



REPRODUCTIVE RIGHTS & HEALTH

## STATE LAWS REGULATING INSURANCE COVERAGE OF ABORTION HAVE SERIOUS CONSEQUENCES FOR WOMEN'S EQUALITY, HEALTH, AND ECONOMIC STABILITY

Abortion is an essential part of comprehensive reproductive health care for women. It is a medical procedure that more than 920,000 U.S. women obtain every year.<sup>1</sup> Access to reproductive health care, including abortion, helps to ensure that a woman can make the important decision of whether and when to have children that is best for her and her family. Yet, accessing reproductive health care can be costly, making insurance coverage critical for women who are seeking an abortion. Without coverage of abortion, many women are forced to forgo care – threatening both their physical and economic health.

Despite the importance of insurance coverage of abortion, some state politicians have taken steps to withhold coverage from women who have decided to have an abortion. State laws prohibit private insurance plans from offering coverage of abortion and other state laws withhold coverage of abortion from women who are insured through the Medicaid program. In contrast, some states promote women's health and economic security by ensuring that plans provide insurance coverage that includes abortion.

### States Ensure that Women Have Insurance Coverage of Abortion

Some states require insurance plans to provide comprehensive coverage that includes coverage of abortion.

- Three states – California, New York and Oregon – require nearly all insurance plans to provide coverage of abortion.<sup>2</sup>

- Seventeen states use their own funds to make sure women enrolled in Medicaid have coverage for abortion.
  - o Thirteen of these states provide coverage under court orders requiring provision of abortion coverage for individuals enrolled in Medicaid.<sup>3</sup>
  - o Four of these states voluntarily provide abortion coverage for individuals enrolled in Medicaid.<sup>4</sup>

### States Deny Women Access to Insurance Coverage of Abortion in Private Plans

Before the federal health care law, also known as the Affordable Care Act (ACA), most private health insurance plans covered abortion.<sup>5</sup> Unfortunately, the ACA allows states to prohibit private insurance plans from offering comprehensive health insurance that includes abortion.<sup>6</sup>

- Twenty-six states have laws that prohibit insurance plans from offering coverage of abortion as part of a comprehensive health care plan sold in the insurance Marketplaces set up by the ACA.<sup>7</sup>
- Eleven of those states go even further and prevent all private insurers in the state – whether in the Marketplace or elsewhere – from offering coverage of abortion as part of a comprehensive health care plan.<sup>8</sup>

This means that a woman in those twenty-six states will not be allowed to purchase a health plan in the Marketplace that covers abortion services and also may not be able to purchase a plan that provides insurance coverage for abortion at all – just because of where she lives and how she is insured.

Most of these state laws contain exceptions for only the most extreme situations, such as when the pregnancy endangers a woman's life or was the result of rape or incest. But some do not even allow plans to cover abortion in those extreme circumstances.



- Louisiana and Tennessee do not allow a woman in even those difficult or life-threatening circumstances to have insurance coverage of abortion.<sup>9</sup>
- Nine states do not even allow private insurance plans to cover abortion when a woman is pregnant as a result of rape or incest.<sup>10</sup>

Some of the state laws that prohibit insurance companies from providing a comprehensive plan that includes abortion allow insurance companies to offer separate coverage for abortion. However, supplemental coverage for abortion is unworkable and does not provide a genuine option for coverage.

- Shortly after implementation of the ACA, insurers in several states where supplemental coverage is allowed reported that no such plans were actually offered.<sup>11</sup> Since then, there has been no evidence that this type of coverage has become available.
- Obtaining supplemental coverage for a specific procedure is impractical and undermines the purpose of health insurance, which is to protect against *unforeseen* risk. Health insurance companies do not require individuals to guess which surgeries, specialist visits, or medication they might need.

### **States Withhold Coverage of Abortion from Women Qualified and Enrolled in Medicaid**

Federal law, known as the Hyde Amendment, withholds abortion coverage from those qualified and enrolled in the Medicaid health insurance program for people struggling to make ends meet, except in the limited circumstances of life endangerment, rape, or incest.<sup>12</sup> Despite the fact that states can – and should – use their own funds to cover abortion beyond these limited circumstances, some states have chosen not to do so.

