

1 *Note: This policy is proposed to update, revise and replace latebreaker policy LB-09-01,*  
2 *approved at the 2009 annual meeting.*

3 **A4: Protecting Abortion Coverage in Health Reform**

4 The American Public Health Association (APHA) has a long-standing position in favor  
5 of access to abortion and a comprehensive array of reproductive health services.<sup>1</sup>

6 Further, APHA has supported the use of public funding to ensure access to abortion  
7 services for low-income women who otherwise could not afford this care. 2, 3 APHA  
8 considers the availability of safe, legal and affordable abortion care to be essential for  
9 safeguarding maternal health, reducing maternal mortality and morbidity and enabling  
10 healthy spacing of pregnancies.

11 APHA is adopting this resolution to address abortion restrictions contained in the federal  
12 health reform legislation (the Patient Protection and Affordable Care Act or PPACA) 4  
13 signed into law by President Barack Obama on March 23, 2010. Previous APHA policies  
14 did not discuss the issue of abortion coverage in health reform, nor did they anticipate the  
15 PPACA’s specific restrictions on the availability of abortion coverage in commercial  
16 insurance policies to be sold in state insurance exchanges.

17 APHA supported the adoption of the PPACA because of its potential to promote  
18 individual and population health and to improve the ability of millions of Americans to  
19 obtain high-quality, affordable health care. APHA took the position that to achieve these  
20 goals, health reform should include coverage for comprehensive reproductive health care,  
21 which is a foundation for women’s health care across the lifespan. According to leading  
22 public health scholars, health reform policy should reflect a “well-woman standard of  
23 care” that includes reproductive health, which is a key determinant of women’s overall  
24 health. Such a standard of care will enable women to attain good health in their childhood  
25 and adolescence, to maintain good health during their reproductive years, and to age  
26 well.<sup>5</sup>

27  
28 Despite the potential for health reform legislation to improve women’s access to  
29 comprehensive reproductive health services, such measures also can provide an

1 opportunity for opponents to establish new obstacles to women’s access to these services.  
2 In enacting the PPACA, Congress and the President approved provisions restricting  
3 women’s ability to obtain affordable commercial health insurance coverage that includes  
4 abortion services in new state insurance exchanges which will open in 2014. Moreover,  
5 the President issued an Executive Order affirming current Congressional restrictions on  
6 the use of federal funding for any abortion care, except in the case of rape, incest or threat  
7 to the life of the woman. 6

8  
9 The PPACA’s policies on abortion coverage have the potential to affect a significant  
10 number of women. Abortion is one of the most common surgical procedures performed  
11 on women in the United States (about 1.2 million abortions each year). It is estimated that  
12 by the time they reach age 45, about one third of American women will have had an  
13 abortion. 7

14  
15 Opponents of abortion have argued that abortion should not be considered a legitimate  
16 health service and further, that taxpayers who object to abortion should not be required to  
17 help pay for abortion services – either in Medicaid coverage, or in the form of federal  
18 subsidies for the purchase of commercial insurance. However, public health practitioners  
19 have pointed out that when women do not have ready access to safe, affordable abortion  
20 care, including publicly-funded care, there can be significant health consequences.

21 “Unplanned and unwanted pregnancies constitute a serious public health responsibility,”  
22 an article in a 2000 World Health Organization bulletin declared, warning of the dangers  
23 when women are forced to resort to unsafe, delayed, clandestine and/or illegal abortions.  
24 The economic and social costs of unsafe abortions include not only acute care, but also  
25 long-term complications from damage to reproductive organs, pelvic inflammatory  
26 disease and secondary infertility, as well as the potential harm to a woman’s existing  
27 children when she undergoes an unsafe procedure. The WHO article specifically noted  
28 that unsafe abortion situations are characterized by a lack of equity in cost, safety and  
29 quality of care. 8

30  
31 **Abortion restrictions in public health insurance programs**

1 Immediately following the Roe v. Wade decision by the U.S. Supreme Court legalizing  
2 abortion services in the United States in 1973, Medicaid provided coverage for abortion  
3 services for low-income women enrolled in Medicaid. However, since the adoption of the  
4 Hyde Amendment in 1976, Congress has sharply restricted use of the federal funding for  
5 abortion services through annual appropriations measures limiting abortion coverage to  
6 cases of rape, incest, or threat to a woman's life. 9 The primary target of these restrictions  
7 has been the Medicaid program, in which there are now more than seven million women  
8 of reproductive health age enrolled nationwide. Seventeen states use state Medicaid funds  
9 to pay for abortions for poor women, but only four do so voluntarily; the rest do so under  
10 a court order. Approximately 13% of all abortions in the United States are paid for with  
11 public funds (virtually all from state governments). 7

