National Latina Institute for Reproductive Health

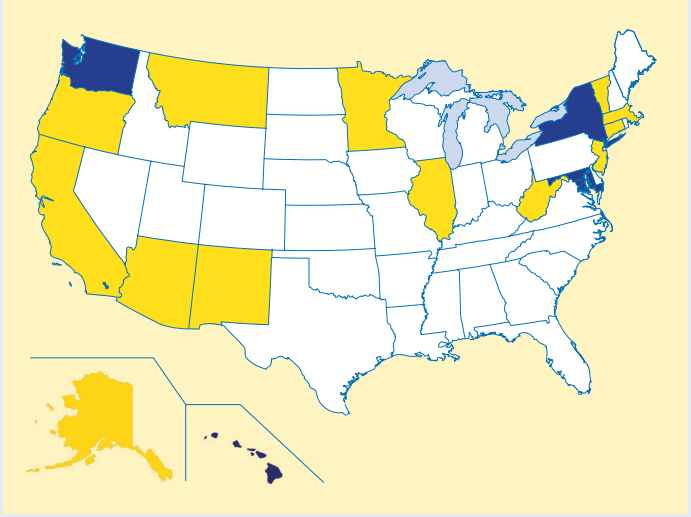
FACT SHEET
November 2011

HYDE AMENDMENT

WHAT IS THE HYDE AMENDMENT?

The Hyde Amendment is a provision in the federal budget restricting Medicaid funding for abortions. The Hyde Amendment was first implemented by Congress in 1977, four years after the Supreme Court legalized abortion in *Roe v. Wade*. Congress has renewed the Hyde Amendment every year for the last four decades. The original Hyde Amendment did not allow Medicaid to cover abortion with the exception of cases of rape, incest, and life endangerment. The following year, Congress added an exception for "severe and long-lasting physical health danger." However, Congress removed from the Amendment the "physical health danger" exception in 1979 and the rape and incest exceptions in 1981. This narrow version of the Hyde Amendment remained in place until 1993, when the federal government expanded Medicaid funding for abortion to include cases of rape, incest and life endangerment. In 1997, the Hyde Amendment was modified yet again. At that point, Congress restricted the life endangerment exception to "a physical disorder, physical injury or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself.[1]" In March of 2010, President Obama reaffirmed the Hyde Amendment by signing an Executive Order under which the restrictions will also go into effect for the health insurance exchanges established under the Patient Protection and Affordable Care Act.

STATE ABORTION FUNDING



State funds abortions under Medicaid voluntarily

State funds abortions under Medicaid pursuant to a court order

HOW MANY STATE MEDICAID PROGRAMS COVER ABORTION?

States have the option of providing public funding for abortion in situations beyond the narrow Hyde Amendment exceptions as long as the state pays for the abortions through state-funded programs. Nevertheless, public funding for abortion at the state level is extremely limited. As of 2010, 17 states provide public funding for low-income women seeking abortions.[2] Only four of these states voluntarily fund abortions for low-income women beyond the Hyde Amendment; the remaining 13 states are required to do so by court order.[2] A total of 32 states provide public funding for abortion in the limited cases of life endangerment, incest or rape, although a few of these states have exceptions for cases of fetal anomalies or severe health problems.[2] There is evidence that women face significant, often bureaucratic, barriers accessing Medicaid coverage for their abortions even in cases of rape, incest and life endangerment.[3]

HAS THE HYDE AMENDMENT BEEN CHALLENGED IN COURT?

Yes. Unfortunately, constitutional challenges to the law have been unsuccessful. In 1980, the Supreme Court held in *Harris v. McRae*, 448 U.S. 297 (1980)[4] that under the U.S. Constitution, federal and state governments have no obligation to provide funds for abortion services even though they pay for prenatal and maternity care for poor women.

HOW HAS THE HYDE AMENDMENT AFFECTED LATINAS?

The Hyde Amendment has directly affected low-income Latinas' access to safe, legal abortions. In fact, Rosie Jimenez, a Latina college student on Medicaid who was unable to pay for a legal abortion, became the first woman to die from a back-alley abortion after the passage of the Hyde Amendment.[4] Latinas have been especially affected by the Hyde Amendment because many low-income Latinas rely on Medicaid for their health care coverage,[5] and a number of states with high concentrations of Latinos, such as Texas and Florida, limit their abortion funding to the narrow exceptions under the Hyde Amendment.

