

BACKGROUND

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Obamacare's Many Loopholes: Forcing Individuals and Taxpayers to Fund Elective Abortion Coverage

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Abstract

Because of legislative loopholes and onerous mandates, Obamacare will entangle taxpayer funds in abortion coverage offered on state exchanges and could force many Americans to unwittingly pay an abortion surcharge with private dollars. Additional taxpayer funding and mandates on insurers could also provide increased funding and coverage for abortion providers like Planned Parenthood. To truly protect taxpayers, individuals, and families from subsidizing health plans that include coverage of abortion, Obamacare must be repealed in its entirety. Americans deserve health care reform that allows individuals and families to choose health care that meets their needs without violating their beliefs or subsidizing life-ending drugs and procedures.

Obamacare requires that, as of January 1, 2014, all individuals obtain qualified health insurance through their employer, on an exchange, or elsewhere. Consequently, millions of Americans have been looking to purchase health plans through state and federally run health insurance exchanges.

In order to avoid a hefty fine, individuals must purchase a plan that satisfies minimum federal benefits requirements. Because of legislative loopholes and onerous mandates, Obamacare will entangle taxpayer funds in abortion coverage offered on the exchanges and force many Americans to pay an abortion surcharge with private dollars.

KEY POINTS

- Obamacare will severely restrict the ability of Americans to choose health care coverage and work with issuers that reflect their values.
- Obamacare opens new avenues for funding abortion providers through navigator and assister grants and coverage mandates on insurers.
- Federal tax subsidies will be available for health plans offered on state exchanges that include coverage of elective abortion.
- Some Americans could pay an abortion surcharge with private dollars, possibly without their knowledge.
- Every individual and family that obtains qualified health insurance on or off an Obamacare exchange will be enrolled in coverage of abortion-inducing drugs and contraception—whether they want such coverage or not.
- State and federal governments can mitigate taxpayer funding for abortion coverage, but truly protecting taxpayers, individuals, and families will require full repeal of Obamacare.

This paper, in its entirety, can be found at <http://report.heritage.org/bg2872>

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Circumventing the Hyde Amendment

For decades, Congress has upheld a policy preventing the use of federal tax dollars to fund elective abortion. Specifically, every year since 1976, Congress has attached the Hyde Amendment to the appropriations bill for the Department of Health and Human Services.

The Hyde Amendment prohibits federal funding of abortion or health benefits plans that cover abortion except in cases of rape, incest, or when the life of the mother is in danger.¹ Other provisions of current law, like the annual Smith Amendment governing insurance plans available to federal workers under the Federal Employees Health Benefits Program (FEHBP), bar the government from incurring any costs in connection with administering a health insurance plan that covers abortions beyond the limits established by the Hyde Amendment.

However, because Congress failed to apply Hyde amendment or similar language to the totality of the health care law, Obamacare potentially allows large taxpayer subsidies to flow to health plans that cover elective abortion.

Federal Dollars for Health Plans that Cover Elective Abortion. For the first time, the federal government will provide an “affordability tax credit” to millions of low-income and middle-income individuals and families to help subsidize the purchase of health plans on the exchanges.² By allowing health insurers that sell plans on many state exchanges to cover abortion while remaining eligible for federal subsidies, Obamacare opens new avenues for federal funding of abortion coverage. These federal tax credits could facilitate the purchase of health plans that cover elective abortion for millions of Americans who did not have such coverage previously.

Some proponents of Obamacare argue that the affordability tax credit does not amount to a federal subsidy for abortion because it is a tax break and not a federal payment. Others argue that the requirement under Obamacare that elective-abortion plan subscribers pay a separate “surcharge” of not less than \$1 per month for abortion coverage ensures that only private dollars are expended for this purpose. Both arguments, however, are flawed.

The tax benefits conveyed under Obamacare are not aimed at tax relief but at steering individuals and families toward the purchase of heavily regulated, federally approved health plans.

