



Health Care Reform

The Senate Abortion Restriction

In December 2009, on the heels of the House of Representatives passing a health care reform bill that includes an abortion coverage ban, the Senate passed its reform measure. The Senate's bill, while different from the House's, inexcusably and impermissibly restricts coverage for abortion. Women throughout the country stand to lose if either provision is included in the final law. When the two chambers reconcile the differences between these bills, they should remove both the Senate and House abortion restrictions and instead ensure that real access to abortion coverage is included in the final health care legislation that they deliver to President Obama.

1. The Senate abortion language, like the House's abortion coverage ban, puts politics before a woman's health.

- The Senate bill invites states to ban abortion coverage in their insurance exchanges. A state prohibition would affect all of the private plans participating in that state's exchange and all women getting insurance through that state's exchange, whether or not they receive federal subsidies.
- Under the Senate bill, women would be required to make dual health care payments to ensure that they have the coverage they need. Anyone who enrolls in an insurance plan that covers abortion will have to make two separate payments – one to pay for the insurance cost of the abortion services in the plan and another to cover the rest of the covered services. This requirement applies to all individuals getting insurance through the exchange, whether or not they receive federal subsidies.
- The Senate's dual payment system is very far from the status quo. To our knowledge, never before has the federal government injected itself in the private insurance marketplace in this manner and required individuals to pay separately for coverage of a specific medical procedure.
- Although we may not all feel the same way about abortion, we should respect and support a woman's decision. Everyone's circumstances and health care needs are different; a woman facing an unintended or medically catastrophic pregnancy should be able to decide what is best for herself and her family.

2. The Senate abortion language, like the House's, jeopardizes the abortion coverage millions of women currently have. The provision could leave women in a worse position than before health care reform.

- Initially, the insurance exchange will be open to the uninsured and underinsured, and companies with 25 or fewer employees.¹ Over the next several years, that number will grow to include businesses with up to 100 employees, and perhaps more, that employ millions of women.
- At minimum, almost 50 percent of covered workers, and as many as 87 percent of employer-based insurance policies, currently cover abortions.²
- Some states may ban abortion in their exchanges, leaving women in those jurisdictions unable to obtain insurance plans in the exchange with abortion coverage. This will be true even if women receive no federal health care subsidy. As a result, women stand to lose coverage they already have.
- Even if states do not impose an out-right ban on abortion coverage in the exchange, the Senate abortion language creates significant disincentives and insurers faced with the bureaucratic requirements imposed under the bill may be unwilling to offer abortion coverage.³ Women throughout the nation may then find themselves in an exchange that offers no option for abortion coverage.
- Without abortion coverage, women and their families would be exposed to significant financial risk, amounting to thousands of dollars, should, for example, a woman need to terminate a pregnancy because of a severe fetal anomaly or because her health is threatened by the pregnancy. Such coverage restrictions could force some women to continue a dangerous or unviable pregnancy.

3. The Senate bill stigmatizes abortion and isolates a woman in need of abortion care.

- A woman's privacy is at risk; only those purchasing a plan with abortion coverage will need to make two payments. We do not ask men seeking treatment for prostate

¹ According to the Congressional Budget Office, 30 million people will be covered through plans offered in the exchange; 3 million will receive no subsidies and 9 million will have coverage through plans purchased in the exchange by their employer. *See* Letter to Rep. John Dingell from Congressional Budget Office, November 6, 2009.

² Two major studies, by the Guttmacher Institute in 2002 and the Kaiser Family Foundation in 2003, suggest that most Americans who are insured through employer-based plans have coverage for abortion. *See* Guttmacher Institute Memo on Insurance Coverage of Abortion, July 22, 2009 (updated September 18, 2009). Available at <http://www.guttmacher.org/media/inthenews/2009/07/22/index.html>.

³ *See* Sara Rosenbaum et al, *Abortion provisions in the Senate Managers Amendment*, The George Washington University School of Public Health and Health Services (December 21, 2009).

cancer to make two payments to receive coverage; we should no more compromise women's privacy concerning abortion.

- In many cases, a woman's access to abortion coverage will depend upon her spouse or employer who may not want to make a separate payment for abortion coverage because they object to the service, because they see no need, or because they find the dual-check requirement burdensome.
- In demanding a separate payment for abortion coverage, the Senate bill fails to treat abortion as part of basic health care and instead marginalizes and diminishes its importance to a woman's health and life.

4. **The Senate bill discriminates against medical professionals who provide abortion care.**

- The bill prohibits health plans from discriminating against medical professionals or facilities that are unwilling to provide abortions. However, the bill has no similar protections for medical professionals and facilities that provide abortion care. Medical professionals should not be subject to discrimination for providing safe, legal, and recognized medical care.
- Treating medical professionals differently based on whether they will perform abortions is patently unfair. This imbalanced approach is purely ideological and should be rejected.

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