



MEDICAID & REPRODUCTIVE JUSTICE

FACT SHEET
AUGUST 2018

Reproductive justice is a social movement rooted in the belief that all individuals and communities should have the resources and power they need to make their own decisions about their bodies, genders, sexualities, families, and lives. Reproductive justice is the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities.¹ The reproductive justice framework incorporates an intersectional, social justice lens to dismantle inequalities at the root of reproductive oppression, and complements the reproductive health framework—which focuses on health care service delivery—and reproductive rights framework—which defends the legal right to personal decision-making.

Medicaid is a vital program that provides health coverage for many low-income individuals and families.

- Medicaid programs vary from state to state, and operate as national-state partnerships with the federal government paying for a percentage of the costs in exchange for states meeting federal program requirements.
- Medicaid currently covers 25 million adult women in the U.S., two-thirds of whom are in their reproductive years.²
- Medicaid covers a disproportionate share of women from vulnerable populations such as those who are in poor health, low-income, single parents, have disabilities, and women of color.³
- Medicaid covers a wide range of reproductive health care services, including family planning, STI testing and treatment, and pregnancy-related care including prenatal services, childbirth, and postpartum care.⁴

The Affordable Care Act (ACA) strengthened the Medicaid program by expanding coverage and enhancing Medicaid services and benefit packages.

- To date, 33 states and the District of Columbia have adopted Medicaid expansion.⁵
- The ACA also created new consumer protections, including a prohibition on discrimination in health programs and activities (including Medicaid) based on race, ethnicity, national origin, age, disability, and sex.⁶

IMPORTANCE OF MEDICAID FOR WOMEN OF COLOR, IMMIGRANTS, LGBTQ INDIVIDUALS, AND WOMEN WITH DISABILITIES

Medicaid provides coverage for a comprehensive package of health care services.

- The program is a critical tool for reducing health and economic disparities among women of color and other vulnerable communities.
- Medicaid not only finances more than half of all births in the United States, but it also accounts for 75 percent of all public dollars spent on family planning.⁷

Due to systematic barriers and discrimination, a disproportionately higher number of women of color and LGBTQ individuals are enrolled in the program.

- Women make up the majority of Medicaid enrollees (53 percent) and approximately 40 million women rely on the program for life-saving care.⁸
- Nearly one-third (31 percent) of Black women of reproductive age and (27 percent) of Latinas of reproductive age are enrolled in the Medicaid program.⁹
- In the aggregate, nearly one-fifth (19 percent) of Asian American and Pacific Islander women are enrolled in the Medicaid program, while enrollment rates for certain Asian ethnic subgroups are much higher (at 62 percent of Bhutanese women, 43 percent of Hmong women and 32 percent of Pakistani women).¹⁰
- Medicaid also provides coverage to more than one in four (27 percent) nonelderly American Indian and Alaska Native (AIAN) adults and half of AIAN children.¹¹



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LGBTQ individuals are also more likely to be low-income and eligible for Medicaid.

- In a 2014 nationwide survey of LGBT people with incomes less than 400 percent Federal Poverty Level (FPL), 61 percent of all respondents had incomes in the Medicaid expansion range—up to 138 percent of the FPL—including 73 percent of African-American

respondents, 67 percent of Latino respondents, and 53 percent of white respondents.¹²

- Another survey found that 32% of Asian and Native Hawaiian/Pacific Islander transgender people were living in poverty.¹³

In addition to family planning and maternity care benefits, Medicaid covers an important range of services for women.

- In 2015, Medicaid covered nearly one in four adult women with any mental illness.¹⁴
- Medicaid also provides coverage for more than one in three nonelderly women living with disabilities.¹⁵

- Women are also more likely to use Medicaid’s long-term services and supports as they age, including access to mental health services, management of chronic disease, and disability care.¹⁶

Medicaid also provides coverage for some lawfully residing immigrants.

