



REPRODUCTIVE RIGHTS & HEALTH

S. 109: A DANGEROUS AND MISLEADING BILL THAT THREATENS PEOPLE'S HEALTH AND ECONOMIC SECURITY

S. 109 is Intended to Eliminate Insurance Coverage of Abortion

S. 109 is the latest attempt by anti-abortion politicians to eliminate insurance coverage of abortion. This bill could result in the entire private insurance market dropping abortion coverage and would make permanent existing, harmful restrictions on Medicaid coverage of abortion. S. 109's provisions incentivize insurers to drop abortion coverage from their Marketplace health insurance plans. This elimination of coverage in the Marketplace will have a "ripple" effect on the entire health insurance market. While the bill discusses "separate coverage" for abortion, that is not a genuine option. Supplemental coverage for abortion does not exist.¹ Accordingly, the entire insurance market will go from one where – absent political interference – abortion coverage is the industry standard to one where such coverage is eliminated.

S. 109 Penalizes Individuals and Small Business who Want to Purchase Health Plans that Include Abortion Coverage

S. 109 says any plan that covers abortion, except in very limited circumstances, does not meet the definition of a qualified health plan. This would deny individuals premium tax credits merely for choosing comprehensive health insurance that includes abortion coverage. Because the tax credits help make coverage affordable, this provision falls hardest on those struggling to make ends meet. In addition, S. 109 would deny small businesses the Small Business Tax

Credit for providing employees health insurance that includes abortion coverage. Nobody should be penalized for seeking or providing comprehensive health coverage. Yet not only do these provisions push individuals and small businesses to switch to plans that do not cover abortion, but together, they create perverse incentives for insurers to exclude abortion coverage in order to accept customers who receive the tax credits.

S. 109 Would Ban Abortion Coverage in All Multi-State Health Insurance Plans

Currently, the law requires that at least one multi-state health insurance plan in a Marketplace not provide abortion coverage (except for narrow exceptions). Otherwise, the multi-state health insurance plans are allowed to decide whether to include abortion coverage. S. 109 would drastically alter this system by banning all multi-state plans from covering abortion – thereby denying issuers the ability to decide for themselves whether to cover it and taking away a benefit away from enrollees.

S. 109 Includes Inaccurate and Misleading Provisions Designed to Discourage Plans from Covering Abortion

S. 109 contains "disclosure" provisions meant to discourage insurance plans from covering abortion and mislead individuals about the cost of purchasing plans that do cover abortion. Enrollees should have complete and accurate information about their health insurance coverage; however, S. 109 does the opposite. Specifically, the bill would require plans to disclose incorrectly that there is an "abortion surcharge" for plans that cover abortion. Such a disclosure is false because there is no "abortion surcharge." In addition, the ACA already requires plans to disclose the scope of abortion coverage. S. 109's additional "disclosure" and "prominent display" requirements would not result in enrollees learning more about their plans but instead discourage plans from providing the coverage and stigmatize those who purchase such plans.



S. 109 Would Make Permanent Dangerous Restrictions on Abortion Coverage

Currently, harmful federal restrictions on abortion coverage are imposed through the appropriations process, which means they are not permanent and can be changed or removed. But S. 109 makes these restrictions permanent law. Thus, individuals covered under Medicaid, serving in the U.S. military, in federal prisons, or covered by the Indian Health Services as well as federal employees and residents of the District of Columbia would permanently be denied abortion coverage except for very narrow circumstances. Research shows the devastating impact these restrictions have on individuals throughout the country. When policymakers place severe restrictions on Medicaid coverage of abortion, it forces one in four poor women seeking an abortion to carry an unwanted pregnancy to term.² And studies show that women denied an abortion were more likely to be worse off financially, to be unemployed, and to be living below the federal poverty line, one year later than women who were able to have an abortion.³

S. 109 Prevents the District of Columbia from Using Local Funds to Pay for Abortions

S. 109 permanently prohibits the District of Columbia from using locally raised funds to offer abortion care for those who otherwise could not afford it. If S. 109 were to become law, anti-abortion members of Congress would permanently strip the District of Columbia of the power that all 50 states currently have: the power to make decisions about how to spend locally-raised revenue.

1 Rosenzweig, Caroline, et al., HENRY J. KAISER FOUNDATION, *Abortion Riders: Women Living in States with Insurance Restrictions Lack Abortion Coverage Options* (Feb. 2018), available at <https://bit.ly/2TRvV6d>.

2 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>.

3 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>.

S. 109 Endangers Individual's Health and Economic Security

S. 109 would force millions to go without abortion coverage and provides very narrow exceptions only for when the pregnancy is the result of rape or incest and when a physician has certified that the person's life is in danger. These narrow exceptions ignore the real life circumstances a person may face when deciding whether or not to continue a pregnancy. Eliminating insurance coverage makes a difficult situation even worse. Without coverage for abortion, families could be pushed into bankruptcy if forced to pay for the procedure out of pocket.

S. 109 Puts States that Protect Abortion Coverage in a Bind

S. 109 would be uniquely devastating in California, New York, Oregon, and Washington, which have recognized the importance of abortion coverage to women's health and economic security, requiring insurance plans regulated by the state to cover abortion. This bill could put these states—and others considering these types of laws—in a bind: either allow plans to violate state law and leave their residents without the coverage they need or force small businesses and residents in the state to forgo the tax credits that make coverage affordable.