- Thirty-three states withhold Medicaid coverage from women who need medically necessary abortions – denying a woman coverage because of her income and how she is insured.
  - South Dakota only covers abortion for a woman whose life is endangered – denying a woman coverage when she is pregnant as a result of rape or incest, in violation of federal law.<sup>13</sup>
- Congress has prohibited the District of Columbia from using its own locally-raised funds to provide D.C. residents enrolled in Medicaid with coverage of medically necessary abortion.<sup>14</sup>

### **Comprehensive Coverage that Includes Abortion is Necessary to Protect Women’s Health and Economic Security**

States should ensure that abortion is included in all comprehensive health insurance plans. When politicians

deny women comprehensive health coverage that includes abortion, many women may face high out-of-pocket costs for these services and in some instances may be unable to obtain an abortion at all. The harm from these laws falls hardest on women struggling to make ends meet, women of color, and young women – but these laws jeopardize the health and economic security of every woman denied insurance coverage of abortion.

*When a woman is denied coverage of abortion, she faces threats to her health.*

- Many of the laws restricting coverage of abortion prohibit coverage even where it is necessary to protect a woman from serious, permanent, and even life-shortening health conditions. They would leave without coverage 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.
- Some women denied coverage of abortion will be forced to postpone an abortion while attempting to find the necessary funds. Although abortion is an extremely safe procedure, delays increase the health risks of the procedure.<sup>15</sup>
- When a woman has decided to have an abortion, it is important that she have access to safe medical care, and providing health coverage of abortion means she can see a licensed, quality health provider.

*When a woman is denied coverage of abortion, she may be forced to choose between basic necessities and obtaining needed care.*

- Without coverage of abortion, a woman may need to raise money for the procedure and may have to forgo basic necessities such as paying rent, utility bills, or even buying food.<sup>16</sup>
- More than half of women who get abortions without coverage spend the equivalent of more than one-third of their monthly income on the procedure and its associated costs.<sup>17</sup>

*When a woman is denied coverage of abortion faces increased costs and delays.*

- A woman who has to pay for an abortion out of pocket may be forced to delay the procedure to raise the necessary funds.
- Fifty-eight percent of abortion patients say they would have had their abortion earlier if they could have. Nearly sixty percent of women who experienced a delay in obtaining an abortion cite the time it took to make arrangements and raise the money to pay for it.<sup>18</sup>



**When a woman is denied coverage of abortion, she may face long-term consequences.**

- When a woman is living paycheck to paycheck, denying coverage for an abortion can push her deeper into poverty. One study found that a woman who is unable to get an abortion is more likely to be living in poverty and be unemployed one year later than a woman who received the abortion care she needed.<sup>19</sup>
- Studies show that when political interference restricts Medicaid coverage of abortion, it forces one in four lower-income women seeking an abortion to carry an unwanted pregnancy to term.<sup>20</sup>

For too long, politicians have interfered in women's health decisions by banning comprehensive health coverage that includes coverage for abortion care. When it comes to the decision of whether to become a parent, it is vital that a woman is able to consider all the options available to her, however little money she makes, however she is insured, or wherever she lives. States should recognize this, and ensure that a woman has insurance coverage that meets her needs, including abortion.

