ISSUE BRIEF

A Double Bind: When States Deny Abortion Coverage and Fail to Support Expecting and New Parents

SEPTEMBER 2016

Every person should have the freedom to decide if, when and how to raise a family. But for many women struggling to make ends meet, this is not reality. Instead, they face layers of obstacles, including denial of access to abortion care and a lack of workplace supports.

In recognition of the 40th year of the harmful Hyde amendment, which denies Medicaid funding for abortion care, the National Partnership for Women & Families has released this issue brief and map to illustrate the impact of the Hyde amendment and state restrictions on abortion coverage when combined with the failure to adopt the workplace policies that would support families' economic security. This state-by-state analysis and map reveal the impossible double bind that women are forced into when they cannot make the decision best for themselves about whether to have a child and then are denied the workplace supports they need during and after pregnancy. Our research shows that women in most states are both denied abortion coverage and lack access to public policies that support expecting and new parents in the workplace. Conversely, the states with the fewest restrictions on abortion coverage tend to offer stronger workplace protections and supports.

People need the ability to plan if and when to have children in order to create the stability to have the job, family and future they want. When women have the freedom to make the decisions best for themselves and their families, they are better able to achieve economic security. Denial of insurance coverage for abortion means women have to pay out of pocket for care. A woman struggling to make ends meet may not have or be able to piece together that money – leading to delays in accessing care or being forced to carry a pregnancy to term. The birth of a child then requires significant financial resources. Hardships are often compounded by the lack of workplace rights and supports for expecting and new parents, which can make it difficult or impossible for women to continue working during pregnancy and to return to work after pregnancy. This issue brief is a call to action that demands policies that lift women and families up, instead of deepening their struggles.

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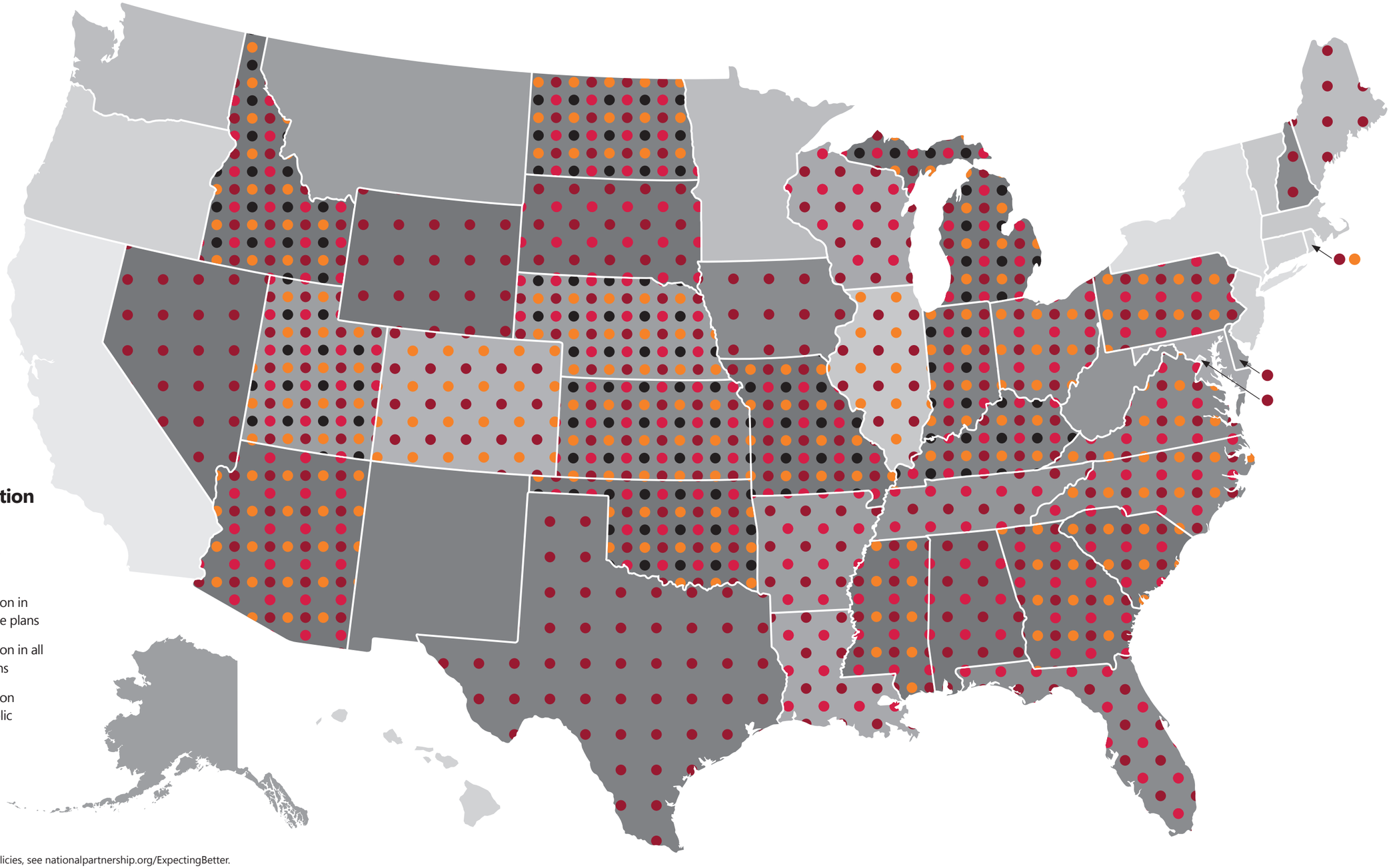
national partnership for women & families

