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FAQ: Actions by the Department of Defense to Protect Abortion and Reproductive Health Care Access for Military Families

In response to the Supreme Court's devastating decision declaring that there is no constitutional right to abortion in *Dobbs v. Jackson Women's Health Organization* (Dobbs), the Department of Defense (DoD), has taken critical action. In October 2022, DoD [announced important changes](#) to safeguard abortion and birth control access for service members and their families who are seeking abortion care and to strengthen protections for DoD health care providers.

The FAQ below explains current restrictions on military access to abortion and DoD's changes to policy. These changes will help service members and dependents access the reproductive health care they need.

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1. What abortion restrictions currently apply to military service members and their families?

Federal law [prohibits](#) DoD from providing abortion services at military treatment facilities (MTFs) except in cases of rape, incest, or to save the pregnant person's life. Additionally, federal law prohibits TRICARE, the military health insurance program, from covering abortion except under the same limited circumstances.¹

These bans mean that service members and their dependents face a major barrier to abortion care no matter where they are stationed. If they need abortion care but do not meet one of the extremely limited exceptions, service members or their dependents are forced to go outside of the military health care system and off base, navigate the maze of state bans and restrictions, and pay for the care out of pocket.

2. What do the changes to DoD's policies mean for service members and military families?

The Secretary has committed to the following changes regarding access to reproductive health care—

- **Effective March 30, 2023, for service members who need to obtain abortion and fertility care outside of the military, DoD will help service members by:**

- Providing allowances, or payments, for travel and lodging for service members and dependents—and attendants and escorts if the individual is unable to travel alone—to travel to the closest medical facility.²
- Standardizing administrative absence policy across the Armed Services, ensuring that service members can take non-chargeable time off from serving to be able to travel.³

- **Effective March 30, 2023, ensure privacy protections for service members by:**

- Extending the timeframe by which service members must report a positive pregnancy test. Service members will be required to notify their commanders of a pregnancy by 20 weeks of pregnancy, instead of by the typical two weeks. This means that service members will have more time to evaluate their options, including seeking and obtaining an abortion, before having to report a pregnancy to their commander.
- Prohibiting health care providers from sharing unnecessary reproductive health care information with a service member's commander, unless withholding the information may harm the mission, violate safety standards, or interfere with the service member's job.⁴
- Requiring commanders to use "objectivity, compassion, and discretion" when considering reproductive health care information. The policy also reminds commanders of their responsibility to combat discrimination and retaliation.⁵

- **Support DoD health care providers by:**

- Covering fees for DoD providers to be licensed

in another state where they can provide abortion and other reproductive health care, if their current state of practice has restrictions on this care.

- Assisting DoD providers who may be penalized for providing reproductive health care to eligible service members or dependents, such as being sued or having their license taken away. DoD may also provide compensation for any penalties.

- **Provide more resources and information by:**

- Conducting an education campaign on contraception including information on emergency contraception. The campaign will also make clear that patients do not have to pay copays for intrauterine devices (IUDs) and other reversible medical contraceptives.
- Expanding public displays of resources on accessing reproductive health care if a service member or dependent is having trouble accessing care at an MTF.
- Improving DoD websites including HEALTH.mil and TRICARE.mil to clarify the care available to service members and dependents following any abortion. Include a point of contact for help in accessing reproductive health care.

3. Why are these changes so critical for those who serve and their loved ones?

Since the devastating *Dobbs* decision, states have moved to enact abortion bans and restrictions that have impacted millions of lives. But military families have always faced unique barriers to care. The aftermath of the Supreme Court's decision means that this will only get worse.

Over 400,000 women serve on active duty in the Armed Forces or the reserve components of the Armed Forces.⁶ An estimated several thousand transgender men who may require abortion care also serve on active duty in the Armed Forces and in the reserve components, in addition to non-binary members and those who identify with a different gender.⁷ The harms of abortion restrictions fall most heavily on people who already face barriers to accessing health care, including people with low incomes—such as junior service members—and Black, Indigenous, and people of

color, immigrants, young people, people with disabilities, the LGBTQI+ community, and those living in rural and other medically underserved areas.

Even if a service member is ultimately able to reach a clinic, they are likely to face significantly longer wait times and increased costs due to state restrictions. This includes the cost of travel, lodging, child care, and more expensive procedures. The many state restrictions—including those that require multiple trips or additional unnecessary procedures—add to out-of-pocket costs. Ultimately, this makes it harder for a person to access abortion care, especially when they face bans on abortion care and coverage in the military.

