

# "Fight Back Against Trump's ACA Abortion Coverage Rule"

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## NATIONAL HEALTH LAW PROGRAM

National public interest law firm working to advance access to quality health care and protect the legal rights of low-income and underserved people.

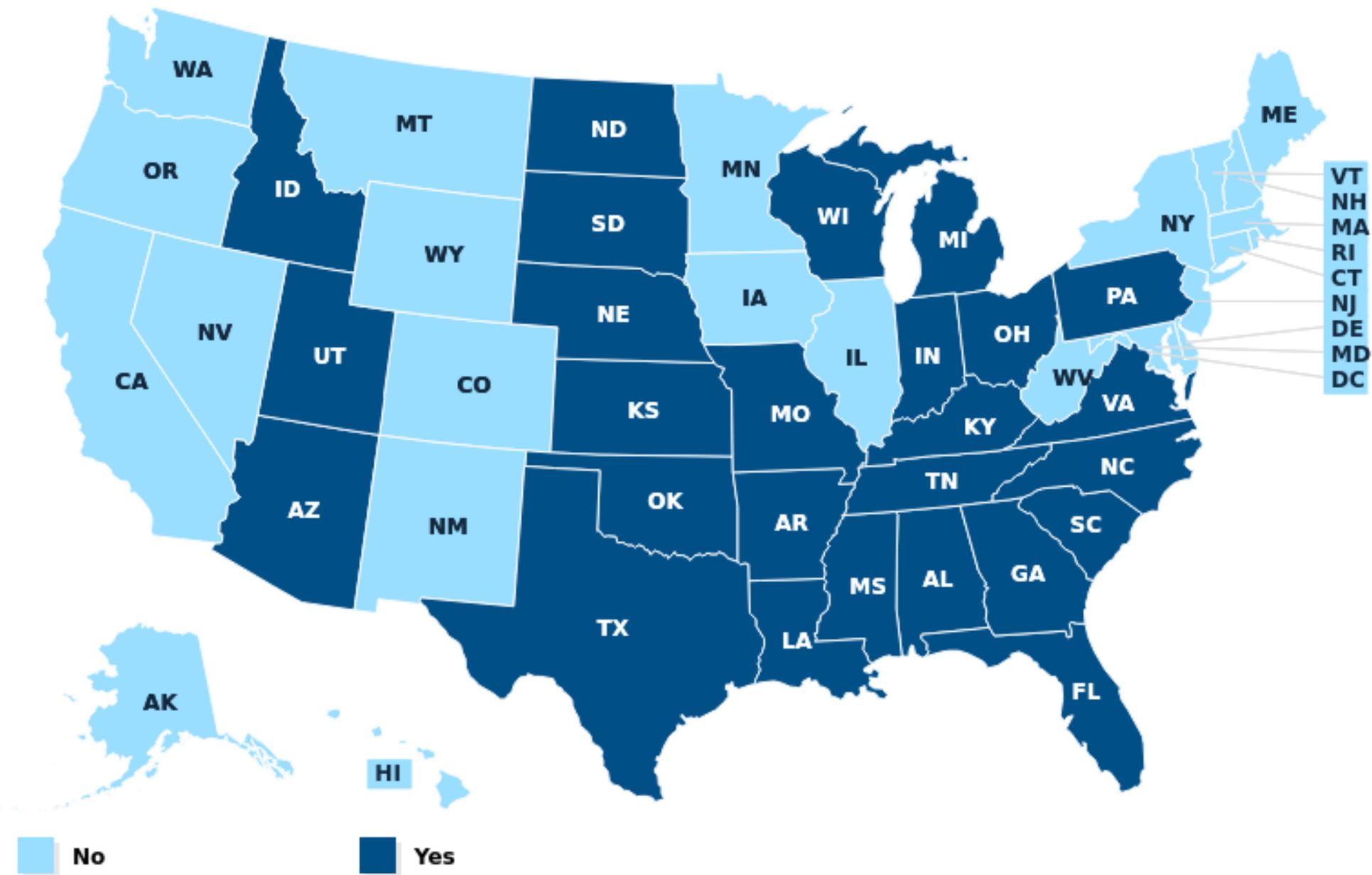
*Washington D.C., Los Angeles & North Carolina*

# What does the ACA say about marketplace coverage of abortion?

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- Does not require plans to cover abortions
- Does not prohibit plans from covering abortions
- Therefore, it is up to the states, and then to qualified health plans
- The Hyde Amendment, the ACA, and Executive Order 13535

State Restriction of Health Insurance Coverage of Abortion: Health Insurance Marketplaces Restrict Abortion Coverage?, as of



SOURCE: Kaiser Family Foundation's State Health Facts.

# Separate Payments

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- Collect from each federally subsidized plan enrollee without regard to enrollee's "age, sex, or family status"
- Collect an amount equal to the actuarial value, at least \$1 per month, per enrollee
- No federal subsidies – i.e. premiums or cost-sharing reductions for non-excepted abortions (beyond rape, incest, and life-endangerment)
  - Impacted individuals are those who are receiving federal subsidies

# Separate Allocation Accounts

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- Plans must segregate funds in two accounts
  - First account: payments for all services for which federal funding is available
  - Second account: payments for abortion services beyond rape, incest, and life endangerment
- Allocation accounts must operate in line with generally accepted accounting requirements and current industry practice

# Implementation Responsibilities

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- State health insurance commissioner
  - Responsible for ensuring that plans comply with segregation of funds requirements
  - Obtain annual assurance of compliance statement
  - Periodic audits to monitor compliance
- Health plan
  - Submit a plan of process and methodology to state health insurance commissioner
- State guidance
- GAO report

# \*Proposed ACA Abortion Coverage Regulations\*

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Qualified health plans in the marketplace must:

1. Send an entirely separate monthly bill for only the portion of the premium related to the non-excepted abortion
  - a. Separate billing
  - b. Separate mailing
  - c. Separate postage

(If bills are sent electronically, must be two separate bills, or other electronic communications)
2. Enrollee must pay this premium in a separate transaction

# Questions/Impact about proposed changes

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- Will sending consumers two bills and asking them to make two payments make it more confusing--especially for those who don't anticipate ever needing an abortion?
- Will those who don't pay \$1 get dropped from full coverage?
  - And even if the plans cannot drop them, only “remind them of their obligations,” will then plans drop coverage for their enrollees altogether?
- Will making insurers send separate payments and bills make the enrollment process more administratively complex & burdensome?
- Will it move more insurers to drop abortion coverage? (Spoiler Alert: YES!)

# Our Arguments

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- Make no mistake: proposed rule is another effort to undermine the Affordable Care Act and prevent abortion coverage
- Proposed rules do not represent statutory intent of the ACA
- Current insurance practices already allow payments for different types of coverage within the same instrument and transaction
- Should clarify that the requirement to make separate payments only applies to individuals who receive federal subsidies (not in proposed reg.)

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