The tax benefits conveyed under Obamacare are not aimed at tax relief but at steering individuals and families toward the purchase of heavily regulated, federally approved health plans.³ Structurally, the credits offered to individuals and families are refundable and advanceable, and payments are made not to the individual tax filer but to the health insurer. In fact, during consideration of the Affordable Tax Credit in 2009 and 2010, opponents and advocates of the bill alike acknowledged that this first-of-its-kind health insurance credit was in fact a targeted subsidy.⁴

In response to this legislative sleight-of-hand, some states have passed legislation barring health plan coverage of elective abortion on their exchanges. To date, 24 states have passed such “opt-out”

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1. Similar language is applied to annual funding bills across federal law, including foreign operations, the Peace Corps, and the federal prison system, among others.
 2. Brian Blase and Paul L. Winfree, “Obamacare and Health Subsidies: Expanding Perverse Incentives for Employers and Employees,” Heritage Foundation *WebMemo* No. 3112, January 20, 2011, <http://www.heritage.org/research/reports/2011/01/obamacare-and-health-subsidies-expanding-perverse-incentives-for-employers-and-employees> (accessed November 10, 2013).
 3. Paul L. Winfree, “Obamacare Tax Subsidies: Bigger Deficit, Fewer Taxpayers, Damaged Economy,” Heritage Foundation *Background* No. 2554, May 24, 2011, <http://www.heritage.org/research/reports/2011/05/obamacare-tax-subsidies-bigger-deficit-fewer-taxpayers-damaged-economy>.
 4. Families USA, a leading advocate of premium tax credits, defended them in May 2013, arguing that they operated more like a subsidy. “Individuals who don’t owe taxes can still receive the subsidy, and they will receive the subsidy when they buy private health insurance—not as a reimbursement after filing taxes,” they said. UPI, “Almost 23 Million of Working Families to Get Health Care Credit,” May 2, 2013, http://www.upi.com/Health_News/2013/05/02/Almost-23-million-of-working-families-to-get-healthcare-credit/UPI-14171367470453/ (accessed November 10, 2013).
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laws, while 26 states and the District of Columbia have taken no final action to prevent insurers from covering elective abortion.⁵

- In the 24 states that prohibit health plans offered on an exchange from covering elective abortion, taxpayer subsidies used to purchase insurance in these states will not go to abortion coverage.⁶ Likewise, individuals residing in these states can be assured that they will be able to choose a health plan for themselves and their families that does not include coverage of elective abortion.
- For the remaining 26 states and the District of Columbia, issuers selling health insurance will be allowed to include coverage of elective abortion in their health plans. Not every plan offered on those exchanges will necessarily include such coverage, and Obamacare provides that at least one of the plans in each exchange must exclude elective abortion coverage.⁷ The decision to include coverage should ultimately be left to the insurer.⁸ But federally subsidized tax credits will remain available even for the plans that do cover elective abortion, potentially sending taxpayer funds to pay for health coverage that includes elective abortion.

All-but-Invisible Abortion Surcharge. Individuals and families who live in states that allow abortion coverage in their exchanges could end up paying for elective abortions through a separate premium—possibly without their knowledge.

In passing Obamacare, Congress made one additional attempt to allay concerns about abortion funding in the insurance exchanges. It established a mechanism that proponents say ensures that only private funds are used to purchase elective abortion coverage. Thus, Section 1303(b)(2)(A)-(C) of the Obamacare law mandates that insurance companies must “segregate” any federal affordability tax credits that they receive from the individual premiums used to pay for abortions.

**Individuals’ and families’
“choice” of one plan that excludes
elective abortion coverage could
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their overall health needs.**

According to regulations finalized last year, every individual enrolled in a plan that includes coverage of abortion will be forced to pay an additional abortion premium of at least \$12 a year with private dollars.⁹ The insurer will then “segregate” those payments into a separate account, used solely to pay for elective abortion procedures for enrollees in the plan.

This abortion surcharge comes in addition to the federal subsidy or other premiums that cover the overall cost of the health plan coverage. Everyone, regardless of sex or age, who enrolls in a federally

5. “Update on Abortion Coverage Limitations: States Take Action,” Charlotte Lozier Institute *Factsheet*, September 11, 2013, <http://www.lozierinstitute.org/abortion-coverage-limitations/> (accessed November 10, 2013); Paige Winfield Cunningham, “Michigan Joins States Banning Abortion in Obamacare Plans,” *Politico*, December 11, 2013, <http://www.politico.com/story/2013/12/michigan-obamacare-affordable-care-act-abortion-100985.html?hp=19> (accessed December 17, 2013).