That's why DoD's policy reforms, such as paying for travel, are critical to helping those in the military access the care they need. Access to abortion should not depend on how much money someone makes, or where they live or are stationed.

4. Can DoD really make these changes?

Yes. The Department of Justice (DOJ) has affirmed that DoD is well within its authority to pay for travel for abortion care. In a [recent memorandum](#), DOJ explains that the current bans on abortion in the military—meaning the ban on abortion at MTFs and coverage of abortion under TRICARE—do not apply to covering travel funds for an abortion. Additionally, DOJ affirms that the agency has authority to use such funds in support of DoD's mission for readiness and morale.⁸

5. Why is this so important for DoD military health care providers?

By making these changes, DoD is recognizing that the decision to have an abortion should belong to the pregnant person, in consultation with their health care provider—without political interference.

Providers must have the ability to provide appropriate, necessary and compassionate care to their patients. But since the overturning of *Roe v. Wade*, many providers cannot provide that care because of the wave of state laws restricting and banning abortion. As a result, patients have been turned away for care they need or forced to delay their care until their condition becomes critical;⁹ other patients risk losing access to the medication they need even if they are not seeking an abortion.¹⁰

In states that restrict abortion, DoD providers are subject to unique challenges and compounding restrictions when attempting to provide abortion care. In supporting its providers who may be subject to legal or adverse actions, DoD is protecting their rights, and helping service members and their families build the futures they want.

6. What other actions has DoD taken to protect abortion access for service members and military families?

Following the *Dobbs* decision, Secretary of Defense Austin declared that DoD will continue to perform “covered” abortions—meaning those that meet the current law's exceptions of rape, incest, or endangerment to the life of the pregnant person.¹¹ In a statement, he wrote, “Nothing is more important to me or to this Department than the health and well-being of our Service members, the civilian workforce and DOD families.”¹²

DoD also issued a [Q&A resource](#) that includes answers to questions around reproductive health care access—including abortion, leave and travel, sexual assault, and contraception.

Additionally, in May 2022, the Army and Air Force reformed their leave policies to ensure that service members who need to take leave for abortion care could do so without gaining approval from a commander first.¹³ Effective March 18, 2023, service members across all branches of the Armed Services will be able to take administrative absence, or non-chargeable leave, for non-covered reproductive health (i.e., abortion and fertility care).¹⁴

7. I'm a military service member (or dependent of one). Where can I go to find more resources?

As the DoD memorandum references, the TRICARE and other Military Health System websites will be updated to provide more information for service members and dependents in need of reproductive health care, including an abortion. This includes HEALTH.mil and TRICARE.mil.

For help finding an abortion or learning more about resources and assistance in your state, visit [INeedanA.com](#) and [AbortionFinder.org](#).

The kind of contraception you use and where you get it can determine whether you have to pay out-of-pocket costs for it. Some contraceptives, like intrauterine devices (IUDs),

shots, implants, or diaphragm measurement and fitting, no longer require cost-sharing or copayments. And as of January 1, 2023, if you are covered under TRICARE Prime and TRICARE Select, people who can become pregnant no longer have to pay out-of-pocket for surgical sterilization services, often referred to as getting your tubes tied. If you have questions about out-of-pocket costs for your birth control, contact NWLC's [CoverHer](#) hotline for help.

8. What should we expect next?

Effective March 18, 2023, the following policies will be in effect: providing allowances—or payments—for travel and transportation, improvements to privacy protections for service members and dependents, and standardizing administrative absence (non-chargeable leave) policies for service members to access abortion care.

The Under Secretary of Defense for Personnel and Readiness will be issuing policy memoranda for the additional changes listed in DoD's [October memo](#).

DoD's actions are critical to the health and well-being of service members and dependents, but the existing bans on abortion at MTFs and in TRICARE coverage continue to harm the military community. In addition to the urgent actions taken by DoD, [Congress must pass the MARCH Act](#) to eliminate these bans. All people, including those in our military communities, should have the freedom to control their own bodies, lives, and futures.