12 Over the years, restrictions on providing abortion coverage using federal funds have been  
13 gradually extended beyond the Medicaid program. Also now affected is the Federal  
14 Employees Health Benefit Program, which insures nine million federal employees and  
15 their dependents. The abortion coverage restrictions also apply to more than 200,000  
16 active duty women in the military and 1.6 million female veterans (most of whom are of  
17 reproductive health age), 12,000 female inmates in federal prisons, 5,000 women who are  
18 Peace Corps volunteers and nearly one million American Indian and Alaska Native  
19 women who are recipients of Indian Health Service health care. 7

20 The restrictions on use of federal funding for abortion coverage are voted on annually by  
21 Congress as part of federal budget appropriations bills. A coalition of women's health  
22 and reproductive justice organizations have been working in recent years to get those  
23 restrictions lifted, arguing that the Hyde restrictions effectively deprive the most  
24 vulnerable women in the United States of access to a legal health service, and cause low-  
25 income women to delay having abortion procedures while they try to raise the necessary  
26 funds.<sup>10</sup>

27

28 The PPACA failed to lift current restrictions on use of federal funds for abortion  
29 coverage in public insurance programs. As a result, the estimated 6.7 million American  
30 women of reproductive health age (15 to 44) who will become newly-eligible for

1 Medicaid through the PPACA will be unable to use this coverage for abortion services  
2 except in cases of rape, incest or life endangerment, according to an analysis by the  
3 Kaiser Family Foundation. 11

#### 4 **Restrictions on abortion coverage in commercial health insurance**

5 In contrast to the situation with public health insurance, most commercial health  
6 insurance policies have routinely included abortion coverage. A 2002 study, for example,  
7 found that 87% of typical employer-based insurance policies cover medically necessary  
8 or appropriate abortions. 12 Only five states (Idaho, Kentucky, Missouri, North Dakota,  
9 and Oklahoma) have taken the step of barring abortion coverage in private insurance  
10 policies sold within their boundaries. 13

11 Inclusion of abortion restrictions within the new federal health reform law (PPACA)  
12 represents unprecedented federal intrusion into the offering of abortion coverage in the  
13 private insurance marketplace. This expansion is a significant setback in abortion policy  
14 in the United States.

15 In language included to satisfy the concerns of Senator Ben Nelson, a Nebraska  
16 Democrat who opposes abortion services, the PPACA gives states the option to prohibit  
17 abortion coverage in the commercial insurance plans that will be offered in state  
18 insurance exchanges established through health reform. 14 While states theoretically  
19 already have that option, as demonstrated by the five states that previously banned  
20 abortion coverage in private health insurance, the Nelson language specifically invites  
21 states to take on this issue and has set off state-by-state battles over whether abortion  
22 coverage should be allowed. 15 By September, 2010, five states (Arizona, Louisiana,  
23 Mississippi, Missouri and Tennessee) had already acted to approve bans on abortion  
24 coverage in their state insurance exchanges and several more state Legislatures and  
25 Governors were considering such actions. 16

26 Moreover, in those states that do choose to allow abortion coverage to be offered in their  
27 state insurance exchanges, the Nelson language adds burdensome conditions on both the  
28 insurer offering the coverage and the consumer purchasing it. People purchasing the

1 coverage would have to make two premium payments – one for abortion coverage and  
2 one for every other aspect of the coverage. Insurers providing the coverage would have to  
3 process those two payments from the individual and a third payment from the federal  
4 government for any subsidies to which the enrollee would be entitled. The federal  
5 subsidy money would have to be segregated from the private abortion premium payment  
6 by the insurer. An analysis by professors at the George Washington University School of  
7 Public Health concluded that insurance companies would simply drop abortion coverage  
8 in policies offered inside the state exchanges, rather than comply with these requirements,  
9 and insurers could consider doing the same in policies sold outside the exchanges in the  
10 interest of uniformity and efficiency. 17

