



# Senate and House Health Reform Bills Change Abortion Status Quo

## Changes in Conference Needed to Preserve Abortion Neutrality

Jessica Arons | January 14, 2010

Opponents and supporters of abortion rights agreed early on, in theory, to maintain the “status quo” with “abortion neutral” health care legislation. The idea was that health care reform is not the appropriate place to continue the fight over abortion and neither side should attempt to use health care reform as a vehicle to further expand or restrict access to abortion.

Unfortunately, neither health reform bill preserves the status quo on abortion. The Stupak Amendment in the House bill is more restrictive than the Manager’s Amendment to the Senate bill, but both impose new and unprecedented restrictions on abortion coverage in private insurance plans. Specifically:

- Under current law, federal money cannot be spent on an abortion unless it threatens the woman’s life or results from rape or incest. However, there are no federal restrictions on abortion coverage in private health plans and 87 percent of typical employer plans offer abortion coverage.
- Under the Senate bill private insurance companies would have to separate private premiums from federal subsidies and only use the former to pay for abortion services to ensure that no federal money would be spent on abortion beyond what is currently allowed. State insurance commissioners would have to make sure companies in their state comply with the segregation requirements. Despite these precautions insurers would also have to charge enrollees two premiums each month—one for abortion coverage and one for all other coverage.
- The House bill goes beyond prohibitions on direct federal funding of abortion and bars federal subsidies to health plans that include abortion services. Abortion could be offered in a health plan only if the plan accepted no federal subsidies, leaving only 14 percent of insurance exchange participants eligible to purchase such a plan, or abortion coverage could be purchased through a separate rider that is unlikely to be sold or purchased.

The two bills must now be reconciled in order for each chamber of Congress to take a final vote on a merged health reform bill. Simple changes to the Senate version, such as removal of the two-premium requirement, would prevent new restrictions on abortion coverage and preserve the status quo. But whether those changes can and will be made remains to be seen.

The chart below explains the current law on abortion funding and shows how each bill would change the status quo.

	Current law	Senate health reform bill (Manager's Amendment)	House health reform bill (Stupak Amendment)
<b>The Hyde Amendment</b>	The <a href="#">Hyde Amendment</a> prohibits federal Medicaid and Medicare money from being spent on most types of abortion, including pregnancies that threaten the woman's health or involve fetal anomalies. Federal money can only be used to pay for an abortion when the pregnancy threatens the life of the woman or results from rape or incest.	The Hyde Amendment restrictions would apply to private insurance plans that participate in any state or national health insurance exchange. In other words, no federal money—including affordability credits, cost-sharing reductions, or other subsidies—could be used to pay for abortions beyond what is currently allowed. Private premiums would be segregated from federal funds and only private premiums could pay for abortion services beyond those allowed by the Hyde Amendment. State health insurance commissioners would have to certify that such plans comply with the segregation requirements.  In addition, each plan that offered coverage of abortion services would have to charge all enrollees two premiums each month—one for the abortion coverage and one for all other coverage.	If there is a public option, it would not be allowed to cover abortion no matter how it is funded.  In any health insurance exchange, no taxpayer money could be used to pay for abortion services or for insurance plans that include abortion services beyond those allowed by the Hyde Amendment, even if those services are paid for entirely with private money. Insurers could only sell plans that include abortion to customers who can pay 100 percent of their premiums without government assistance.
<b>Other government programs</b>	Laws similar to the Hyde Amendment that restrict coverage of abortion services also apply to military employees and their dependents, federal employee health plans, members of the Peace Corps, women in federal prisons and detention centers, and Native Americans who receive health care through the Indian Health Services.	Current restrictions on federal spending for abortion services in government programs would not change.	Current restrictions on federal spending for abortion services in government programs would not change.  It is possible that government <a href="#">payments to employer-sponsored insurance plans</a> outside the exchange might carry the above restrictions.
<b>States</b>	States have the option to use their own money to pay for abortion services beyond what is permitted under the Hyde Amendment, and <a href="#">17 states</a> currently do so. Federal money subsidizes these state Medicaid programs even though they cover abortion.	States are expressly permitted to pass laws prohibiting abortion coverage in state health insurance exchanges. If a state passes such a prohibition, insurers would not be able to sell plans that include abortion services in that state's insurance exchange.	While states are allowed to use their own money to pay for abortions, private insurers would not be able to use private premiums to finance abortions if there is even one person in the plan who used a federal subsidy to pay a share of their premium.
<b>Private insurance</b>	Federal law does not currently regulate abortion coverage in private health insurance plans. Private insurance companies are allowed to decide whether to cover abortion services, and <a href="#">87 percent</a> of typical employment plans currently provide such coverage. The federal government subsidizes these plans through an employer tax credit, even if the plans include abortion.	Each plan in an exchange could decide whether to cover abortion services beyond those allowed by the Hyde Amendment, provided they segregate private and public money and charge separate premiums each month for abortion and non-abortion services.  These additional administrative burdens, as well as state bans, may be strong enough disincentives to chill insurers from offering abortion coverage altogether.	Because approximately <a href="#">86 percent</a> of exchange participants will rely on some government assistance to purchase health insurance, it is highly unlikely that private insurers will offer abortion services in exchange plans.  Insurers would be allowed to sell abortion-only insurance riders in the exchange, but, again, it is unlikely they will do so. There is <a href="#">no data</a> that any insurance companies sell such riders in the five states where abortion coverage is required to be sold in this manner.