Workplace Policy Rights and Protections and Restrictions on Health Insurance Coverage for Abortion Care



* For more information about these policies, see nationalpartnership.org/ExpectingBetter.

** Abortion coverage restrictions may have limited exceptions; policies differ across states. Additionally, under the federal Hyde amendment, all states should cover abortion for Medicaid enrollees in cases of life endangerment, rape and incest, but do not always do so in practice.

Withholding abortion coverage and workplace supports means women cannot make the decisions best for themselves and their families.

Low-income women in many states are faced with the intersection of abortion coverage restrictions that leave them without the power to choose if and when they have children and the lack of guaranteed access to workplace policies, leaving their families economically vulnerable. Compounding these obstacles is the fact that the majority of women who decide on abortion care are already parents.[1]

The Hyde amendment has been included annually in federal appropriations bills since 1976.[2] While 15 states use state-only Medicaid funds to cover abortion care, 35 states and the District of Columbia do not, leaving the majority of reproductive-age women enrolled in the Medicaid program without coverage.[3] Beyond the nationwide harm the Hyde amendment causes, many states further restrict women's access to abortion coverage. Twenty-five states restrict abortion coverage for health plans in their state health insurance marketplaces, which are the online marketplaces the Affordable Care Act created for individuals to shop for and purchase insurance.[4] Ten states restrict abortion coverage in all private insurance plans, reaching beyond the marketplaces; and 21 states restrict abortion coverage in insurance plans offered to state employees.[5] Many states have more than one type of restriction.[6] The impact of these restrictions on a woman's life is very real, often pushing abortion care out of reach just because of how much money she has, or how she is insured.