6. Most states prohibit abortion coverage except in cases of rape, incest, or when the life of the mother is in danger.

7. The Patient Protection and Affordable Care Act, Public Law 111-148, Section 1334(a)(6).

8. Note, however, that an e-mail communication from unidentified federal officials to the *Roll Call* newspaper on July 22, 2013, indicated that it was the intention of the Obama Administration to “ensure” that each exchange includes at least one insurance plan that does cover elective abortion. The Affordable Care Act does not require the inclusion of such a plan, and other provisions of law make plain that insurers enjoy rights of conscience with respect to the provision of induced abortions. See, for example, Section 507 (d) of Division F of the Consolidated Appropriations Act of 2012, Public Law 112-74, known as the Hyde-Weldon amendment, which outlaws discrimination by federal officials against, among others, insurance plans that do not “provide coverage of” abortions. Rebecca Adams, “The Question of Abortion Coverage in Health Exchanges,” *Roll Call*, July 22, 2013, http://www.rollcall.com/news/the_question_of_abortion_coverage_in_health_exchanges-226547-1.html?pg=2 (accessed November 10, 2013).

9. 42 CFR § 156.280.

subsidized plan that includes coverage of elective abortion will be forced to pay the separate abortion surcharge.

By 2017, every insurance exchange is required to have one plan that excludes coverage of elective abortions, but the law provides no opt-out for individuals or families who may want to buy a particular plan but without abortion coverage. Indeed, individuals' and families' "choice" of one plan that excludes elective abortion coverage could be overwhelmed by an array of plans that they would otherwise prefer and that more closely meet their overall health needs.

Those multi-state plans, like all plans offered on state exchanges, will still be eligible for the federally subsidized affordability tax credits, potentially sending additional taxpayer dollars to the coverage of elective abortion.

Limited Transparency and Restrictions on Consumer Choice. It is also possible that many individuals and families who would otherwise object to paying for abortion coverage may not even be aware of the surcharge on their insurance. Specifically, Obamacare regulations allow insurers to disclose the existence and amount of the abortion surcharge only at the time of enrollment—a warning that may constitute but a single sentence in a massive plan document.¹⁰ The rules also prohibit issuers from itemizing the additional charge for abortion coverage on premium bills.

For those living in the 26 states and D.C. without opt-out laws, individuals and families that wish to avoid health plans with abortion coverage could have few or no options in their state's exchange until 2017. In general, they could:

- *Enroll in a health plan that includes abortion coverage.* Individuals and families enrolled in such a

plan will be forced to pay an additional abortion surcharge, with limited disclosure of the additional payment's existence.

- *Enroll in an exchange plan or private plan that does not include abortion coverage—if one is available.* Some issuers participating in the exchanges could choose not to cover elective abortion. Individuals and families ostensibly could also enroll in private coverage outside an exchange that does not include abortion, but there is no guarantee that those abortion-free plans will provide overall benefits comparable to the plans that include abortion coverage.
- *Enroll in the federally run multi-state plan that will not include abortion coverage.* One of the multi-state plans sponsored by the Office of Personnel Management (OPM) is required to exclude abortion coverage. However, OPM is only required to offer those plans in 60 percent of state exchanges in 2014, eventually offering coverage in every state by 2017.¹¹ There is no guarantee either that this option will be available in every state during the first few years of Obamacare's implementation or that it will be an attractive option thereafter.

This system could place many Americans in an unwanted and unnecessary dilemma, forced to choose between violating their values by directly subsidizing abortion or forfeiting the health care coverage that meets their family's unique needs.

Multi-State Plans: The Other Non-Option. While the minimum, one multi-state plan that will exclude coverage of elective abortion could provide an option for individuals and families wishing to avoid such coverage, the federally sponsored health insurance is not without serious concerns.

Starting in the fall of 2013, the Office of Personnel Management will contract with private insurers to sponsor at least two multi-state plans on each insurance exchange. According to regulations finalized in March 2013, at least one of those plans offered in

10. 42 U.S.C. § 18023(E)(3)(A). According to the statute: "A qualified health plan that provides for coverage of the services described in paragraph (1)(B)(i) [elective abortions beyond those allowed for coverage under the Hyde amendment] shall provide a notice to enrollees, only as part of the summary of benefits and coverage explanation, at the time of enrollment, of such coverage."

