

Why the Affordable Care Act Matters for Women: Restrictions on Abortion Coverage

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Abortion is one of the most common medical procedures for women; an estimated one in three women will have an abortion in her lifetime. The majority of women who have abortions already have at least one child and many list the need to care for their children as a primary reason not to have another. Women of color and low-income women obtain abortions in disproportionate numbers, in part due to their lack of access to affordable and effective contraception.¹ Since 1976, the federal government has included a provision in the budget, referred to as the “Hyde Amendment,” that bars abortion coverage for women who receive their health coverage through Medicaid except in cases of rape, incest or to save the life of the mother. Opponents of choice tried hard to expand restrictions on abortion coverage in the Affordable Care Act (ACA) and preserving access to abortion services in private health care was a significant challenge. Women’s health advocates were successful in securing the availability of abortion coverage in private plans. However, unfortunately, abortion is the only health service singled out for less favorable treatment in the ACA.

Availability of Abortion Coverage

Abortion care is treated differently from all other health services in the ACA.

- ▶ **The ACA requires segregation of funds for abortion coverage.** Congress agreed to a provision, referred to as the “Nelson Amendment” for its author, Senator Ben Nelson (D-NE), that requires insurance plans offering coverage in the state-based health insurance exchanges to segregate funds paid for abortion coverage from funds paid for all other care.
 - ▶ The law requires health plans operating in the state-based insurance exchanges that offer abortion coverage to **collect separate payments** – one for abortion care and another for all other health care. How plans do so has not been defined and

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- ▶ [Expanding Access to Health Insurance \(pdf\)](#)
- ▶ [Affordability and Choice in the Insurance Marketplace \(pdf\)](#)
- ▶ [Improving Health Care for Older Women \(pdf\)](#)
- ▶ [Improving Health Coverage for Lower-Income Women \(pdf\)](#)
- ▶ [Better Care for Pregnant Women and Mothers \(pdf\)](#)
- ▶ [Expanding Medicaid Family Planning Services \(pdf\)](#)
- ▶ [Preserving Access to Women’s Health Clinics \(pdf\)](#)
- ▶ [Coverage of Women’s Preventive Services, Including Contraception \(pdf\)](#)
- ▶ [Comprehensive Sex Education for Teens \(pdf\)](#)
- ▶ [Restrictions on Abortion Coverage \(pdf\)](#)

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how this provision is implemented could mean the difference between women maintaining or losing access to abortion coverage.

- ▶ The law requires that at least one plan within the exchange not cover abortion, but has no requirement that a plan within the exchange offer abortion coverage.
- ▶ This provision **stigmatizes abortion** by treating abortion care differently from other health care services and it places onerous burdens on insurance companies and consumers.
- ▶ **The ACA allows States to ban abortion coverage in insurance exchanges.** Although the federal government ultimately did not prohibit insurance plans that cover abortion care from being offered in state-based exchanges, the ACA does allow states to prohibit insurance plans from providing coverage for abortion. Some states have gone beyond prohibiting abortion coverage in plans sold through the exchanges.
 - ▶ As of March 2012, 14 states (Arizona, Florida, Idaho, Indiana, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Utah and Virginia) have enacted laws prohibiting insurance coverage of abortion in their state exchanges.
 - ▶ Six of those states (Idaho, Kansas, Missouri, Nebraska, Oklahoma and Utah) apply their ban on abortion coverage to **all insurance plans in the state**.
 - ▶ Two other states (Kentucky and North Dakota) ban abortion coverage in **all private health insurance plans** without specifically mentioning the exchanges.
- ▶ **The ACA prohibits the Department of Health and Human Services (HHS) from identifying abortion as an essential health benefit.** HHS is tasked with identifying a core set of “essential health benefits” that every insurance plan offering coverage through the state-based exchanges must provide. However, HHS is prohibited from including abortion care, even for pregnancies resulting from rape or incest or that endanger the woman’s life, in the core set of benefits. This further removes abortion care from other health care.
- ▶ **The ACA allows health care providers and facilities to refuse to provide, pay for, cover or refer for abortion.** This provision incorporates federal refusal provisions into the ACA, further separating abortion care from other health services. This means that, even if a woman’s health plan covers abortion care, her provider can nevertheless refuse to provide the service or refer her to someone else who will.

¹ Guttmacher Institute. Abortion in the United States: Quick Facts. Retrieved 15 March, 2012 at <http://www.guttmacher.org/media/presskits/abortion-US/statsandfacts.html>