



# HYDE AMENDMENT

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## 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 passed 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 three decades. The original Hyde Amendment covered abortion in cases of rape, incest, and life endangerment. The next year, Congress created an additional exception for “severe and long-lasting physical health damage.” In 1979, however, Congress removed the “physical health damage” provision. Congress then removed the rape and incest exceptions from the Amendment in 1981. This narrow version of the Hyde Amendment remained in place until 1993, when the federal government expanded Medicaid funding for abortion to cases of rape, incest and life endangerment. The Hyde Amendment was modified yet again in 1997. At this 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.” This is the current version of the Hyde Amendment.

## 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 2005, 17 states provide public funding for low-income women seeking abortions. 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. A total of 33 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. Anecdotal evidence also indicates that women face significant, often bureaucratic, barriers accessing Medicaid coverage for their abortions even in cases of rape, incest and life endangerment.

## 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) 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 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. Latinas have been especially affected by the Hyde Amendment because many low-income Latinas rely on Medicaid for their health care coverage, and states with high concentrations of Latinos, such as Texas and Florida, limit their abortion funding to the narrow exceptions under the Hyde Amendment.

Without public funding, many Latinas are left on their own to try to find ways to pay for an abortion. Latinas make serious sacrifices to gather money for the procedure. For example, they will use money that is 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, 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.

Undoubtedly, 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.

## References

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