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Abortion Funding in the New Health Care Reform Act

Congress and the public agree that the federal government should not fund elective abortions. For over three decades this policy has been reflected in the Hyde amendment to the Labor/HHS appropriations bill and many similar laws. In key respects the newly enacted “Patient Protection and Affordable Care Act” (henceforth “the Act”) does not follow this longstanding policy:

- **Federal funds in the Act can be used for elective abortions.** For example, the Act authorizes *and appropriates* \$7 billion over five years (increased to \$9.5 billion by the Health Care and Education Reconciliation Act of 2010) for services at Community Health Centers. These funds are not covered by the Hyde amendment (as they are not appropriated through the Labor/HHS appropriations bill governed by that amendment), or by the Act’s own abortion limitation in Sec. 1303 (as that provision relates only to tax credits or cost-sharing reductions for qualified health plans, and does not govern all funds in the bill). So the funds can be used directly for elective abortions.
- **The Act uses federal funds to subsidize health plans that cover abortions.** Sec. 1303 limits only the direct use of a federal tax credit specifically to fund abortion coverage; it tries to segregate funds *within* health plans, to keep federal funds distinct from funds directly used for abortions. But the credits are still used to pay overall premiums for health plans covering elective abortions. This violates the policy of current federal laws on abortion funding, including the Hyde amendment, which forbid use of federal funds for any part of a health benefits package that covers elective abortions. By subsidizing plans that cover abortion, the federal government will expand abortion coverage and make abortions more accessible.
- **The Act uses federal power to force Americans to pay for other people’s abortions even if they are morally opposed.** The Act mandates that insurance companies deciding to cover elective abortions in a health plan “*shall... collect from each enrollee* in the plan (without regard to the enrollee’s age, sex, or family status) a separate payment” for such abortions. While the Act says that one plan in each exchange will not cover elective abortions, every other plan may cover them -- and everyone purchasing those plans, because they best meet his or her family’s needs, will be required by federal law to fund abortions. No accommodation is permitted for people morally opposed to abortion. This creates a more overt threat to conscience than insurers engage in now, because in many plans receiving federal subsidies everyone will have to make separate payments solely and specifically for other people’s abortions. Saying that this payment is not a “tax dollar” is no help if it is required by government.
- **The solution is to follow current law.** The Stupak/Pitts provision in the House-passed health bill (also offered but rejected in the Senate as the Nelson/Hatch/Casey amendment) would have solved these problems by following longstanding current laws such as the Hyde amendment: No funds authorized or appropriated in the entire bill may be used for elective abortions or health plans that cover them. People would not be forced to pay for other people’s abortions, and those who want abortion coverage could buy it separately without using federal funds. Legislation to maintain this longstanding federal precedent is still needed, to ensure that health care reform will truly expand life-affirming health care and not abortion.

(For more in-depth analysis of the Act on these issues, and of President Obama’s executive order issued after its enactment, see www.usccb.org/healthcare/03-25-10Memo-re-Executive-Order-Final.pdf.)