- 1 Rachel K. Jones & Jenna Jerman, *Abortion Incidence and Service Availability In the United States*, 2014, 49 PERSPECTIVES ON SEXUAL AND REPRODUCTIVE HEALTH 1 (Mar. 2017), available at <https://www.guttmacher.org/journals/psrh/2017/01/abortion-incidence-and-service-availability-united-states-2014>.
- 2 Knox-Keane Health Care Service Plan Act of 1975, CAL. HEALTH & SAFETY CODE § 1340 et seq.; H.B. 3391, 79th Leg., 2017 Reg. Sess. (Or. 2017); N.Y. INS LAW § 3217 (2015); N.Y. COMP. CODES R. & REGS. tit. 11, § 52.2 (2016).
- 3 Alaska, Arizona, California, Connecticut, Illinois, Massachusetts, Minnesota, Montana, New Jersey, New Mexico, Oregon, Vermont, and West Virginia. See *Alaska v. Planned Parenthood*, 28 P.3d 904 (Alaska 2001); *Simat Corp. v. Ariz. Health Care Cost Containment Sys.*, 203 Ariz. 454 (2002); *Committee to Defend Reprod. Rights v. Myers*, 625 P.2d 779 (Cal. 1981); *Doe v. Maher*, 515 A.2d 134 (Conn. Super. Ct. 1986); *Doe v. Wright*, No. 91 CH 1958 (Ill. Cir. Ct. Dec. 2, 1994); *Moe v. Sec'y of Admin. & Fin.*, 417 N.E.2d 387 (Mass. 1981); *Women of Minn. v. Gomez*, 542 N.W.2d 17 (Minn. 1995); *Jeannette R. v. Ellery*, No. BDV-94-811 (Mont. Dist. Ct. May 22, 1995); *Right to Choose v. Byrne*, 450 A.2d 925 (N.J. 1982); *New Mexico Right to Choose/NARAL v. Johnson*, 975 P.2d 841 (N.M. 1998); *Planned Parenthood Ass'n v. Dep't of Human Resources*, 687 P.2d 785 (Or. 1984); *Doe v. Celani*, No. S81-84CnC (Vt. Super. Ct. May 26, 1986); *Women's Health Ctr. v. Panepinto*, 446 S.E.2d 658 (W. Va. 1993).
- 4 Hawaii, Maryland, New York, and Washington.
- 5 GUTTMACHER INST., *Memo on Private Insurance Coverage of Abortion* (Jan. 19, 2011), <http://www.guttmacher.org/media/inthenews/2011/01/19/index.html>
- 6 42 U.S.C. § 18023 (2010).
- 7 Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin. ALA. CODE § 26-23C-3 (2012); ARIZ. REV. STAT. § 20-121 (2012); ARK. CODE § 23-79-156 (2013); FLA. STAT. §§ 627.64995, 627.66996, 641.31099 (2011); GA. CODE ANN. §§ 33-24-59.17, 45-18-4 (2014); IDAHO CODE ANN. § 41-1848 (2011); IND. CODE §§ 27-8-33, 16-33-4-1 (2012); IND. CODE §§ 27-8-13.4, 27-13-7-7.5 (2014); KAN. STAT. ANN. § 40-2,190(b) (2011); KY. REV. STAT. ANN. § 304.5-160; LA. REV. STAT. ANN. § 22:1014 (2011); MICH. COMP. LAWS §§ 550.541-551(2014); MISS. CODE ANN. §§ 41-41-97, 41-41-99 (2010); MO. ANN. STAT. § 376.805 (2012); NEB. REV. STAT. §§ 44-8402, 44-8403(1) (2011); N.C. GEN. STAT. § 58-51-63 (2013); S.B. 353, Gen. Assemb., 2013 Sess. (N.C. 2013); N.D. CENT. CODE § 14-02.3-03; OHIO REV. CODE ANN. § 3901.87 (2012); OKLA. STAT. tit. 63, § 1-741.3 (2011); 40 PA. CONS. STAT. § 33(2013); S.C. CODE ANN. § 38-71-238 (2012); S.D. CODIFIED LAWS § 58-17-147 (2012); TENN. CODE ANN. § 56-26-134 (2010); H.B. 214, 85th Leg., 1st Called Sess. (Tex. 2017); UTAH CODE ANN. § 31A-22-726 (2012); VA. CODE ANN. § 38.2-3451 (2013); WIS. STAT. § 632.8985 (2012).
- 8 Idaho, Indiana, Kansas, Kentucky, Michigan, Missouri, Nebraska, North Dakota, Oklahoma, Texas and Utah. See *id.*
- 9 See *supra* note 2.
- 10 Idaho, Kansas, Kentucky, Michigan, Missouri, Nebraska, North Dakota, Oklahoma and Texas. See *supra* note 2.
- 11 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>.
- 12 See NAT'L WOMEN'S LAW CTR., *THE HYDE AMENDMENT CREATES AN UNACCEPTABLE BARRIER TO WOMEN GETTING ABORTIONS* (2015), available at <https://nwlc.org/resources/hyde-amendment-creates-unacceptable-barrier-women-getting-abortions/>.
- 13 S.D. CODIFIED LAWS § 28-6-4.5 (2017).
- 14 Department of Defense and Full-Year Continuing Appropriations Act, 2011, Pub. L. No. 112-10 § 1572, 125 Stat. 38, 138 (2011).
- 15 Heather D. Boonstra, et. al., GUTTMACHER INST., *Abortion in Women's Lives* 15-17 (2006), <http://www.guttmacher.org/pubs/2006/05/04/AiWL.pdf>.
- 16 Maryam Guiahi & Anne Davis, *First-Trimester Abortion in Women with Medical Conditions*, 86 CONTRACEPTION 622, 625 (2012).
- 17 Sarah C.M. Roberts, et al., *Out-of-Pocket Costs and Insurance Coverage for Abortion in the United States*, 24-2 WOMEN'S HEALTH ISSUES e211, 214 (2014).
- 18 Lawrence B. Finer et al., *Timing of Steps and Reasons for Delays in Obtaining Abortions in the United States*, 74 CONTRACEPTION 334, 335 (2006), available at [www.guttmacher.org/pubs/2006/10/17/Contraception74-4-344\\_Finer.pdf](http://www.guttmacher.org/pubs/2006/10/17/Contraception74-4-344_Finer.pdf).
- 19 Diana Greene Foster, *Presentation at the American Public Health Association Annual Meeting & Expo: Socioeconomic Consequences of Abortion Compared to Unwanted Birth* (Oct. 30, 2012), <https://apha.confex.com/apha/140am/webprogram/Paper263858.html>.
- 20 Stanley K. Henshaw et al., GUTTMACHER INST., *Restrictions on Medicaid Funding for Abortions: A Literature Review* (2009), available at <http://www.guttmacher.org/pubs/MedicaidLitReview.pdf>.