11 Analysis by the Guttmacher Institute warned that “insurance companies would have to  
12 jump through numerous, unprecedented hoops to estimate the cost of abortion coverage  
13 and ensure that the abortion payments never mix with other funds; they also are likely to  
14 face extensive public scrutiny and protest around their action.” 17 A further Guttmacher  
15 policy review concluded that because of the PPACA payment provisions, “the extent to  
16 which abortion coverage actually will be available to people will largely depend on what  
17 insurance companies perceive to be practical, efficient and in their business interests.” 16

18 Arguing that even these restrictions do not go far enough, abortion opponents have  
19 signaled their intention to pass new legislation eliminating any abortion coverage under  
20 health reform – whether in the expanded Medicaid program or in the private insurance  
21 plans that will be offered through state exchanges. 16

22 The Henry J. Kaiser Family Foundation has estimated 4.8 million women will qualify for  
23 federal subsidy credits to help them purchase health insurance in state exchanges  
24 authorized by the PPACA. 11

25 APHA deplors the politicization of abortion coverage in the enactment of the PPACA  
26 and in the state legislative debates concerning the establishment of state insurance  
27 exchanges. Decisions about which services should be covered in health insurance policies  
28 should be made on the basis of medical standards of care and sound public health

1 principles, not politics or ideology. Health reform should ensure that all women,  
2 regardless of their income status or source of health insurance, have coverage for  
3 comprehensive women’s health care services, including abortion.

#### 4 **Policy Recommendations**

5 APHA takes the position that current restrictions on use of federal funds for abortion  
6 coverage in the Medicaid program and other federally-funded health insurance programs  
7 are unjust and effectively deny access to legal abortion services to the country’s most  
8 vulnerable women. Extending that kind of restricted coverage to millions more  
9 American women through health reform is contrary to the goals of health reform and  
10 squanders an important opportunity to improve the lives and health of low-income  
11 women and the families that depend on them.

12 Accordingly, APHA takes the following actions:

- 13 1. Calls on the President and the U.S. Department of Health and Human Services to  
14 ensure that PPACA implementation regulations do not create roadblocks to  
15 insurers’ ability to offer abortion coverage in plans sold through state insurance  
16 exchanges, nor impose unnecessary burdens on consumers seeking to purchase  
17 plans that include abortion coverage.
- 18 2. Calls on Governors and state legislative leaders to ensure that abortion coverage is  
19 available in commercial insurance policies made available to consumers through  
20 state insurance exchanges;
- 21 3. Urges insurers to include and advertise the availability of abortion coverage within  
22 commercial insurance policies offered to consumers through state insurance  
23 exchanges, where permitted.
- 24 4. Urges Congress and the President to reject any legislative proposals to further  
25 restrict or eliminate abortion coverage under PPACA, either in expanded  
26 Medicaid or in private insurance policies that will be offered in state insurance  
27 exchanges.
- 28 5. Further calls on Congress and the President to repeal the Hyde Amendment  
29 restrictions on use of federal funds for abortions coverage, thereby enabling the

1 offering of abortion care in public insurance plans and lifting the restrictions on  
2 use of federal subsidies for purchase of commercial insurance policies in state  
3 insurance exchanges.

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6 **On behalf of the Population Section**

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9 **References**

- 10 1. American Public Health Association. APHA policy statement 6718PP: Abortion.  
11 Washington, DC: American Public Health Association; 1967. Accessed Nov. 30, 2009, at  
12 [www.apha.org/advocacy/policy/policysearch/default.htm?id=592](http://www.apha.org/advocacy/policy/policysearch/default.htm?id=592).
- 13 2. American Public Health Association. APHA policy statement 7025: Standards for  
14 Abortion Services. Washington, DC: American Public Health Association; 1967.  
15 Accessed Nov. 30, 2009, at:  
16 [www.apha.org/advocacy/policy/policysearch/default.htm?id=661](http://www.apha.org/advocacy/policy/policysearch/default.htm?id=661).
- 17 3. American Public Health Association. APHA policy statement APHA Policy 8104:  
18 Opposition to Constitutional Amendments or Statutes to Prohibit Abortion; 1981. Access  
19 Nov. 30, 2009 at: [www.apha.org/advocacy/policy/policysearch/default.htm?id=976](http://www.apha.org/advocacy/policy/policysearch/default.htm?id=976).
- 20 4. Public Law No: 111-148.
- 21 5. Chavkin W, Rosenbaum S, Jones J, et al. Women's Health and Health Care Reform:  
22 The Key Role of Comprehensive Reproductive Health Care. New York, NY: Mailman  
23 School of Public Health; 2008. Accessed Nov. 30, 2009, at:  
24 [www.mailmanschool.org/facultypubs/womenshealthcarereform.pdf](http://www.mailmanschool.org/facultypubs/womenshealthcarereform.pdf)
- 25 6. Werner, E., Obama Signs Order Blocking Abortion Funding, Associated Press, March  
26 25, 2010, accessed on June 16, 2010, at  
27 [http://www.boston.com/news/health/articles/2010/03/25/obama-signs-order-](http://www.boston.com/news/health/articles/2010/03/25/obama-signs-order-blocking-abortion-funding/?rss_id=Boston.com+--+Health+news)  
28 [blocking\\_abortion\\_funding/?rss\\_id=Boston.com+--+Health+news.](http://www.boston.com/news/health/articles/2010/03/25/obama-signs-order-blocking-abortion-funding/?rss_id=Boston.com+--+Health+news)
- 29 7. Boonstra, H., The Heart of the Matter: Public Funding for Abortion for Poor Women  
30 in the United States, Guttmacher Policy Review, Winter 2007, Volume 10, Number 1.