- The 1996 “welfare reform” law limited eligibility to certain “qualified” immigrants and denied access to Medicaid and other federal public benefit programs for immigrants who were not qualified or subject to the five-year waiting period, even if they were previously eligible.
- Since then, some states have expanded eligibility for Medicaid and the Children’s Health Insurance

Program (CHIP) to cover lawfully residing children and/or pregnant persons.¹⁷

- Some states also provide coverage for certain groups of undocumented immigrants using state funds. Yet, the inability to access Medicaid coverage for critical health care services means many immigrants must rely on safety net clinics and hospital emergency rooms for care.¹⁸

COVERED SERVICES

Federal law requires states to provide coverage of certain services in their Medicaid programs and gives states the option to cover additional services.

- Mandatory services include primary care, reproductive and sexual health including family planning but not abortion except in extreme circumstances, behavioral health, treatment for substance use disorders, dental services, and mental health.
- Medicaid also provides coverage for a strong health care benefit for children and youth under 21 years old known as Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services.

» EPSDT covers medical, vision, hearing, and dental screenings, including age-appropriate health education such as sexuality education and counseling.

- State Medicaid programs must also cover emergency and non-emergency transportation, which is an important tool for women and other individuals enrolled in Medicaid to access health care services.

The ACA made a number of changes to the Medicaid program, including specifying minimum coverage standards for Medicaid expansion enrollees.

- For example, states that expand their Medicaid programs must offer a package of benefits known as Alternative Benefit Plans (ABPs) to individuals who enroll in their expansion programs.
- The ABPs must cover the 10 categories of essential health benefits (EHBs) without cost-sharing, mirroring the service requirements in most commercial marketplace plans.

- The EHB categories cover a range of services including maternity and newborn care, and preventive services.
- The preventive services category includes coverage for all FDA-approved contraceptive methods, patient education and counseling, and other related family planning and sexual health services.

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Gender-affirming care

States also have flexibility to offer a range of optional services, such as gender-affirming care, also known as transition-related services for transgender individuals. Due to the high prevalence of poverty in the LGBTQ community, especially for people of color and/or transgender individuals, Medicaid is a vital program in reducing health disparities and providing care. Currently, eighteen states and the District of Columbia explicitly cover gender-affirming care.¹⁹ According to a recent study, 49 percent of the transgender population lives in a state that explicitly covers gender-affirming care in their Medicaid program.²⁰ However, ten states explicitly exclude coverage of gender affirming care.²¹ Despite current widespread medical consensus supporting transition-related services as medically necessary, these exclusions date back to the early 1980s when transition-related care was considered a “cosmetic” or “experimental” service under Medicare.²² Since the early 2000s, these discriminatory policies in Medicaid and in private insurance have begun to erode. Medicare lifted its exclusion in 2014.²³

Abortion coverage

Since 1976, the Hyde Amendment has blocked federal Medicaid funding for abortion services. The Hyde Amendment is not permanent law, but is an annual rider in the Labor, Health and Human Services, and Education Agencies appropriations legislation.²⁴ This restriction withholds abortion coverage from Medicaid beneficiaries, except in the limited cases of rape, incest, and life endangerment.

Despite this ban, 17 states use state funding to provide coverage for all or most medically necessary abortions.²⁵ In these states, 89 percent of Medicaid enrollees obtaining an abortion in 2014 used this coverage to pay for the procedure.²⁶ Thirty-four states and the District of Columbia follow the federal standard and only cover abortions in their Medicaid programs in cases of life endangerment, rape, or incest.²⁷ Fifty-four percent of Medicaid-enrolled women aged 15–44—approximately seven million women—live in these restrictive states.²⁸ Women of color account for almost half of those enrolled (51 percent in 2015).²⁹

RECOMMENDATIONS

Despite its success, the Medicaid program is under threat. Congressional members can do the following to help protect the integrity of the Medicaid program:

