

United States House of Representatives Committee on the Judiciary
Subcommittee on the Constitution and Civil Justice

“The Ultimate Civil Right:
Examining the Hyde Amendment
and the Born Alive Infants Protection Act”

Testimony of
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Mr. Chairman and Distinguished Members of this Subcommittee:

Thank you for the opportunity to appear before you today to speak about the Hyde Amendment, one of our nation’s most harmful and shameful policies; one that singles out low-income women and interferes with their personal decision about whether to end a pregnancy.

My name is Kierra Johnson, and I’m here as the Executive Director of URGE: Unite for Reproductive and Gender Equity, an organization that is mobilizing the diverse, upcoming generation of leaders to promote and protect reproductive rights, sexual health & gender justice, and also as a steering committee member of All* Above All, a campaign of more than 115 reproductive health, rights and justice organizations united to lift the bans on abortion coverage.

We envision a world in which each of us has the tools we need to pursue our dreams and build the families and futures we desire. For this to be a reality, a woman must have access to the full-spectrum of reproductive health care, including abortion.

Safe, quality abortion services should be available regardless of a woman’s ability to pay, her source of insurance, or where she lives. However, since the passage of the Hyde Amendment in 1976, which bars federal Medicaid funds from covering abortion, the appropriations process has been used as a vehicle to systematically deny meaningful abortion access to poor women.

THE HYDE AMENDMENT IS A POLITICAL TOOL TO PUSH ABORTION OUT OF REACH

Those who oppose abortion have tried and failed to make it illegal, so instead they have worked to make it almost impossible to obtain. Thus the Hyde Amendment was the first in a long line of restrictions after the *Roe v. Wade* Supreme Court decision intended to interfere in women’s health decision around ending a pregnancy.

This isn't speculation. The policy's original author Rep. Henry Hyde stated, "I certainly would like to prevent, if I could legally, anybody having an abortion: a rich woman, a middle-class woman or a poor woman. Unfortunately, the only vehicle available is the... Medicaid bill."

And this policy has a dramatic reach:

- Approximately 1 in 6 women of reproductive age (15-44) are enrolled in Medicaid.¹
- Sixty percent (60%) of women of reproductive-age enrolled in Medicaid live in states that withhold insurance coverage for abortion except in limited circumstances.²
- Fifty-two percent (52%) of women of reproductive-age enrolled in Medicaid and subject to abortion coverage restrictions are women of color.³
- Three-fourths of abortion patients were low income as of 2014 with 49% living at less than the federal poverty level, and 26% living at 100–199% of the poverty level.⁴

Not only has Congress passed the Hyde Amendment every year since 1976, but they've also passed additional abortion coverage restrictions that target women based on their source of insurance or care. Hyde-like restrictions have been extended to deny coverage from women enrolled in Medicaid, Medicare and Children's Health Insurance Program; federal employees enrolled in the Federal Employees Health Benefits Plan; Peace Corps volunteers; members of our Armed Forces and their dependents; Native Americans covered by the Indian Health Service; and women being held in federal prisons or detention centers, including those detained for immigration purposes. As a result of the Hyde Amendment and its progeny, nearly 29 million women of reproductive age do not have insurance coverage for abortion.⁵

Most recently, in one of the first acts of the 114th Congress, abortion opponents in the House passed H.R. 7, a sweeping ban on abortion coverage that withholds abortion coverage from virtually all women in the U.S. and takes the unprecedented step of inserting abortion politics into tax policy.

In addition to these federal bans, policymakers in 25 states have restricted coverage of abortion in insurance plans offered through health exchanges and policymakers in 10 of these states have also banned coverage in all private plans.⁶ The unprecedented number of abortion restrictions passed across the country – 334 restrictions since 2010⁷ – only multiply the hardship of coverage bans.

It is clear that each restriction, each ban, is intended by anti-abortion politicians to further their ultimate goal of pushing abortion out of reach for as many people as possible.