11. Robert E. Moffit, "Obamacare and the Hidden Public Option: Crowding Out Private Coverage," Heritage Foundation *WebMemo* No. 3101, January 18, 2011, <http://www.heritage.org/research/reports/2011/01/obamacare-and-the-hidden-public-option-crowding-out-private-coverage> (accessed November 10, 2013).

each state will not cover elective abortion. Likewise, none of the OPM-sponsored plans will be allowed to include abortion coverage in the 24 states that prohibit it in their exchanges.¹²

But all other multi-state plans could—and likely will—cover abortion procedures.¹³ Those multi-state plans, like all plans offered on state exchanges, will still be eligible for the federally subsidized affordability tax credits, potentially sending additional taxpayer dollars to the coverage of elective abortion.

Moreover, the multi-state plans, by virtue of being sponsored by the federal government, will be offered according to a separate set of rules and conditions that are less stringent than those of other plans in state exchanges while still competing nationally against private insurance. In effect, these OPM-sponsored plans could become a virtual “public option,” benefiting from a government-backed monopoly in the insurance market.¹⁴ If the vast majority of these preferred multi-state plans include abortion coverage, the amount of taxpayer funding of such coverage could be much greater.

Entangling Taxpayers in Abortion Coverage and Compromising Conscience Rights

Even if individuals and families successfully navigate the labyrinth of abortion-funding provisions in the exchanges and avoid covering elective abortion in their own plans, taxpayer funds will unavoidably go to fund some health plans that include such coverage. Whether through tax credits to private health plans in a state that allows abortion coverage in its exchange or through subsidies to the multi-state plans that include such coverage, taxpayers will be supporting access to plans that cover elective abortion.

According to analysis by the Charlotte Lozier Institute, a pro-life research organization, this flood

of new funding for health plans that include elective abortion coverage could have a significant impact on the number of abortions that are covered by publicly subsidized plans. “If only one-third of the girls and women who are newly privately covered for elective abortions proceed and file for them,” explains the institute, “an additional 18,397 abortions will be paid for each year under ObamaCare’s exchange expansion.”¹⁵ Although insurers ostensibly will pay for those procedures with money collected from the additional abortion surcharge, it is the taxpayer-funded subsidies available for all exchange health plans that will allow such coverage in the first place.

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All Exchanges to Include Coverage of Abortion-Inducing Drugs and Devices. All health insurance offered on state exchanges must meet new federal standards for “qualified health plans.” The law’s preventive services mandate requires that all qualified health plans cover—without co-pay, deductible, or other charge to the enrollee—abortion-inducing drugs and devices, contraception, sterilization, and related education and counseling. All individuals and families obtaining health care coverage on any state’s exchange will participate in and pay for plans that include coverage of those drugs and services.¹⁶

12. 45 CFR § 800.602 (2013).

13. Adams, “The Question of Abortion Coverage in Health Care Exchanges.”

14. Moffit, “Obamacare and the Hidden Public Option: Crowding Out Private Coverage.”

15. Charles A. Donovan, “Multi-State Health Plans: A Potential Avenue to Tens of Thousands of Publicly Subsidized Abortions,” Charlotte Lozier Institute *On Point*, September 2013, <http://www.lozierinstitute.org/multistateplan/> (accessed November 10, 2013).

16. The same rule applies to all qualified health plans, whether offered on or off a state exchange. Because a separate Obamacare mandate requires all non-grandfathered employer health plans to meet federal benefits mandates, those plans must also include coverage of abortion-inducing drugs, contraception, and sterilization. Over 200 family businesses, schools, charitable organizations, and other employers have filed more than 70 lawsuits related to the mandate, claiming that complying with the rule will violate their deeply held religious or moral beliefs. Becket Fund for Religious Liberty, “HHS Mandate Information Central,” <http://www.becketfund.org/hhsinformationcentral/> (accessed November 10, 2013).

Individuals and families purchasing qualified insurance have no way to avoid this coercive mandate—even if they hold deep moral or religious objections to contraception or potentially life-ending drugs and devices. Moreover, the rule provides no opt-out for parents or any requirement for parental notification or consent before such drugs, devices, and services are provided “for free” to their minor adolescent children.