DISCLAIMER

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FOOTNOTES

- 1 The TRICARE ban is one of the many health care coverage bans that originated with the 1976 Hyde Amendment, which denies abortion coverage for people enrolled in Medicaid. Over the years, the reach of the Hyde Amendment expanded to other areas of the federal government in a range of ways, including DoD.
- 2 See Memorandum on Military Advisory Panel Item 86-22(R), Paragraph 033013 "Travel for Non-Covered Reproductive Health Care Services" (February 16, 2023), Department of Defense, <https://media.defense.gov/2023/Feb/16/2003163300/-1/-1/1/MEMORANDUM-TRAVEL-FOR-NON-COVERED-REPRODUCTIVE-HEALTH-CARE-SERVICES.PDF>.
- 3 See Memorandum on Administrative Absence for Non-Covered Reproductive Health Care (February 16, 2023), Department of Defense, <https://media.defense.gov/2023/Feb/16/2003163307/-1/-1/1/MEMORANDUM-ADMINISTRATIVE-ABSENCE-FOR-NON-COVERED-REPRODUCTIVE-HEALTH-CARE.PDF>.
- 4 See Memorandum on Changes to Command Notification of Pregnancy Policy (February 16, 2023), Department of Defense, <https://media.defense.gov/2023/Feb/16/2003163306/-1/-1/1/MEMORANDUM-CHANGES-TO-COMMAND-NOTIFICATION-OF-PREGNANCY-POLICY.PDF>.
- 5 See endnote iii.
- 6 2020 DEMOGRAPHICS PROFILE ACTIVE DUTY MEMBERS, Department of Defense. <https://download.militaryonesource.mil/12038/MOS/Infographic/2020-demographics-active-duty-members.pdf>. And per the Congressional Research Service and Department of Defense: <https://dwp.dmdc.osd.mil/dwp/app/dod-data-reports/workforce-reports>.
- 7 Gary J. Gates and Jody L. Herman, *Transgender Military Service in the United States*, THE WILLIAMS INSTITUTE (May 2014), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Military-Service-US-May-2014.pdf>.
- 8 From memorandum: DoD plainly has an interest in the readiness of its force, which it defines as the "ability of military forces to fight and meet the demands of assigned missions." Id. at 6 (quoting Office of the Chairman of the Joint Chiefs of Staff, DOD Dictionary of Military and Associated Terms at 179 (May 2022)).... DoD defines medical readiness as "[a] Service member's medical, dental, and mental/behavioral health status necessary to perform their assigned missions." DoD Instruction 6025.19, Individual Medical Readiness Program at 24 (July 13, 2022) ("DoDI 6025.19, Individual Medical Readiness Program")... To obtain a noncovered abortion, service members or their family members who are stationed in states without local access from licensed providers would need to travel to another jurisdiction where the procedure is available, despite potentially burdensome or prohibitive costs of travel and lodging. See id. "Such expenses would add financial burden and stress to what is already likely to be a challenging situation," DoD Memo at 7, which could further exacerbate negative impacts on service members' physical and mental health.
- 9 Reese Oxner & Maria Mendez, *Texas Hospitals are Putting Pregnant Patients at Risk by Denying Care Out of Fear of Abortion Laws*, Medical Group Says, TEX. TRIBUNE (July 15, 2022), <https://www.texastribune.org/2022/07/15/texas-hospitals-abortion-laws/>.
- 10 *Roe Reversal: The Impacts of Taking Away the Constitutional Right to an Abortion*, Hearing Before the Subcomm. on Oversight and Investigations Comm. on Energy and Com. U.S. H.R. 3-4 (2022) (statement of Jack Resneck, President of the Am. Med. Ass'n), https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Witness%20Testimony_Resneck_OI_2022.07.19_Redacted.pdf.
- 11 Grewe, Lindsey, *Department of Defense says its existing abortion policy remains unchanged post-Dobbs*, KKTV (June 29, 2022), <https://www.kktv.com/2022/06/29/department-defense-says-its-existing-abortion-policy-remains-unchanged-post-dobbs/>.
- 12 *Statement by Secretary of Defense Lloyd J. Austin III on the Supreme Court's Ruling in Dobbs v. Jackson Women's Health Organization*, U.S. DEPARTMENT OF DEFENSE (2022), <https://www.defense.gov/News/Releases/Release/Article/3073618/statement-by-secretary-of-defense-lloyd-j-austin-iii-on-the-supreme-courts-rul/>.
- 13 Montgomery, Nancy, *New rules prevent Army and Air Force commanders from denying leave to obtain an abortion*, STARS AND STRIPES (May 6, 2022), <https://www.stripes.com/theaters/us/2022-05-06/abortion-army-air-force-commander-women-5913670.html>.
- 14 See endnote iii.