¹ Unpublished tabulations using the 2012 and 2013 Current Population Survey (CPS), March Supplements. Via Guttmacher Institute's State Data Center Table Creator. Available at <http://www.guttmacher.org/datacenter/table.jsp>

² Boonstra, H.D., "Abortion in the Lives of Women Struggling Financially: Why Insurance Coverage Matters." Guttmacher Policy Review. Vol. 19 2016. Guttmacher Institute. Jul 2016. Available at <https://www.guttmacher.org/about/gpr/2016/07/abortion-lives-women-struggling-financially-why-insurance-coverage-matters>

³ Ibid

⁴ Jerman, J., Jones R., and Onda T. "Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008." Guttmacher Institute. May 2016. Available at https://www.guttmacher.org/sites/default/files/report_pdf/characteristics-us-abortion-patients-2014.pdf

⁵ Williamson, H., and Birchler, S. "Infographic: Pass the EACH Woman Act." Center for American Progress. 8 Oct 2015. Available at <https://www.americanprogress.org/issues/women/news/2015/10/08/122895/infographic-pass-the-each-woman-act/>

⁶ "State Policies in Brief: Restricting Insurance Coverage of Abortion (as of June 1, 2016)." Guttmacher Institute. Jun 2016. Available at https://www.guttmacher.org/sites/default/files/state_policy_overview_files/spib_rica.pdf

⁷ Nash, E., Gold RB., Ansari-Thomas, Z., Cappello, O., and Mohammed, L. "Laws Affecting Reproductive Health and Rights: State Trends at Midyear, 2016." Guttmacher Institute. 21 Jul 2016. Available at: <https://www.guttmacher.org/article/2016/07/laws-affecting-reproductive-health-and-rights-state-trends-midyear-2016>

THE HARMFUL IMPACT OF THE HYDE AMENDMENT AND ABORTION COVERAGE BANS

For those who are struggling to make ends meet – disproportionately women of color, low-income women, young people, immigrant women – coverage for abortion can mean the difference between getting the health care they need and being denied that care.

- Studies show that 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.⁸
- When a woman is living paycheck to paycheck, denying coverage for an abortion could push her deeper into poverty. Studies show that a woman who seeks an abortion but is denied is more likely to fall into poverty than one who is able to get an abortion.⁹
- Women with lower socioeconomic status – specifically those who are least able to afford out-of-pocket medical expenses – already experience disproportionately high rates of adverse health conditions. Denying access to abortion care only exacerbates existing health disparities.¹⁰

Those who do find a way to end their pregnancies often do so at great personal cost. Many are forced to delay their procedure for as long as two to three weeks while they pull together several hundred dollars to pay for the care they need, with the price of the procedure increasing as they raise these funds.¹¹

It may not seem like a big expense to a Member of Congress, but finding several hundred dollars in these tough financial times can be difficult. In one study, out-of-pocket costs for an abortion were equivalent to more than one-third of monthly personal income.¹² For many people, abortion care costs more than their monthly rent. Studies show that most Americans do not have enough savings to cover a financial emergency,¹³ which means they have to borrow, sell or pawn personal items, or divert money from another financial obligation to cover emergencies such as an unexpected health care need.

Just listen to the voices of those who have felt the impact of these bans. Kendall from Colorado says, “I found out I was pregnant and was deceived by the center I visited because it ended up being an anti-choice crisis pregnancy center. After that I struggled for weeks to find resources and to come up with the last \$200. I have been anxious, frantic, and terrified. My health has declined and I believed there was little to no hope until today when I was finally able to access an abortion.”

A 27-year-old woman recounted, “Here is what it took to gather the money for my abortion. It was hard, it took me three weeks.... The payday loan [I took out for my abortion] wiped out my entire account.... I got a three-day notice on my apartment door, and things started to spiral out of control and then when I became evicted I lived in a shelter temporarily.”