Abortion coverage restrictions threaten women's financial well-being. Withholding coverage for abortion means women struggling to make ends meet must cover the costs of care themselves – often delaying care to come up with the funds, or sacrificing other essential expenses to do so. But not everyone can get the care they need. A woman who wants an abortion but is denied is more likely to fall into poverty than a woman who is able to obtain care.[7] A recent study found that women who were denied abortion care were less likely to be working full time one year later than women who were able to obtain the care they needed.[8]

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Ensuring women have the freedom to decide if and when to have families, or to expand their families, is especially important to their economic security in light of the lack of policy supports for new and expecting parents. Many women do not have the workplace supports they need during and after pregnancy. An estimated quarter of a million women have been denied reasonable pregnancy-related workplace accommodations each year, and many more are not asking for the accommodations they need.[9] Just over one in five worksites offer paid maternity leave to all workers.[10] Having a baby is the most expensive health event that families face during their childbearing years,[11] and it is estimated that nearly 13 percent of families with a new infant become poor within a month.[12] In a 2014 survey, an overwhelming majority of women said they or their families would likely face significant financial hardship if they had a serious illness, had to care for a family member with a serious illness or had a new child: 69 percent said it was likely, and more than two-fifths (41 percent) said it was "very likely."[13] When a person becomes a parent, she needs workplace policies and protections that foster her economic security and allow her to care for her family.

Yet, our nation's laws are insufficient and do not provide the support expecting and new parents need upon the birth of a child. Most states have not passed laws that improve upon inadequate federal law by providing paid family and medical leave, paid sick days and strong pregnancy accommodations. Pregnant and parenting women in states without these and other key policies lose

crucial income when, for example: they are forced out of their jobs because they need a reasonable pregnancy accommodation to continue working; they need paid family or medical leave for bed rest during pregnancy, or in the days or weeks after giving birth to a child or if their co-parents do not have paid family and medical leave; or they lose their jobs because they do not even have access to job-protected unpaid time away from work.

Denied access, denied protections: The disproportionate impact on women of color.

Women of color live at the intersection of a multitude of disparities and structural barriers that lead to a higher likelihood of being Medicaid-eligible and subject to the harms caused by the Hyde amendment and in a low-wage job without needed workplace supports. Pregnant women of color therefore are more likely to be denied access to abortion coverage, and pregnant and parenting women of color often do not have workplace rights and protections that would give them the economic security they and their families need to thrive.

Due to pervasive disparities in accessing quality health care, women of color are at a higher risk for unintended pregnancy (the rate of unintended pregnancy is more than twice as high for women of color than for white women[14]). Due to income disparities, women of color are more likely to be enrolled in Medicaid. More than half of the 7 million women impacted by the Hyde amendment are women of color,[15] and state policies do not close that gap. More than half of Latinas and 70 percent of black women live in a state that denies Medicaid coverage for abortion care.[16]

Workers of color are also disproportionately without access to paid time off to address their health needs. For example, Latino workers are 11.5 percent less likely to have access to paid sick days than their white counterparts, and black workers are more than 7 percent less likely than white workers to have access to flexible work hours.[17] One effect of not having these and other workplace supports is that pregnant workers may find it more difficult to attend prenatal care appointments. This is particularly problematic for women of color, given that black and Hispanic women are at a higher risk for pregnancy-related complications like gestational diabetes and hypertensive disorders.[18]

The combination of the lack of abortion coverage and lack of access to workplace supports means that many women of color are denied the right to decide when to parent; when they become parents, they also are less likely to have the workplace rights and protections they need.

Workers of color are also less likely to be able to take time away from work to care for a new child. African American and Latino workers are less likely than white workers – by more than six percent and nearly 25 percent, respectively – to have access to paid parental leave.[19] Without access to paid leave, workers are forced to consider taking unpaid leave. However, many cannot afford to do so.[20] Lack of access to paid leave, coupled with the financial hardship associated with taking unpaid leave, make it nearly impossible for some women of color to take time away from work to care for a new child. Yet, pervasive health disparities may make access to leave even more important for women of color. For example, in 2013, the preterm birth rate for black infants was 60 percent higher than for non-Hispanic white infants, and the rate of low birth weight was almost twice as high.[21]

The combination of the lack of abortion coverage and lack of access to workplace supports means that many women of color are denied the right to decide when to parent; when they become parents, they also are less likely to have the workplace rights and protections they need.