In mid-August, the Obama Administration awarded over \$655,000 in taxpayer grants to Planned Parenthood affiliates in Iowa, Montana, and New Hampshire to act as “navigators,” helping to enroll Americans in federally facilitated insurance exchanges.

Worse, many of Obamacare’s federal health benefits mandates have yet to be defined. In the coming months and years, government agencies will be dictating what other services qualified health insurance plans must cover.¹⁷ Since some of those mandated services could relate to prenatal testing, in-vitro fertilization, and other controversial health care services, conflicts between Obamacare and individuals’ and families’ values are very likely to continue.

Potential Funding for Abortion Providers

In addition to entangling taxpayer and private funds with abortion coverage, Obamacare opens potential new funding streams for abortion providers, including Planned Parenthood.

Planned Parenthood Affiliates to Act as “Navigators” and “Assisters.” Fears of low enrollment in Obamacare exchanges have prompted both the federal and state governments to begin funding an army of taxpayer-compensated community groups—including Planned Parenthood affiliates—that will market the health care law and facilitate entrance into the health plan marketplaces.¹⁸

For example, in mid-August, the Obama Administration awarded over \$655,000 in taxpayer grants to Planned Parenthood affiliates in Iowa, Montana, and New Hampshire to act as “navigators,” helping to enroll Americans in federally facilitated insurance exchanges.

While federal navigators are helping to aid enrollment in the federally facilitated exchanges across 34 states, more than a dozen states that have set up their own state-based exchanges plan to spend tens of millions in taxpayer dollars to fund community group “assisters” to promote their marketplaces. Many of those “assisters” could also include local Planned Parenthood affiliates, providing additional streams of Obamacare funding to the largest abortion provider in the nation.

The District of Columbia awarded \$375,000—one of the largest “assister” grants in the District—to Planned Parenthood Metropolitan D.C. to help enroll citizens in the District’s state-based health care exchange. Likewise, California, Minnesota, and Vermont have awarded a total of over \$700,000 to local Planned Parenthood affiliates to aid individuals’ enrollment in their state exchanges, and many more states will likely follow suit.¹⁹

Planned Parenthood Affiliates Listed as “Essential Community Providers.” Planned Parenthood and other family planning clinics could also benefit from an Obamacare requirement that qualified insurance plans cover a sufficient number of

17. Edmund F. Haislmaier, “Obamacare and Insurance Benefit Mandates: Raising Premiums and Reducing Patient Choice,” Heritage Foundation *WebMemo* No. 3110, January 20, 2011, <http://www.heritage.org/research/reports/2011/01/obamacare-and-insurance-benefit-mandates-raising-premiums-and-reducing-patient-choice>.

18. Alyene Senger, “The Cost of Educating the Public on Obamacare,” Heritage Foundation *Issue Brief* No. 3983, July 1, 2013, <http://www.heritage.org/research/reports/2013/07/public-outreach-on-obamacare-cost-of-educating-the-public-on-health-care-reform>.

19. News release, “Outreach and Grant Program Reward Recipients,” Covered California, August 20, 2013, http://www.healthexchange.ca.gov/Documents/Grantee%20Booklet_Updated.pdf (accessed November 10, 2013); news release, “Outreach and Infrastructure Grant Recipients Announced,” MNSure, August 23, 2013, <http://mn.gov/hix/news-room/news/newsdetail.jsp?id=387-76678> (accessed November 10, 2013); news release, “Vermont Health Connect Selects 18 Navigator Organizations: Navigators to Provide Vermonters with In-Person Assistance When Applying for Health Coverage,” Department of Vermont Health Access, May 21, 2013, http://healthconnect.vermont.gov/sites/hcexchange/files/Press_Release_Navigator_Organization_Grant%205_21_13.pdf (accessed November 10, 2013).

“essential community providers” (ECPs),²⁰ defined as health care providers and hospitals that predominantly serve “low-income, medically underserved individuals.” These organizations include federally qualified health clinics, hospitals, and Title X family planning centers, among other providers.²¹

Obamacare has established a concerning precedent in federal law that the Administration can require insurance companies to offer contracts to certain health care facilities like family planning centers.