- Do not undermine the Medicaid entitlement by allowing a block grant or per capita cap in Medicaid or altering the financial structure of Medicaid. Block grants and per capita caps reduce federal Medicaid funding for states to a fixed amount of money that is less than the amount states need or get under current law. It is just a backdoor way to slash the Medicaid budget. Block grants and per capita caps limit state flexibility to provide services and could lead to an arbitrary limit on the number of people who have access to health care services.
- Ensure the Centers for Medicare and Medicaid Services upholds its obligations to make Medicaid a program that covers high quality services for all eligible populations.
- Support legislative changes that strengthen the Medicaid program for all eligible populations.
- Support the EACH Woman Act, which, among other provisions, ensures that every person who receives care or insurance through the federal government will have coverage for abortion services. The EACH Woman Act would effectively repeal the Hyde Amendment.
- Support HEAL for Immigrant Women and Families Act which, among other provisions, would restore eligibility for Medicaid and CHIP to immigrants who are lawfully present without making them endure the current five-year waiting period.
- Support the Health Equity and Accountability Act (HEAA), comprehensive legislation designed to eliminate racial and ethnic health disparities. Introduced each Congress by the Tri-Caucus, this is the only legislation that holistically addresses health inequities with an intersectional lens that includes immigration status, age, disability, sex, gender, sexual orientation, gender identity and expression, language, and socio-economic status.
- Strongly oppose all legislative and administrative proposals that weaken Medicaid, such as proposals that implement work requirements or loosen the standards for section 1115 demonstrations.



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RESOURCES

Founded in 1969, the National Health Law Program (NHeLP) protects and advances the health rights of low-income and underserved individuals and families. We advocate, educate, and litigate at the local, state, and federal levels. For more information, please contact: Candace Gibson at gibson@healthlaw.org.

The National Latina Institute for Reproductive Health is the only national reproductive justice organization dedicated to advancing health, dignity, and justice for the 26 million Latinas, their families, and communities in the United States. Our vision is to create a society in which Latinas have the economic means, social capital, and political power to make and exercise decisions about their own health, family, and future. For more information, please contact: Nina Esperanza Serriane at nina@latinainstitute.org.

In Our Own Voice: National Black Women's Reproductive Justice Agenda is a national/state partnership with eight Black women's Reproductive Justice organizations: Black Women for Wellness (CA), Black Women's Health Imperative (National), New Voices for Reproductive Justice (PA, OH), SisterLove, Inc. (GA), SisterReach

(TN), SPARK Reproductive Justice NOW (GA), The Afiya Center (TX), and Women With A Vision (LA). Our goal is to lift up the voices of Black women leaders on national, regional, and state policies that impact the lives of Black women and girls. For more information, please contact: Jessica Pinckney at jessica@blackrj.org.

National Asian Pacific American Women's Forum (NAPAWF) is the only national organization building a movement to advance social justice and human rights for AAPI women and girls in the U.S. Using a reproductive justice framework, we organize and advocate for reproductive rights, immigrant rights, and economic justice. For more information, please contact: Jaclyn Dean at jdean@napawf.org.

All* Above All unites organizations and individuals to build support for lifting the bans that deny abortion coverage. Our vision is to restore public insurance coverage so that every woman, however much she makes, can get affordable, safe abortion care when she needs it. For more information, please contact: Kelsey Ryland at kelsey@allaboveall.org.

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- 3 *Id.*
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- 14 Kaiser Family Foundation, *supra* note 2.
- 15 *Id.*
- 16 Katch, *supra* note 8 at 1.
- 17 States can establish their version of CHIP as a separate program, as an expansion of Medicaid, or as a combination of those two options. 42 C.F.R. § 457.70(a). As of the writing of this fact sheet, nine states and the District of Columbia operate CHIP as an expansion of Medicaid; two states, as a separate program; 39 states, as a combination of the two approaches. See MACPAC, FactSheet: State Children's Health Insurance Program (CHIP) 1 (2017), https://www.macpac.gov/wp-content/uploads/2015/03/State-Children%E2%80%99s-Health-Insurance-Program_CHIP-Fact-Sheet.pdf.
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