States that restrict abortion coverage also overwhelmingly lack workplace protections.

The National Partnership's new state-by-state analysis examines abortion coverage restrictions and state workplace laws and regulations that go beyond what federal laws provide to support expecting and new parents.

- Abortion coverage restrictions considered here are restrictions on: Medicaid funding for abortion care, abortion coverage in plans in state health insurance marketplaces, abortion coverage in all private insurance plans and abortion coverage in insurance plans offered to state public employees.
- Workplace supports considered here include: state laws and regulations that go beyond federal standards to guarantee workers access to paid family and medical leave, paid sick days, expanded access to job-protected unpaid family and medical leave, reasonable accommodations for pregnant workers and expanded workplace rights for nursing mothers. The findings of the National Partnership's fourth edition of *Expecting Better: A State-by-State Analysis of Laws That Help Expecting and New Parents* are the basis for designating the degree to which a state's policies are or are not supportive of expecting and new working parents in this issue brief and map.

This new state-by-state analysis finds a significant overlap between states that deny coverage for abortion care and those that do not provide sufficient public policies guaranteeing workplace supports for expecting and new parents.[22] In these states, the economic insecurity that women of reproductive age face when they are unable to access abortion care is compounded by insufficient workplace policies.

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Specifically, we find that:

- States that lack family friendly workplace laws tend to have the most restrictions on coverage of abortion care.
  - All 12 states that do not have a single workplace protection for expecting and new parents that goes beyond what federal law provides withhold Medicaid coverage for abortion;[23] 10 restrict abortion coverage in health insurance marketplace plans;[24] four restrict abortion coverage in all private insurance plans;[25] and eight restrict abortion coverage in insurance plans offered to state public employees.[26]
  - Of the 15 states with nearly no workplace protections,[27] 13 withhold Medicaid coverage for abortion;[28] 10 restrict abortion coverage in health insurance marketplace plans;[29] four restrict abortion coverage in all private insurance plans;[30] and eight restrict abortion coverage in insurance plans offered to state public employees.[31]
  - Of the 10 states that have minimal workplace protections for expecting and new parents,[32] seven withhold state Medicaid coverage for abortion;[33] five restrict abortion coverage in health insurance marketplace plans;[34] two restrict abortion coverage in all private insurance plans;[35] and three restrict abortion coverage in insurance plans offered to state public employees.[36]
- Overall, states that are doing the most to support expecting and new working parents are the least likely to restrict insurance coverage for abortion care.
  - The two states with the most expansive protections in place for expecting and new parents – California and New York – also have state Medicaid coverage for abortion care, and

neither state restricts abortion coverage in private insurance plans or in insurance plans offered to state public employees.

- The District of Columbia also has expansive workplace protections, however, it is barred by Congress from using its own funds to cover abortion care in the Medicaid program.[37]
- Of the 11 states that have some supportive policies for expecting and new parents,[38] eight states have state Medicaid coverage for abortion care,[39] and only two restrict coverage in insurance plans offered to state public employees.[40]

The Way Forward

People want and need policies that give women and their families the ability to advance their own economic security, which includes access to abortion care and to workplace policies that support expecting and new parents. Eighty-six percent of voters agree that "however we feel about abortion, politicians should not be allowed to deny a woman's health coverage because she is poor."[41] Four in five voters (81 percent) say it is important for lawmakers to consider new laws that help keep working families economically secure, such as paid sick days and a paid family and medical leave insurance system.[42] Providing women of reproductive age with access to abortion care and addressing the workplace needs of pregnant and parenting women – and of all expecting and new parents – would strengthen the workforce, promote gender equity on the job and at home and improve economic security for families.

The National Partnership's analysis concludes that policymakers must do more to support women and families. We encourage the president to support and Congress to advance legislation that ensures that women across the country can access abortion care and that expecting and new parents have the workplace supports they need.

