

EXECUTIVE SUMMARY

“After 34 years, **repealing the Hyde Amendment** offers the United States a **critical opportunity to restore women’s equality** by making a genuine commitment to reproductive health for all women, **regardless of economic status.**”

Abortion is a constitutional right. Existing federal and state laws, however, dramatically restrict women’s access to abortion. These laws, including mandatory waiting periods and biased counseling requirements, have negative consequences on a woman’s ability to obtain an abortion, both by erecting hurdles to accessing an abortion and by making it more difficult for doctors to continue to provide services. For poor women, lack of public funding for abortion is one of the most severe barriers to access. Low-income women scramble to obtain funding, often delaying their procedures by days or weeks, or carry their pregnancies to term after failing to raise the needed funds. Beyond the stigma and shame that women may face when deciding to have an abortion, the financial toll and medical complexity of the procedure increase practically daily as women make the necessary logistical arrangements to locate a provider and procure funding. As each day passes, the costs become increasingly unaffordable and the procedure more unattainable. Women struggling to put together the money for an abortion find that, in a matter of weeks, they are forced to undergo a more involved, more expensive, and less widely available second-trimester abortion.

This report exposes the harms perpetrated by the Hyde Amendment—the law that prohibits federal Medicaid dollars from paying for abortion services except in the most extreme circumstances. The interviews with women, abortion clinic counselors, and abortion

Fund staff described in this report offer insight into the struggles that low-income women endure to pay for their abortions, often forgoing basic necessities for themselves and their families and risking their health. In making a case for repeal, this report also discusses the successes and challenges of a few states that allow state funds to cover abortion. The U.S. government has a responsibility to respect and ensure each person’s right to autonomy, particularly the right to make fundamental decisions about childbearing and family, and to access medical services necessary to lead a healthy life. The stories told in this report demonstrate that the government is abdicating its responsibility to poor women by failing to repeal the Hyde Amendment.

FEDERAL AND STATE MEDICAID PROGRAMS AND THE HYDE AMENDMENT

Medicaid is the largest source of funding for medical and health-related services for low-income and indigent people in the United States.¹ Medicaid plays a particularly important role in providing women’s health coverage, especially for women of reproductive age. One in ten American women receives Medicaid, and women comprise more than two-thirds of adult enrollees.² The Hyde Amendment, named after a 1976 rider to the Appropriations Act sponsored by Representative Henry Hyde (R-IL), eliminated federal funding for abortion except where necessary to save a woman’s life. The current version of the amendment prohibits the use of federal Medicaid funds for abortion except

in cases of rape, incest, or endangerment of the life of the pregnant woman.³ Even for women who meet the eligibility criteria imposed by Hyde, receiving Medicaid coverage for abortion in practice is immensely challenging, if not impossible.

States may use their own funds to cover abortion outside of Hyde's restrictive limitations. As of 2010, only 17 states have rejected Hyde, using state funds to ensure women's reproductive health and autonomy.

In states where state funding programs ("state Medicaid") pay for abortion to the same extent as other medical care, referred to in this report as non-discrimination states, the state plays a fundamental role in ensuring that low-income women are able to obtain abortion care. Many challenges remain, however. While some state programs work well and provide sufficient reimbursement to providers, in other states providers often struggle to recoup the costs of treating women enrolled in Medicaid due to low reimbursement rates, long delays in receiving payment and, in some states, a claim submission process that is unique to abortion services. Other barriers to abortion care in these states include the reality that many providers do not accept Medicaid, making it difficult for poor women to find a provider. In addition, narrow Medicaid eligibility rules that exclude many women in need, including immigrants in most states, mean that many low-income women in the non-discrimination states must still turn to abortion Funds for assistance.