In order to sell a qualified health plan on an exchange, insurers must cover a minimum of 10 percent to 20 percent of the ECPs in a plan’s coverage area.²² Insurers must also offer contracts to providers in each ECP category in each county covered, including at least one family planning clinic or Title X “look-alike” clinic. According to a non-exhaustive list of essential community providers released by the Department of Health and Human Services earlier this year, those family planning providers could include more than 400 local Planned Parenthood affiliates.²³

To be clear, the ECP requirement on insurers is not a mandate to cover abortion providers such as

Planned Parenthood affiliates. An insurer could offer contracts to a family planning center that does not perform abortions and still meet the law’s standards for network adequacy. Nor are issuers in federally facilitated exchanges required to cover all of the services that an essential community provider might offer, like elective abortion.

Nevertheless, Obamacare has established a concerning precedent in federal law that the Administration can require insurance companies to offer contracts to certain health care facilities like family planning centers. Through additional rulemaking or administrative guidance, the Obama Administration could require insurers to contract with all essential community providers in a given area, including all Planned Parenthood affiliates. Indeed, the Administration has reserved the right to revise the ECP standards in the future.²⁴

Moreover, states establishing their own exchanges have the ability to set higher standards, including requiring insurers in their state to cover all available ECPs and the covered services they provide.

Minnesota, for example, requires state health plans to offer contracts to all state-recognized essential community providers in the insurer’s coverage area. Once under contract with an ECP, insurers are required to pay for all covered benefits offered by the provider, including elective abortion services. Planned Parenthood Minnesota, North Dakota, South Dakota, the largest affiliate in the state, admits it has benefitted from the state’s man-

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20. Paul Bedard, “Obamacare Demands Insurers Cover Planned Parenthood Clinics,” *Washington Examiner*, June 6, 2013, http://washingtonexaminer.com/obamacare-demands-insurers-cover-planned-parenthood-clinics/article/2531277?custom_click=rss (accessed November 10, 2013).
 21. 45 CFR § 156.235 and Centers for Medicare and Medicaid Services, Center for Consumer Information and Insurance Oversight, letter to Issuers on Federally-facilitated and State Partnership Exchanges, April 5, 2013, p. 7, http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2014_letter_to_issuers_04052013.pdf (accessed November 10, 2013). Specifically, ECPs are defined as health care providers as defined in section 340B(a)(4) of the PHS Act and section 1927(c)(1)(D)(i)(IV) of the Social Security Act.
 22. Centers for Medicare and Medicaid Services, letter to Issuers on Federally-facilitated and State Partnership Exchanges. At least for the first year, some insurers that run their own network of health care clinics and hospitals may also be allowed to waive the ECP requirement by certifying that those entities predominantly serve low-income, medically underserved individuals.
 23. Centers for Medicare & Medicaid Services, “Non-Exhaustive List of Essential Community Providers—ECPs,” <https://data.cms.gov/dataset/Non-Exhaustive-List-of-Essential-Community-Providers/ibqy-mswq> (accessed November 10, 2013).
 24. The Centers for Medicare and Medicaid Services admits that it could require insurers to contract with more than 10 percent or 20 percent of the ECPs in a plan’s coverage area in coming years: “CMS will continue to assess QHP provider networks, including ECPs, and may revise its approach to reviewing for compliance with network adequacy and ECPs in later years.” Centers for Medicare and Medicaid Services, letter to Issuers on Federally-facilitated and State Partnership Exchanges, p. 10.

date.²⁵ Minnesota will maintain that requirement for health plans sold on its exchange, forcing participating insurers to offer contracts to Planned Parenthood affiliates and other abortion providers.²⁶

Enduring Problems for Individuals’ Values and Choice in Obamacare

The case against Obamacare includes an ever-expanding list of government dictates that restrict freedom, increase costs, and create serious conflicts of conscience for individuals, families, and employers. Entangling taxpayer dollars in new coverage for abortion and forcing some individuals to subsidize abortion procedures with private dollars is just another reason why Obamacare is broken from the start.

By requiring the establishment of health insurance exchanges in all states, Obamacare creates a mechanism for the federal government to dictate what the health plans offered on those exchanges cover.

