of_justice.pdf.
- 9 *Id.* at 8.
- 10 Diane G. Foster et al., *Socioeconomic Consequences of Abortion Compared to Unwanted Birth*, abstract presented at the annual meeting of the *American Public Health Association* (Oct. 2012), available at <https://apha.confex.com/apha/140am/webprogram/Paper263858.html> (last visited April 18, 2017).
- 11 The Henry J. Kaiser Family Found., *Distribution of the Nonelderly with Medicaid by Race/Ethnicity*, <http://www.statehealthfacts.org/comparebar.jsp?ind=158&cat=3> (last visited April 18, 2017).
- 12 The Henry J. Kaiser Family Found., *Issue Brief: An Update on Women's Health Policy 2* (Dec. 2012), available at <http://kaiserfamilyfoundation.files.wordpress.com/2013/01/7213-04.pdf>.
- 13 See Guttmacher Institute, *Unintended Pregnancy in the United States 1* (Dec. 2013) available at <http://www.guttmacher.org/pubs/FB-Unintended-Pregnancy-US.pdf>.
- 14 Heather D. Boonstra, Guttmacher Institute, *The Heart of the Matter: Public Funding of Abortion for Poor Women in the United States 10* Guttmacher Policy Review 12, 15 (2007) available at <https://www.guttmacher.org/pubs/gpr/10/1/gpr100112.html>.

