

## ***National Partnership for Women & Families***

### ***It's Down to the Wire!*** Tell Congress to Reject Efforts to Use Health Care Reform to Further Restrict Access to Abortion Care

Abortion coverage is one of the few remaining major sticking points in current health care reform negotiations. Right now there is an effort to iron out the final differences between the House and Senate versions of the bill. Within the next few days, members are expected to agree on a final bill. Unfortunately, the starting point for negotiations on abortion coverage is not a good one – making it critical that constituents weigh in right now!

Both the House and Senate bills not only continue the ban on federal funds being used to pay for abortion services, but go much further to create unnecessary barriers to abortion care, stigmatize abortion coverage, and take away private insurance coverage women currently have. The anti-choice Stupak (D-MI) amendment approved as part of the House bill effectively bans private coverage of abortion services in the national exchange. The equally problematic Nelson (D-NE) language approved as part of the Senate bill erects administrative barriers that are sufficiently onerous for insurers and individuals, who are likely to drop coverage as a consequence.

The practical impact of each provision is similar – each could dramatically restrict access to abortion coverage in the health care exchange – even when coverage is paid for with private funds. This means that many women could lose access to abortion coverage that is available today in most private insurance plans.

The National Partnership is strongly urging Congress to reject the House-passed abortion coverage provision outright and to insist that the Senate-passed provision be modified to remove the administrative barriers that will lead individuals and businesses participating in the exchange to forgo coverage that most privately insured women currently have.

#### **Urge Congress to support women by:**

- *Rejecting the unacceptable abortion exclusion in the House bill and the unworkable provision in the Senate bill – both of which leave women worse off than they are today.*
- *Rejecting efforts to use health care reform as a means of further restricting access to abortion care.*

#### **Background: Abortion Coverage in Health Care Reform**

The bills brought to the floor for consideration in each chamber already included abortion coverage language that prohibited federal funds from being used for abortion

but still allowed women to use their own funds to purchase the health coverage they need. The language was consistent with the federal restriction that we have long opposed known as the “Hyde amendment,” which prohibits federal Medicaid funds from being used to pay for coverage of abortion services except in cases of rape, incest, or life endangerment.

Inclusion of the “compromise” language was a significant concession made by pro-choice Members, most of whom do not support restrictions on abortion access. In order to advance health care reform, they agreed to keep the bills “abortion neutral,” meaning that they agreed not to advance a pro-choice or anti-choice agenda. However, on the way to final passage, the bills were amended and the health insurance reform bills *passed* by the Senate and House each contain unacceptable provisions related to health insurance coverage of abortion care.

**The House:** The House-passed bill includes a provision that imposes an unprecedented and broad restriction on access to health insurance plans in the newly-created exchange, which is tantamount to a ban. This language was added when the House voted 240-194<sup>1</sup> to accept an amendment authored by Reps. Bart Stupak and Joe Pitts (R-PA) that stripped much of the abortion compromise language in the base bill and replaced it with language that prohibits any health plan in the “exchange” that receives federal funds from offering abortion coverage beyond the Hyde exceptions. Plans could offer abortion coverage only as a supplemental policy (“rider”) for women to purchase with their own private funds. Private plans in the exchange that do not accept subsidies may offer abortion coverage, but if they do, they must also offer a plan that is otherwise identical but excludes abortion coverage.

Given that over 80 percent of individuals buying insurance through the exchange are expected to be eligible for federal subsidies (aka affordability credits) it is unlikely that insurance companies will go through the expense and administrative hassle of creating and offering plans that differ only in the inclusion of abortion coverage. Thus, the practical effect of the Stupak/Pitts provision is that abortion coverage paid for with private funds would be banned in the health insurance exchange— both for women eligible for affordability credits AND for women and employers paying 100% of health costs.

Stupak’s amendment language, which allows insurers to offer abortion riders (separate policies that would just cover this one service) – has gaping flaws as well. In addition to raising privacy issues (women having to declare their future intent to have an abortion), it ignores the fundamental fact that women do not plan to have unintended pregnancies or pregnancies that go awry. There also is no evidence to suggest that insurers would offer these rider policies given the probable slight demand. In fact, in the five states that prohibit coverage of abortion except via such riders coverage is unavailable as a practical matter.

**The Senate:** In seeking to ensure that federal funds would not be used to pay for abortion care, the Senate adopted an onerous provision that was offered by anti-choice Senator Ben Nelson (D-NE), who secured the language as part of a deal to cast the 60<sup>th</sup> vote in favor of health reform. This language requires every enrollee in health plans participating in the exchange to write two separate premium checks – one for abortion care and one for everything else – and then requires health plans to create separate accounts for the payments they receive. This unworkable provision creates enormous administrative burdens for individuals and health plans alike and further stigmatizes abortion care. Although the Senate language is perceived to be a modest improvement over the House-passed Stupak language, we remain very concerned about the practical impact of the Nelson requirements. It is highly unlikely that insurance companies will be willing to follow such an administratively cumbersome system and may find it easier not to offer abortion coverage at all.

**Brief Timeline: Health Care Reform Legislation**

**U.S. Senate** voted 60-39 on Dec. 24, 2009 to approve H.R. 3590, the “Patient Protection and Affordable Care Act.”

**U.S. House of Representatives** voted 220-215 on Nov. 7, 2009 to approve H.R. 3962, the “Affordable Health Care for America Act.”

**Senate Finance Committee** voted 14-9 on October 13, 2009 to approve S. 1796, “America’s Healthy Futures Act.”

**House Energy & Commerce Committee** voted 31-28 on July 31, 2009 to approve H.R. 3200, “America’s Affordable Health Choices Act.”

**House Education & Labor Committee** voted 26-22 on July 17, 2009 to approve H.R. 3200.

**House Ways & Means Committee** voted 23-18 on July 17, 2009 to approve H.R. 3200.

**Senate HELP Committee** voted 13-10 on July 15, 2009 to approve S. 1679, the “Affordable Health Choices Act.”

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<sup>1</sup> [Roll Call Vote 884; Nov. 7, 2009] 64 Democrats voting anti-choice on Stupak amendment (no Republicans voted pro-choice): Altmire (PA), Baca (CA), Barrow (GA), Berry (AR), Bishop (GA), Boccieri (OH), Boren (OK), Bright (AL), Gordon (TN), Griffith (AL), Hill (IN), Holden (PA), Kanjorski (PA), Neal (MA), Oberstar (MN), Obey (WI), Ortiz, Perriello (VA), Peterson (MN), Pomeroy (ND), Rahall (WV), Reyes (TX), Rodriguez (TX), Cardoza (CA), Carney (PA), Chandler (KY), Childers (MS), Cooper (TN), Costa (CA), Costello (IL), Cuellar (TX), Dahlkemper, Davis (AL), Davis (TN), Donnelly (IN), Doyle (PA), Driehaus (OH), Ellsworth (IN), Etheridge (NC), Kaptur (OH), Kildee (MI), Langevin (RI), Lipinski (IL), Lynch (MA), Marshall (GA), Matheson (UT), McIntyre (NC), Melancon (LA), Michaud (ME), Mollohan (WV), Murtha (PA), Ross (AR), Ryan (OH), Salazar (CO), Shuler (NC), Skelton (MO), Snyder (AR), Space (OH), Spratt (SC), Stupak, Tanner (TN), Taylor (MS), Teague (NM), Wilson (OH).