We urge swift adoption of:

- The EACH Woman Act, which would restore abortion coverage to women who receive health care or insurance through the federal government, and would prohibit political interference with health insurance companies that decide to offer coverage for abortion care;
- The Family and Medical Insurance Leave (FAMILY) Act, which would create a national paid leave insurance program to allow workers to earn a portion of their pay while they take a limited amount of time away from their jobs to care for a newborn or newly adopted child or newly placed foster child; care for a family member with a serious health condition; address their own serious health condition; or manage certain military caregiving responsibilities;
- The Healthy Families Act, which would establish a national paid sick days standard and allow workers to earn up to seven paid, job-protected sick days each year to use to recover from their own illnesses, access preventive care, provide care to a sick family member, or attend school meetings related to a child's health condition or disability; and
- The Pregnant Workers Fairness Act, which would help ensure pregnant women have equal access to reasonable workplace accommodations and promote the health and economic security of pregnant women and their families.

Providing women of reproductive age with access to abortion care and addressing the workplace needs of pregnant and parenting women – and of all new and expecting parents – would strengthen the workforce, promote gender equity on the job and at home and improve economic security for families.

Women and families do better when people have the freedom to choose if and when to have children and the workplace policies they need to foster economic stability. For 45 years, the National Partnership for Women & Families has worked to enact policies to make this vision a reality. You can learn more about the National Partnership's work, and what lawmakers can do to support women and families, at NationalPartnership.org.

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[1] Guttmacher Institute. (2016, May). *Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008*. Retrieved 1 September 2016, from https://www.guttmacher.org/report/characteristics-us-abortion-patients-2014

[2] The Hyde amendment bans the use of federal Medicaid dollars to cover abortion except in the cases of life endangerment, rape or incest. Boonstra, H. D. (2016). Abortion in the Lives of Women Struggling Financially: Why Insurance Coverage Matters. *Guttmacher Policy Review*, 19. Retrieved 12 September 2016, from https://www.guttmacher.org/sites/default/files/article_files/gpr1904616_0.pdf?utm_source=Master+List&utm_campaign=382f2136f5-SNQ_July_20167_26_16&utm_medium=email&utm_term=0_9ac83dc920-382f2136f5-260628361

[3] Ibid., pp. 48-50. Arizona and Illinois fail to cover abortion care under Medicaid, despite court orders to do so, and are therefore counted among the 35 states that do not have coverage.

[4] Guttmacher Institute. (2016, September). *Restricting Insurance Coverage of Abortion*. Retrieved 1 September 2016, from https://www.guttmacher.org/state-policy/explore/restricting-insurance-coverage-abortion

[5] Ibid.

[6] Ibid. Many of these restrictions have limited exceptions for extreme situations, such as life endangerment, rape, incest, fetal impairment or severe health risk. Policies differ across states; some states have one or more exceptions and some have none.

[7] Foster, D. G., Roberts, S. C. M., & Mauldon, J. (2012, October). *Socioeconomic consequences of abortion compared to unwanted birth*. Abstract presented at the meeting of the American Public Health Association, San Francisco, CA. Retrieved 12 September 2016, from http://apha.confex.com/apha/140am/webprogram/Paper263858.html

[8] Ibid.

[9] National Partnership for Women & Families. (2014, January). *Data brief: Listening to Mothers: The Experiences of Expecting and New Mothers in the Workplace* (pp. 2-3). Retrieved 12 September 2016, from http://www.nationalpartnership.org/research-library/workplace-fairness/pregnancy-discrimination/listening-to-mothers-experiences-of-expecting-and-new-mothers.pdf

[10] Klerman, J. A., Daley, K., & Pozniak, A. (2012, September 7). *Family and Medical Leave in 2012: Technical Report* (Exhibit 2.5.2, p. 36). Abt Associates Publication. Retrieved 12 September 2016, from http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf

[11] Amnesty International. (2010). *Deadly Delivery: The Maternal Health Care Crisis in the USA* (p. 36). Retrieved 12 September 2016, from http://www.amnestyusa.org/sites/default/files/pdfs/deadlydelivery.pdf

[12] Rynell, A. (2008, October). *Causes of Poverty: Findings from Recent Research* (p. 13). Heartland Alliance Mid-America Institute on Poverty Publication. Retrieved 9 September 2016, from http://socialimpactresearchcenter.issuelab.org/resource/causes_of_poverty_findings_from_recent_research

[13] Lake Research Partners & The Tarrance Group. (2014, November 2-4). *Election Eve/Night Omnibus*. Data on file with the National Partnership for Women & Families.

[14] Guttmacher Institute. (2016, March). *U.S. Unintended Pregnancy Rate Falls to 30-Year Low; Declines Seen in Almost All Groups, but Disparities Remain* [News release]. Retrieved 12 September 2016, from https://www.guttmacher.org/news-release/2016/us-unintended-pregnancy-rate-falls-30-year-low-declines-seen-almost-all-groups

[15] See note 2.

[16] National Latina Institute for Reproductive Health. (2014, September). *Sin Seguro, No Más!* Retrieved 12 September 2016, from http://latinainstitute.org/sites/default/files/NLIRH_SinSeguroReport_FINAL.pdf

[17] Glynn, S. J., Boushey, H., & Berg, P. (2016, April). *Who Gets Time Off? Predicting Access to Paid Leave and Workplace Flexibility* (p. 20). Center for American Progress Publication. Retrieved 12 September 2016, from https://cdn.americanprogress.org/wp-content/uploads/2016/04/20131209/WhoGetsTimeOff-report-04.20.16.pdf

[18] Creanga, A. A., Bateman, B. T., Kuklina, E. V., & Callaghan, W. M. (2014, May). Racial and ethnic disparities in severe maternal morbidity: a multistate analysis, 2008-2010. *American Journal of Obstetrics & Gynecology, 210*(5), 435.e1–435.e8 (p. 435.e2). Retrieved 12 September 2016, from http://www.ajog.org/article/S0002-9378(13)02153-4/fulltext

[19] Glynn, S. J., & Farrell, J. (2012, November 20). *Latinos Least Likely to Have Paid Leave or Workplace Flexibility* (p. 2). Center for American Progress Publication. Retrieved 13 July 2016, from https://www.americanprogress.org/wp-content/uploads/2012/11/GlynnLatinosPaidLeave1.pdf

[20] Thirty-five percent of black working parents and 25 percent of Hispanic working parents are eligible for and can afford to take unpaid leave under the Family and Medical Leave Act (FMLA), compared to more than 43 percent of white working parents. Brandeis University, The Heller School Institute for Child, Youth and Family Policy. (2016). *Working Parents Who Are Eligible For and Can Afford FMLA Unpaid Leave (Share) by Race/Ethnicity.* Retrieved 12 September 2016, from http://www.diversitydatakids.org/data/ranking/511/working-parents-who-are-eligible-for-and-can-afford-fmla-unpaid-leave-share-by-r/#loct=2&cat=28,24&tf=17&ch=1,2,3,4

[21] March of Dimes. (2015, February 27). *Racial and Ethnic Disparities in Birth Outcomes*. Retrieved 12 September 2016, from http://www.marchofdimes.org/materials/March-of-Dimes-Racial-and-Ethnic-Disparities_feb-27-2015.pdf

[22] National Partnership for Women & Families. (2016, August). *Expecting Better: A State-by-State Analysis of Laws That Help Expecting and New Parents*. 4th Ed. Retrieved 12 September 2016, from http://www.nationalpartnership.org/research-library/work-family/expecting-better-2016.pdf; Guttmacher Institute. (2016, July). *State Funding of Abortion Under Medicaid*. Retrieved 27 July 2016, from https://www.guttmacher.org/state-policy/explore/state-funding-abortion-under-medicaid; see also note 4.