# State Laws Regulating Coverage of Abortion

		Coverage of Abortion for Women Enrolled in Medicaid		Coverage of Abortions for Women with Private Insurance Plans		
		Find the Law		Marketplace	All Plans	Find the Law
Alabama	Refuses to cover	Ala. Admin. Code r. 560-X-6-.09 (2016)		Bans	Does not ban or require	Ala. Code § 26-23C-3 (2012)
Alaska	Covers	<i>Alaska v. Planned Parenthood</i> , 28 P.3d 904 (Alaska 2001)		Does not ban or require	Does not ban or require	
Arizona	Covers	<i>Simat Corp. v. Ariz. Health Care Cost Containment Sys.</i> , 203 Ariz. 454 (2002)		Bans	Does not ban or require	Ariz. Rev. Stat. § 20-121 (2012)
Arkansas	Refuses to cover	Ark. Const. Amend. 68, § 1		Bans	Does not ban or require	Ark. Code § 23-79-156 (2013)
California	Covers	<i>Committee to Defend Reprod. Rights v. Myers</i> , 625 P.2d 779 (Cal. 1981)		Requires coverage	Requires coverage	<i>Committee to Defend Reprod. Rights v. Myers</i> , 625 P.2d 779 (Cal. 1981); Cal. Health & Safety Code § 1340 et seq.
Colorado	Refuses to cover	Colo. Code Regs. § 2505-10:8.730 (2017)		Does not ban or require	Does not ban or require	
Connecticut	Covers	<i>Doe v. Maher</i> , 515 A.2d 134 (Conn. Super. Ct. 1986)		Does not ban or require	Does not ban or require	
Delaware	Refuses to cover	Del. Admin. Code § 1.15 (2017)		Does not ban or require	Does not ban or require	
District of Columbia	Prohibited from covering by Congress	Pub. L. No. 112-10 § 1572, 125 Stat. 38, 138 (2011)		Does not ban or require	Does not ban or require	
Florida	Refuses to cover	Fla. Admin. Code r. § 59G-4.001 (2017)		Bans	Does not ban or require	Fla. Stat. §§ 627.64995, 627.66996, 641.31099 (2011)
Georgia	Refuses to cover	Georgia Department of Community Health, Division of Medical Assistance, Policies and Procedures for				
Hawaii	Hospital Services, § 911 (2011)	Bans		Does not ban or require	Ga. Code Ann. §§ 33-24-59.17, 45-18-4 (2014)	
Idaho	Covers	State covers voluntarily		Does not ban or require	Does not ban or require	