The health care law’s ability to create complex abortion-funding provisions and use taxpayer funds for health plans that include coverage of abortion rests in Obamacare’s power to control. Specifically, by requiring the establishment of health insurance exchanges in all states, Obamacare creates a mechanism for the federal government to dictate what the health plans offered on those exchanges cover. Federal benefits mandates—like the requirement to cover abortion-inducing drugs and devices—are devised by unelected bureaucrats and enforced on all qualified health plans sold on and off state exchanges.

Obamacare then forces every citizen to obtain this government-approved insurance—through his or her employer, through a private insurer, or on an exchange—or risk federal fines. To assist individuals in complying, the law funnels large federal subsidies to millions of Americans entering the exchanges, entangling taxpayers in the provision of government-determined health benefits.²⁷

This one-size-fits-all regime will only increase conflicts of conscience in health care by severely restricting the ability of consumers to purchase and enroll in health coverage that is consistent with their values. All taxpayers will be made complicit in the provision of drugs, treatments, and health care services that some may consider immoral but that are deemed essential by bureaucrats and mandated by the government.

Protecting Life and Conscience in Health Care

The state and federal governments can still protect taxpayers from being forced to subsidize health plans that include abortion coverage and protect Americans’ freedom to choose health care coverage that does not violate their beliefs.

- **States should prohibit abortion coverage on their exchanges.** The 26 states and the District of Columbia without “opt-out” laws should pass legislation prohibiting insurers from offering coverage of elective abortion on their exchanges. Such reform would prevent taxpayer subsidies from flowing to these plans and protect individuals and families from being forced to pay a separate abortion premium if they should find themselves enrolled in a plan that covers abortion.
- **Congress should permanently prohibit federal abortion funding.** At the federal level, Congress can enact broad protections against tax-

25. “Our own Minnesota experience prior to the enactment of the Minnesota ECP statute illustrates that without a state mandate Planned Parenthood could not get the majority of health plans to contract for family planning services[.]” Sarah Stoez, Planned Parenthood Minnesota, North Dakota, South Dakota, letter to Commissioners of DHS, MDH, and Commerce, p. 138, <http://www.mn.gov/hix/images/CMT-Regulations-Resp.pdf> (accessed November 10, 2013).

26. Adam Sonfield, “Vigilance Needed to Make Health Reform Work for ‘Essential Community Providers,’” *Guttman Policy Review*, Vol. 16, No. 2 (Spring 2013), <http://www.guttman.org/pubs/gpr/16/2/gpr160217.html> (accessed November 10, 2013).

27. Robert E. Moffit and Edmund F. Haislmaier, “Obamacare’s Insurance Exchanges: ‘Private Coverage’ in Name Only,” Heritage Foundation *Backgrounder* No. 2846, September 26, 2013, <http://www.heritage.org/research/reports/2013/09/obamacares-insurance-exchanges-private-coverage-in-name-only> (accessed November 10, 2013).

payer funding of abortion and abortion coverage. The No Taxpayer Funding for Abortion Act (H.R. 7), for example, would ensure that “no funds authorized or appropriated by federal law” could be used to pay for abortion or health benefit plans that cover abortion.²⁸

- **Congress should protect the right of conscience.** Congress can also enact protections for individuals, employers, and issuers from being forced to offer, provide, or pay for coverage of drugs and services that violate their deeply held moral or religious beliefs. Likewise, Congress should codify across federal law protections for the rights of conscience of health care insurers, providers, and personnel who decline to provide, pay for, provide coverage of, or refer for abortions.

- **Defund and repeal Obamacare.** To truly protect taxpayers, individuals, and families, Obamacare must be repealed in its entirety. Until then, Congress should focus on defunding, delaying, and dismantling the health care law to make room for real reform.

Americans deserve health care reform that increases access to insurance, decreases costs, and allows individuals and families to choose health care that meets their needs without violating their beliefs or subsidizing life-ending drugs and procedures.²⁹

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28. No Taxpayer Funding for Abortion Act, H.R. 7, 113th Cong., 1st Sess., <http://thomas.loc.gov/cgi-bin/bdquery/z?d113:hr7> (accessed November 10, 2013).

29. Nina Owcharenko, “Saving the American Dream: A Blueprint for Putting Patients First,” Heritage Foundation *Issue Brief* No. 3628, June 6, 2012, <http://www.heritage.org/research/reports/2012/06/saving-the-american-dream-a-blueprint-for-putting-patients-first> (accessed November 10, 2013).