⁸ Henshaw, S.K., Joyce T., Dennis, A., Finer, L.B., and Blanchard, K. “Restrictions on Medicaid Funding for Abortions: A Literature Review.” Guttmacher Institute. Jul 2009. Available at <http://www.guttmacher.org/pubs/MedicaidLitReview.pdf>

⁹ Foster, D.G., Roberts, S.C.M., and Mauldon, J., “Socioeconomic consequences of abortion compared to unwanted birth.” abstract presented at the American Public Health Association annual meeting. Oct 2012. Available at <https://apha.confex.com/apha/140am/webprogram/Paper263858.html>

¹⁰ Ibid

¹¹ Boonstra, H.D. “Insurance Coverage of Abortion: Beyond the Exceptions for Life Endangerment, Rape and Incest.” Guttmacher Policy Review. Vol. 16, No. 3, 2013. Available at <http://www.guttmacher.org/pubs/gpr/16/3/gpr160302.html>

¹² Roberts S.C., Gould, H., Kimport, K., Weitz, T.A., and Foster, D.G. “Out-of-pocket costs and insurance coverage for abortion in the United States.” Women’s Health Issues. Mar-Apr 2014. Abstract available at <http://www.ncbi.nlm.nih.gov/pubmed/24630423>

¹³ “Majority of Americans do not have money available to meet an unplanned expense.” News Release. National Foundation for Credit Counseling. 5 Aug 2011. Available at <https://www.nfcc.org/majority-of-americans-do-not-have-money-available-to-meet-an-unplanned-expense>

ENSURING PERSONAL DECISION MAKING FOR EACH OF US

The time for these policies that visit indignity and deprivation on women, including Black women, is over. Last year, Representatives Barbara Lee, Diana DeGette and Jan Schakowsky made history by introducing the Equal Access to Abortion Coverage in Health Insurance Act, known as the EACH Woman Act (H.R. 2972). This bold legislation would reverse the Hyde Amendment and related abortion coverage and care restrictions.

The EACH Woman Act makes a meaningful policy change for women and their families, and creates two important standards for reproductive health:

- First, it sets up the federal government as a standard-bearer, ensuring that every woman who receives care or insurance through the federal government will have coverage for abortion services. The EACH Woman Act restores abortion coverage to those enrolled in a government health insurance plan (i.e., Medicaid, Medicare), including those who live in the District of Columbia; enrolled in a government-managed health insurance program (i.e., FEHBP, TRICARE) due to an employment relationship; or who receive health care from a government provider or program (i.e., Indian Health Services, the Federal Bureau of Prisons, the Veterans Administration).
- Second, it prohibits political interference with decisions by private health insurance companies to offer coverage for abortion care. Federal, state and local legislators will not be able to interfere with the private insurance market, including the insurance marketplaces established by the Affordable Care Act, to prevent insurance companies from providing abortion coverage.

Support for the EACH Woman Act is growing every day. To date, more than 120 members of Congress have united to co-sponsor the EACH Woman Act and 78 national, state and local organizations – including abortion funds, labor unions, groups representing Black, Latina, and Asian American and Pacific Islander (AAPI) communities, and youth organizations – have shown their support for the EACH Woman Act. Further, polling released in July 2015¹⁴ and again this year¹⁵ shows a majority of voters support lifting the Hyde Amendment and ensuring that Medicaid covers all pregnancy-related care, including abortion. Support for lifting the Hyde Amendment is especially strong among Millennials, African Americans, and Hispanics.

In sum, a right without access is no right at all. In the EACH Woman Act, I see the transformational power of centering the lives, struggles, and aspirations of those for whom the legal right to a safe abortion has not yet been made a reality.

But that reality is within our reach. We can work together to build a future where women's decisions are treated with respect and we can get the healthcare we need with dignity and compassion.

¹⁴ "Polling on Repealing the Hyde Amendment." Hart Research Associates. Jun 2015. Available at <http://allaboveall.org/wp/wp-content/uploads/2016/06/Polling-Memo.pdf>

¹⁵ "Battleground Polling on Repealing the Hyde Amendment." Hart Research Associates. Sep 2016 Available at http://allaboveall.org/wp/wp-content/uploads/2016/09/AllAboveAll_Hart_Battleground-Poll-2016-Memo.pdf