



EXPLAINER

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Ending Abortion Bans through the EACH Act

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On March 15, 2022, President Biden signed into law the Consolidated Appropriations Act of 2022, legislation to fund the federal government through fiscal year (FY) 2022. This legislation, like previous appropriations laws, contained numerous provisions that purposely inhibit access to reproductive health care, despite efforts by the White House and Democratic leaders in Congress to remove such provisions.

One such “legacy rider,” as they are often referred to, is the Hyde Amendment, which blocks certain health insurance programs from covering abortion. Congress could eliminate this barrier to care permanently by passing the Equal Access to Abortion Coverage in Health Insurance (EACH) Act.

Banning Abortion Coverage through Appropriations Legislation

Appropriations legislation reliably passes Congress and is signed into law by the president, as it is necessary to fund the government and avoid a shutdown.¹ As such, lawmakers often attempt to advance their priorities by attaching them to appropriations bills, thereby allowing them to “ride” along into law with the remainder of the spending package—hence the term “rider.”

Opponents of abortion access use this tactic routinely.² Perhaps the best known appropriations rider of this nature is the so-called Hyde Amendment, language in the yearly Labor, Health and Human Services, Education and Related Agencies appropriations legislation that bars programs in these agencies from covering abortion. First passed in 1976, just three years after *Roe v. Wade*, the amendment authored by Congressman Henry J. Hyde (R-IL) [prohibited coverage of abortion care under Medicaid](#). By attaching the Hyde Amendment to the annual appropriations bill that funds the Department of Health and Human Services (HHS), Congress ensures that insurance programs run through HHS—including [Medicaid, Medicare,](#)

¹ For a more thorough explanation of the appropriations process, see the [FY 2022 Appropriations Explainer](#) by the Congressional Progressive Caucus Center.

² For a comprehensive look at appropriations riders related to reproductive healthcare, see the Congressional Progressive Caucus Center explainer on [Expanding Access to Reproductive Healthcare in FY2022 Appropriations](#).

[the Children's Health Insurance Program and the Indian Health Service](#)—do not cover abortion. This ban [ultimately impacts 34 states](#) and the District of Columbia, as Medicaid is funded by both the state and federal governments, and the remaining [16 states](#) use state funds to cover abortion care under Medicaid. Over time, the Hyde Amendment was added to other appropriations bills, expanding the populations impacted by abortion coverage bans.³

The Hyde Amendment is not the only appropriations rider that impacts abortion coverage. The Weldon Amendment, which has been tacked onto the Hyde Amendment since FY 2005, threatens state and local governments that seek to protect or expand abortion care or coverage with the loss of federal health dollars and emboldens certain health care entities, such as insurance companies, providers, and hospitals, to use personal or religious beliefs to deny patients abortion care and coverage.

[President Biden's first budget proposal excluded](#) the Hyde Amendment, making good on a campaign promise to lift this long-standing ban, but left the Weldon Amendment intact. Despite the President's move, the fate of these bans ultimately lies with Congress, which can either include or exclude the provisions from annual spending bills. Congresswoman Rosa DeLauro, chair of both the full House Appropriations Committee and the Labor-HHS subcommittee, has called the Hyde Amendment [“a discriminatory policy”](#) and said in 2020, “while the Labor, HHS, Education bill has carried the Hyde amendment every year since 1976, this is the last year.”

The House-passed version of the Fiscal Year 2022 Labor-HHS appropriations bill authored by Chair DeLauro [excluded the Hyde Amendment for the first time](#) in nearly half a century, as well as the Weldon Amendment. However, both were included in the final Consolidated Appropriations Act of 2022.

Effects of the Hyde Amendment on Access to Care

[Roughly one-in-five](#) women of reproductive age are covered by Medicaid, including half of American women living below the poverty line, [29 percent of Black women and 25 percent of Hispanic women](#). Because a significant portion of these women [cannot afford to pay out of pocket](#) for an abortion, for them, the Hyde Amendment's ban on Medicaid coverage for abortion services is a de facto ban on abortion access.

³ Impacted programs are (i) Medicaid, Medicare, and Children's Health Insurance Program beneficiaries; (ii) federal employees and their dependents; (iii) Peace Corps volunteers; (iv) Native Americans; (v) people getting health services through CHAMPVA and the Department of Veterans Affairs; (vi) people in federal prisons and detention centers, including those detained for immigration purposes; and (vii) people with no or low incomes in the District of Columbia through the use of local funds.

Indeed, studies show that when policymakers place severe restrictions on Medicaid coverage of abortion, it [forces one-in-four poor women](#) seeking an abortion to carry an unwanted pregnancy to term.

The Hyde Amendment [disproportionately denies health care to women of color](#), and ending abortion bans like the Hyde Amendment is an integral part of the important work to dismantle systemic racism and economic injustice.

In addition to being harmful, the Hyde Amendment is unpopular: polling has found that [the majority of Americans support Medicaid coverage](#) of abortion care, and that the proportion of Americans who strongly support this coverage has grown in recent years. Furthermore, [the vast majority of American voters](#)—roughly 8-in-10—feel a woman’s financial situation should not dictate her ability to access health care, including abortion care.

Ending Abortion Bans through the EACH Act

Without a permanent solution, debate over abortion bans will resurface every year as Congress considers appropriations bills. This is problematic for a number of reasons.

First, while current Democratic leaders like Chair DeLauro have opposed Hyde and Weldon, it is possible that other members may allow for its inclusion in exchange for other priorities as bills are negotiated. As long as Hyde and policies like it remain entangled with the appropriations process, they can become bargaining chips.

Second, Congress routinely fails to pass new appropriations bills in time for new fiscal years to begin and is forced to pass continuing resolutions that fund the government at current levels until a longer-term spending agreement can be reached. This means that policy riders like Hyde can continue to apply to federal dollars beyond the window of time appropriators intended when they passed the applicable spending bill.

To avoid these issues, Congress should enact the Equal Access to Abortion Coverage in Health Insurance Act ([H.R. 2234/S. 1021](#)), often referred to as the EACH Act.

The EACH Act, introduced by Congresswoman Barbara Lee and Senator Tammy Duckworth, would end abortion coverage bans by requiring health insurance programs administered by the federal government, like Medicaid, to cover abortion services. The bill would also bar the federal government from impeding access to abortion care for Americans with private health insurance, including plans available through the Affordable Care Act’s marketplaces.

As of March 15, 2022, the EACH Act has been cosponsored by more than 80 percent of Democrats in the House and more than half of those in the Senate. As in the case of the American public's support for reversing the Hyde Amendment, support for the EACH Act has grown among Democrats in Congress; in the 114th Congress (2015-2016), the bill garnered the support of [129 Democratic cosponsors](#), compared to 185 at the time of publication.

Conclusion

By passing the EACH Act, Congress could undo a harmful policy that has blocked access to care and disproportionately harmed low-income people and people of color for decades. With this bill's passage, Congress can end the annual tradition wherein the health and rights of the most vulnerable might be bargained away in spending negotiations.

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