- 1 8. Berer, M., Making Abortions Safe: A Matter of Good Public Health Policy and  
2 Practice, Bulletin of the World Health Organization, 2000, 78 (5).
- 3 9. Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, §§ 507-508, 121 Stat.  
4 1844, 2208-2209 [2007].
- 5 10. Hyde – 30 years is Enough! Campaign. Accessed Feb. 16, 2010, at:  
6 [http://www.hyde30years.nnaf.org/more\\_hyde.html](http://www.hyde30years.nnaf.org/more_hyde.html).
- 7 11. Ranji, U., and Salginicoff, A., Access to Abortion Coverage and Health Reform, in  
8 the series, Focus on Health Reform, The Henry J. Kaiser Family Foundation, January  
9 2010, accessed on Feb. 16, 2010, at <http://www.kff.org/healthreform/upload/8021.pdf>.
- 10 12. Guttmacher Institute Memo on Insurance Coverage of Abortion, July 2009. Accessed  
11 on Feb. 16, 2010, at [www.guttmacher.org/media/inthenews/2009/07/22/index.html](http://www.guttmacher.org/media/inthenews/2009/07/22/index.html).
- 12 13. State Policies in Brief: Restricting Insurance Coverage of Abortion. New York, NY:  
13 Guttmacher Institute, 2010. Accessed on Feb. 16, 2010 at  
14 [www.guttmacher.org/statecenter/spibs/spib\\_RICA.pdf](http://www.guttmacher.org/statecenter/spibs/spib_RICA.pdf).
- 15 14. Sonfield, A., The New Health Reform Legislation: Pros and Cons for Reproductive  
16 Health, Guttmacher Policy Review, Volume 13, No. 2, Spring 2010, pp. 25-28.
- 17 15. Leland, J., Abortion Foes Advance Cause at State Level, The New York Times, June  
18 2, 2010, accessed on June 15, 2010, at  
19 <http://www.nytimes.com/2010/06/03/health/policy/03abortion.html>.
- 20 16. Cohen, S.A., Insurance Coverage of Abortion: The Battle to Date and the Battle to  
21 Come, Guttmacher Policy Review, Vol. 13, No. 4, pp. 2-6. accessed on Nov. 8, 2010, at  
22 <http://www.guttmacher.org/pubs/gpr/13/4/gpr130402.html>.
- 23 17. Lillis, M., Nelson Amendment Would “Chill” Access to Abortion Coverage, quoting  
24 professor Sara Rosenbaum, Washington Independent, December 21, 2009. Accessed at  
25 [http://washingtonindependent.com/71637/expert-nelson-amendment-would-chill-access-](http://washingtonindependent.com/71637/expert-nelson-amendment-would-chill-access-to-abortion-coverage-on-february-16)  
26 [to-abortion-coverage on February 16](http://washingtonindependent.com/71637/expert-nelson-amendment-would-chill-access-to-abortion-coverage-on-february-16), 2010.
- 27 18. The New Health Reform Legislation: Pros and Cons for Reproductive Health Care,  
28 The Guttmacher Institute, March 29, 2010, accessed on June 15, 2010, at  
29 <http://www.guttmacher.org/media/inthenews/2010/03/29/index.html>.