Over five million Latinas depend on Medicaid for their health care, approximately two million of whom are of reproductive age.[5] Without public funding, many of these women are left on their own to try to find ways to pay for an abortion. Women make serious sacrifices to gather money for the procedure, using resources that are needed to pay for rent, bills and food. Often, low-income Latinas find it difficult to raise the money quickly and are forced to have the procedure after the first trimester,[1,6] which places them at higher risk for health complications and increases the cost of the procedure. Other Latinas end up carrying their unwanted pregnancies to term. Overall, it is estimated that due to lack of funding, between 18% and 35% of women who would have had an abortion continued their pregnancies.[1]

Most tragically, the inability to access safe, legal abortions often leaves low-income Latinas few options and they may seek dangerous home remedies and pharmaceuticals in order to self-induce abortions. Recent news stories[7] and reproductive health studies[8] have reported on the use of off-label pharmaceuticals or unsafe methods among Latinas to terminate a pregnancy, and some immigrant Latinas have been criminalized[9] for self-inducing with the drug Misoprostol when faced with economic, cultural, and linguistic barriers. These cases highlight the dire situation in which many Latina women and immigrants find themselves without access to funding for a safe and legal procedure. The Hyde Amendment exacerbates these barriers for low-income Latina women who are dependent on Medicaid for their healthcare.

Undoubtedly, with approximately 1 in 5 Latinas of reproductive age enrolled in Medicaid,[5] the Hyde Amendment has had a long-lasting, chilling effect on the ability of low-income Latinas to access abortion services. For some Latinas, especially those who are poor and uninsured, financial barriers make abortion as inaccessible as if it was still illegal. Lack of public funding for abortion will continue to be a major obstacle for poor Latinas until the Hyde Amendment restrictions are lifted.

ENDNOTES

1 Boonstra HD. The heart of the matter: Public funding of abortion for poor women in the United States. *Guttmacher Policy Review.* 2007; 10 (1): 12-16.

2 Guttmacher Institute. State policies in brief: State funding of abortion under Medicaid. Washington, DC: Guttmacher Institute; 2010. Available at: http://www.guttmacher.org/statecenter/spibs/spib_SFAM.pdf. Accessed on: June 16, 2010.

3 Kacanek D, Dennis A, Miller K, Blanchard K. Medicaid funding for abortion: Providers' experiences with cases involving rape, incest and life endangerment. *Perspectives on Sexual and Reproductive Health.* 2010; 42(2):79-86.

4 Center for Constitutional Rights, American Civil Liberties Union, Planned Parenthood of New York City. Harris v. McRae 1980. Available from: http://ccrjustice.org/ourcases/past-cases/harris-v.-mcrae. Accessed August 19, 2010.

5 US Census Bureau. Current Population Survey, Annual Social and Economic Supplement, 2008. Available at: http://www.census.gov/prod/2009pubs/p60-236.pdf

6 Boonstra HD, Benson Gold R, Richards CL, Finer LB. Abortion in women's lives. New York: Guttmacher Institute; 2006.

7 Lee J, Buckley C. For Privacy's Sake, Taking Risks to End Pregnancy. *The New York Times.* 2009, January 4. Available at:http://www.nytimes.com/2009/01/05/nyregion/05abortion.html?hp=&pagewanted=all. Accessed June 4, 2010.

8 Morales H, Breitbart V, Betances B, Vertin M, García Y, Brown J, et al. Con un pie en dos islas: The sexual and reproductive health of Dominican women in Santo Domingo and New York City. New York: Margaret Sanger Center International at Planned Parenthood of New York City; 2008. Available at: www.plannedparenthood.org/nyc/files/NYC/Dominican_Women.pdf

9 Ballow BR, Ryan A. DA: Young mother botched abortion with ulcer medication. *The Boston Globe.* 2007, January 24. Available at: http://www.boston.com/news/globe/city_region/breaking_news/2007/01/da_young_mother_1.html. Accessed Aug 20, 2010.