HUMAN RIGHTS AND THE HYDE AMENDMENT

Reproductive rights include a woman's right to make fundamental decisions about her life and family, to access the reproductive health services necessary to protect her health, and to decide whether and when to have children. By restricting access to abortion, the Hyde Amendment violates these fundamental human rights for poor and low-income women in the United States. The funding restrictions discriminate against women by singling out and excluding from Medicaid coverage, except in the most extreme circumstances,

a medical procedure that only women need. The Hyde restrictions make it extremely difficult for poor and low-income women to finance abortion services and severely limit their right to reproductive healthcare. Hyde also discriminates against poor and low-income women and women of color by disproportionately undermining their reproductive health choices.

THE IMPACT OF FUNDING RESTRICTIONS

Medicaid funding restrictions for abortion force women to continue unwanted pregnancies, cause them to delay receiving abortions, and impose additional financial strains on low-income and indigent women. Financing an abortion is the most reported obstacle to obtaining one, often forcing women to delay their abortion until well into the second trimester, at which point it is both a more involved procedure and a significantly more costly one. Aside from causing delays, paying for an abortion imposes financial strain on Medicaid-eligible women, who report forgoing basic necessities, borrowing money, or selling or pawning personal and household items. Women who are unable to obtain funding are forced to continue their unwanted pregnancies. The economic downturn has also influenced the impact that funding restrictions have on poor women by increasing demand for abortion and the need for financial assistance to cover the procedure. In 2008, 42% of women obtaining abortions lived below the federal poverty level, an increase of almost 60% from 2000.⁴

PUBLIC FUNDING FOR ABORTION

The accessibility of public funding for abortion varies widely across states, not only because of the variation in states' policies regarding whether to fund abortion in line with the Hyde Amendment or more expansively, but also because of differences in how state Medicaid programs operate and process applications for Medicaid funds. These differences mean that it can be far more difficult for a woman in one state to secure funding for abortion, and thus to exercise her right to access a safe and legal abortion, than it might be for a similarly situated woman in a neighboring state.

RESPECT FOR THE REPRODUCTIVE HEALTH AND AUTONOMY OF ALL WOMEN REGARDLESS OF ECONOMIC STATUS

As demonstrated by the findings in this report, poor and low-income women are harmed, some grievously, by the Hyde Amendment's discriminatory restrictions prohibiting Medicaid funding for abortion. By restricting these women's access to abortion, the law violates their fundamental human rights and denies them their reproductive autonomy. Free from these restrictions, women throughout the country would be empowered to make their own decisions regarding what is best for themselves and their families. After 34 years, repealing the Hyde Amendment offers the United States a critical opportunity to restore women's equality by making a genuine commitment to reproductive health for all women, regardless of economic status.

RECOMMENDATIONS

For nearly three and a half decades, poor and low-income women in the United States have been the victims of political discrimination waged against their reproductive autonomy.⁵ The U.S. government, state governments, the United Nations, national organizations representing the medical community, reproductive healthcare providers, and advocacy organizations need to take urgent action to repeal the Hyde Amendment and permit the use of federal and state Medicaid funds for abortion.

- The federal government should repeal the Hyde Amendment and other restrictions that prohibit federal funding of abortion.
- State governments should ensure that, where restrictive state laws currently require that abortions be covered by Medicaid in certain circumstances, funding is available to the same extent that state funds are available for other medical procedures.
- In states that recognize an obligation to fund abortions beyond the limited instances provided for under the Hyde Amendment, state governments

should take concrete steps to improve procedures for processing Medicaid claims for abortion to ensure that providers are able to obtain reimbursement for covered procedures.

- The United Nations' human rights bodies and special rapporteurs should speak out against restrictions on public funding for reproductive health services as fundamental human rights violations.
- Reproductive healthcare providers should educate patients about their right to access Medicaid-funded healthcare, and, if possible, become approved Medicaid providers and submit claims to state Medicaid offices for reimbursement for all reproductive healthcare services covered in their state.
- National organizations representing the medical community should adopt resolutions and guidelines supporting the inclusion of reproductive healthcare, including abortion, as an integral part of a comprehensive U.S. healthcare program.
- Advocacy organizations and members of the public should advocate for the repeal of the Hyde Amendment and federal and state laws that impose restrictions on public funding for abortion and other reproductive health services.