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		Find the Law	Marketplace	All Plans	Find the Law
Illinois	Covers	<i>Doe v. Wright</i> , No. 91 CH 1958 (Ill. Cir. Ct. Dec. 2, 1994)	Does not ban or require	Does not ban or require	
Indiana	Refuses to cover	405 Ind. Admin. Code 5-28-7 (2017)	Bans	Bans	Ind. Code §§ 27-8-33, 16-33-4-1 (2012); Ind. Code §§ 27-8-13.4, 27-13-7-7.5 (2014)
Iowa	Refuses to cover	Iowa Admin. Code r. 441-78.1(249A) (2016)	Does not ban or require	Does not ban or require	
Kansas	Refuses to cover	Kansas Medical Assistance Program Provider Manual, § 8400 (2010)	Bans with only life endangerment exception	Bans with only life endangerment exception	Kan. Stat. Ann. § 40-2,190(b) (2011)
Kentucky	Refuses to cover	Kentucky Medicaid Member Handbook, at 27 (2011)	Bans with only life endangerment exception	Bans with only life endangerment exception	Ky. Rev. Stat. Ann. § 304.5-160
Louisiana	Refuses to cover	La. Rev. Stat. Ann. § 40:1061.6 (2017)	Bans with no exceptions	Does not ban or require	La. Rev. Stat. Ann. § 22:1014 (2011)
Maine	Refuses to cover	MaineCare Benefits Manual, ch. 2, § 90.05-2 A (2016)	Does not ban or require	Does not ban or require	
Maryland	Covers	State covers voluntarily	Does not ban or require	Does not ban or require	
Massachusetts	Covers	<i>Moe v. Sec'y of Admin. &amp; Fin.</i> , 417 N.E.2d 387 (Mass. 1981)	Does not ban or require	Does not ban or require	
Michigan	Refuses to cover	Mich. Comp. Laws §§ 400.109a, 400.109e (2017)	Bans with only life endangerment exception	Bans with only life endangerment exception	Mich. Comp. Laws §§ 550.541-551(2014)
Minnesota	Covers	<i>Women of Minn. v. Gomez</i> , 542 N.W.2d 17 (Minn. 1995)	Does not ban or require	Does not ban or require	
Mississippi	Refuses to cover	Miss. Code Ann. § 41-41-91 (2017)	Bans	Does not ban or require	Miss. Code Ann. §§ 41-41-97, 41-41-99 (2010)