[23] Alabama, Arizona, Georgia, Idaho, Michigan, Mississippi, Missouri, Nevada, Oklahoma, South Carolina, South Dakota and Wyoming. These are states that received a grade of "F" in the *Expecting Better* report. Arizona fails to cover abortion care under Medicaid despite a court order to do so. See note 2, p. 48.

[24] Alabama, Arizona, Georgia, Idaho, Michigan, Mississippi, Missouri, Oklahoma, South Carolina and South Dakota.

[25] Idaho, Michigan, Missouri and Oklahoma.

[26] Arizona, Georgia, Idaho, Michigan, Mississippi, Missouri, Oklahoma and South Carolina.

[27] Florida, Indiana, Iowa, Kansas, Kentucky, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Pennsylvania, Tennessee, Texas, Virginia and West Virginia. These are states that received a grade of "D" in the *Expecting Better* report.

[28] Florida, Indiana, Iowa, Kansas, Kentucky, New Hampshire, North Carolina, North Dakota, Ohio, Pennsylvania, Tennessee, Texas and Virginia.

[29] Florida, Indiana, Kansas, Kentucky, North Carolina, North Dakota, Ohio, Pennsylvania, Tennessee and Virginia. In Kentucky and North Dakota, although the law does not specifically refer to the marketplaces, the restrictions apply to them.

[30] Indiana, Kansas, Kentucky and North Dakota.

[31] Indiana, Kansas, Kentucky, North Carolina, North Dakota, Ohio, Pennsylvania and Virginia.

[32] Alaska, Arkansas, Colorado, Delaware, Louisiana, Maryland, Montana, Nebraska, Utah and Wisconsin. These are states that received a grade of "C" in the *Expecting Better* report.

[33] Arkansas, Colorado, Delaware, Louisiana, Nebraska, Utah and Wisconsin.

[34] Arkansas, Louisiana, Nebraska, Utah and Wisconsin.

[35] Nebraska and Utah.

[36] Colorado, Nebraska and Utah.

[37] In all but four years since 1989, Congress has restricted the District of Columbia's ability to use its own locally raised revenue to cover abortion care. NARAL Pro-Choice America. (2016, January 1). *Protect D.C. Residents' Rights; Repeal the Ban on Local Abortion Funding*. Retrieved 12 September 2016, from http://www.prochoiceamerica.org/media/fact-sheets/abortion-ban-protect-dc.pdf

[38] Connecticut, Hawaii, Illinois, Maine, Massachusetts, Minnesota, New Jersey, Oregon, Rhode Island, Vermont and Washington. These are states that received a grade of "B" in the *Expecting Better* report.

[39] Connecticut, Hawaii, Massachusetts, Minnesota, New Jersey, Oregon, Vermont and Washington. The three states that do not provide Medicaid coverage are Illinois, Maine and Rhode Island. Illinois fails to cover abortion care under Medicaid despite a court order to do so. See note 2, p. 48.

[40] Illinois and Rhode Island. In 1983, Rhode Island enacted a ban on private insurance coverage of abortion. The law was permanently enjoined in 1984. Nat'l Educ. Ass'n v. Garrahy, 598 F. Supp. 1374 (D.R.I. 1984).

[41] Hart Research Associates. (2015, June 30). *Polling on Repealing the Hyde Amendment*. Retrieved 12 September 2016, from http://allaboveall.org/wp/wp-content/uploads/2016/06/Polling-Memo.pdf

[42] Lake Research Partners & The Tarrance Group. (2014, November 2-4). *Election Eve/Night Omnibus*. Retrieved 12 September 2016, from http://www.nationalpartnership.org/research-library/work-family/lake-research-and-tarrance-group-2014-midterm-election-omnibus-poll-results.pdf