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		Find the Law	Marketplace	All Plans	Find the Law
Missouri	Refuses to cover	Mo. Rev. Stat. § 188.205 (2016)	Bans with only life endangerment exception	Bans with only life endangerment exception	Mo. Ann. Stat. § 376.805 (2012)
Montana	Covers	<i>Jeannette R. v. Ellery</i> , No. BDV-94-811 (Mont. Dist. Ct. May 22, 1995)	Does not ban or require	Does not ban or require	
Nebraska	Refuses to cover	Nebraska HHS Finance and Support Manual, § 10-005.09 (2003)	Bans with only life endangerment exception	Bans with only life endangerment exception	Neb. Rev. Stat. §§ 44-8402, 44-8403 (2011)
Nevada	Refuses to cover	Division of Health Care Financing and Policy, Medicaid Services Manual, § 603 (2011)	Does not ban or require	Does not ban or require	
New Hampshire	Refuses to cover	See NH Healthy Families, Provider Manual, at 29 (2016)	Does not ban or require	Does not ban or require	
New Jersey	Covers	<i>Right to Choose v. Byrne</i> , 450 A.2d 925 (N.J. 1982)	Does not ban or require	Does not ban or require	
New Mexico	Covers	<i>New Mexico Right to Choose/NARAL v. Johnson</i> , 975 P.2d 841 (N.M. 1998)	Does not ban or require	Does not ban or require	
New York	Covers	State covers voluntarily	Requires coverage	Requires coverage	N.Y. Ins Law § 3217 (2015); N.Y. Comp. Codes R. & Regs. tit. 11, § 52.2 (2016)
North Carolina	Refuses to cover	Specified in yearly appropriations, see e.g., H.B. 229, 1995 Reg. Sess. (N.C. 1995)	Bans with only life endangerment exception	Does not ban or require	N.C. Gen. Stat. § 58-51-63 (2013); S.B. 353, Gen. Assemb., 2013 Sess. (N.C. 2013)
North Dakota	Refuses to cover	N.D. Admin. Code 75-02-02-08 (2017)	Bans with only life endangerment exception	Bans with only life endangerment exception	N.D. Cent. Code § 14-02.3-03
Ohio	Refuses to cover	Ohio Admin. Code 5160-17-01 (2017)	Bans	Does not ban or require	Ohio Rev. Code Ann. § 3901.87 (2012)
Oklahoma	Refuses to cover	Okla. Admin. Code § 317:30-5-6 (2017)	Bans with only life endangerment exception	Bans with only life endangerment exception	Okla. Stat. tit. 63, § 1-741.3 (2011)





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		Find the Law	Marketplace	All Plans	Find the Law	
Oregon	Covers	<i>Planned Parenthood Ass'n v. Dep't of Human Resources</i> , 687 P.2d 785 (Or. 1984)	Requires coverage	Requires coverage	H.B. 3391, 79th Leg., 2017 Reg. Sess. (Or. 2017)	
Pennsylvania	Refuses to cover	18 Pa. Cons. Stat. Ann. § 3215 (2016)	Bans	Does not ban or require	40 Pa. Cons. Stat. § 33 (2013)	
Rhode Island	Refuses to cover	39-3 R.I. Code § 0300.01 (2017)	Does not ban or require	Does not ban or require		
South Carolina	Refuses to cover	S.C. Code Ann. § 1-1-1035 (2016)	Bans	Does not ban or require	S.C. Code Ann. § 38-71-238 (2012)	
South Dakota	Refuses to cover with only life endangerment exception	S.D. Codified Laws § 28-6-4.5 (2017)	Bans	Does not ban or require	S.D. Codified Laws § 58-17-147 (2012)	
Tennessee	Refuses to cover	Tenn. Code Ann. § 9-4-5116 (2003)	Bans with no exceptions	Does not ban or require	Tenn. Code Ann. § 56-26-134 (2010)	
Texas	Refuses to cover	1 Tex. Admin. Code § 354.1167 (2017)	Bans with only life endangerment exception	Bans with only life endangerment exception	H.B. 214, 85th Leg., 1st Called Sess. (Tex. 2017)	
Utah	Refuses to cover	Utah Code Ann. § 76-7-331 (2016)	Bans	Bans	Utah Code Ann. § 31A-22-726 (2012)	
Vermont	Covers	<i>Doe v. Celani</i> , No. S81-84CnC (Vt. Super. Ct. May 26, 1986)	Does not ban or require	Does not ban or require		
Virginia	Refuses to cover	Va. Code Ann. §§ 32.1-92.1, 32.1-92.2 (2016)	Bans	Does not ban or require	Va. Code Ann. § 38.2-3451 (2013)	
Washington	Covers	State covers voluntarily	Does not ban or require	Does not ban or require		
West Virginia	Covers	<i>Women's Health Ctr. v. Panepinto</i> , 446 S.E.2d 658 (W. Va. 1993).	Does not ban or require	Does not ban or require		
Wisconsin	Refuses to cover	Wisc. Stat. Ann. § 20.927 (2017)	Bans	Does not ban or require	Wis. Stat. § 632.8985 (2012)	
Wyoming	Refuses to cover	Who. Stat. Ann. § 35-6-117 (2017)	Does not ban or require	Does not ban or require		
<b>TOTAL</b>	<b>33 states and DC</b>		<b>26 states</b>	<b>11 states</b>		

