

Issue: Reproductive Rights - MI

Restoring Reproductive Rights in Michigan

Summary

Although abortion is still legal in the United States, Michigan Republicans have been passing state-level legislation that has chipped away incrementally at women's reproductive rights. By passing legislation restricting access to abortion, the legislature has effectively limited not only a woman's right to choose, but also her access to contraception and healthcare in general. Strategies to limit access include insurance coverage restrictions; costly unnecessary licensing, and administrative regulations on facilities; a mandatory waiting period and mandatory biased counseling; a ban on telemedicine for abortion services; parental consent requirements; and limitations on funding. These attacks hurt poor women, women of color, and rural women the most, and they ultimately cost the government money. By taking back the Michigan legislature in the 2018 elections, the Democrats will have enough votes to pass the Michigan Progressive Women's Caucus' bill package for restoring reproductive rights to women in the state.

Current Restrictions on Access to Services

Insurance limitations

In Michigan, 94% of abortions are paid out-of-pocket by the patient. Only 6% are paid by insurance. State law prohibits health insurance plans (including plans offered in the state's healthcare exchange under the Affordable Care Act) from covering abortions, except when it is necessary to save the mother's life. Women must purchase an optional rider and pay an additional premium to cover abortions under any other circumstances, including rape and incest. Insurance companies are not required to offer such riders, and people wouldn't buy them even if they could because people don't plan for an unplanned pregnancy. Michigan provides no public funding for abortion except in cases of rape or incest or when necessary to save the mother's life. Obviously, the lack of insurance coverage and public funding hits lower-income women the hardest because they do not have the resources to pay for the procedure themselves.

Onerous facility regulations

The Republican Michigan legislators have imposed costly and unnecessary TRAP (Targeted Regulation of Abortion Providers) regulations—regulations that essentially require doctors providing abortion services to convert their offices into mini-hospitals. They must comply with the requirements of a free-standing surgical outpatient facility. The regulations go so far as to specify the size of the procedure room and the width of corridors. The doctors must have a transfer agreement with a hospital not more than 30 minutes away, with no exception for rural areas that have no local hospital or for situations

in which the nearby hospitals refuse to grant transfer agreements. The transfer agreement regulation is significant because 25% of hospital beds in Michigan are in Catholic medical facilities that refuse to provide not only abortion services, but also contraception, sterilization, and infertility treatment. Only those physicians' offices and facilities where less than 50% of their patients seek abortions are exempt from the TRAP requirements.

Mandatory waiting period and counseling

At least 24 hours before an abortion, a qualified health professional must confirm that the patient is pregnant and orally describe to the patient the probable gestational age of the fetus. In addition, the woman must receive materials that use illustrations or photographs showing the anatomy of a fetus at two-week gestational increments, include info on prenatal care and parenting, describe complications associated with abortion, identify public agency adoption services, and state that some women experience depression, guilt, sleeplessness, anger, and loss of interest in work and sex after an abortion. A woman seeking an abortion must wait 24 hours between the time that she receives those materials and signs an informed consent form and the time that the procedure is performed. Prior to an abortion, if the woman receives an ultrasound, the health professional must offer the woman an opportunity to view the ultrasound images.

Telemedicine ban

In the early stages of pregnancy, women have the option of taking a pill (RU486 or mifepristone) instead of undergoing a surgical procedure. About 28% of abortions involve RU486. Michigan law prohibits the use of telemedicine (clinical services provided remotely via secure video and audio technology) to prescribe and monitor medication-type abortion. This ban poses service barriers particularly to women in rural areas who would have to travel long distances to receive in-person treatment at a clinic.

Parental consent

Parental consent, not just parental notification, is required under virtually all circumstances for a minor seeking an abortion in Michigan. A woman under age 18 may not obtain an abortion unless the physician receives the written consent of at least one parent. This mandate does not contain a waiver for minors who are victims of rape, incest, or child abuse. Parental consent is waived only in cases of medical emergency. The young woman may request a waiver from a judge by proving that she is mature and well-informed enough to make her own decision or that waiving parental consent is in her best interest.

Funding cuts

Federal and state laws prevent public funds from being used for abortions. However, public funds are used for non-abortion family planning and pregnancy prevention services, including birth control, preventative health exams, pregnancy testing and counseling, STD (sexually transmitted disease) testing and treatment, and cervical and breast cancer

screening. Most of these funds come from two federal programs—Medicaid and the Title X Family Planning Program. These programs provide birth control and non-abortion reproductive healthcare to low-income people who otherwise could not afford services.

A state law enacted in 2002 requires the Michigan Department of Health and Human Services (DHHS) to distribute family planning funds first to healthcare providers that do not perform abortions. Planned Parenthood of Michigan receives money from the state but gets only what's left over after the non-abortion healthcare providers receive the amounts for which they applied.

But that was not enough for Republicans. In the 2019 budget passed last June, the Republican-led legislature tried to eliminate funding for Planned Parenthood altogether. They inserted into the budget a provision prohibiting DHHS from contracting for non-abortion family planning services with an entity that performs abortions unless no alternative providers exist in the same county. Although he signed the budget bill, Republican Governor Rick Snyder said that the provision is unenforceable because it is unconstitutional. The state constitution prohibits legislators from changing an existing statute (the one adopted in 2002) through boilerplate budget language.

Planned Parenthood receives 40% of its funding from Title X or Medicaid but provides care for 65% of Michigan's Title X patients. The 2019 budget provision would have made it impossible for Planned Parenthood to provide family planning services in any county where there was another non-abortion provider. The state contracts with Planned Parenthood to provide family planning services to almost 46,000 patients at 19 clinics in 17 counties; the budget provision would have affected funding in 10 counties and services for approximately 20,000 people.

The above restrictions are just the laws that have been enacted. Every term the Republicans introduce an onslaught of bills attacking reproductive rights, many of which don't pass or are vetoed for various reasons.

Consequences of Republican Restrictions

The combined effect of the Republicans' legislative restrictions on abortion has been to force the closure of many family planning clinics. In 2011, Michigan had 30 abortion-providing clinics; as of 2014, only 20 remained, representing a 33% drop. In 2014, 89% of Michigan counties had no abortion-providing clinic, and 40% of Michigan women lived in those counties. In fact, while every Michigan county has a veterinarian, almost one-third of Michigan counties do not even have an OBGYN. Without those clinics, Michigan women lose access to contraception and other types of healthcare, not just abortion services.

Contraceptive use is a key predictor of whether a woman will have an abortion. Of the total unintended pregnancies in the U.S., 95% are attributable to the one-third of women who do not use contraceptives or use them inconsistently. Poor women are disproportionately affected by unintended pregnancy. In 2011 women below the federal

poverty level were five times more likely to experience an unintended pregnancy than women with incomes 200% or more than the federal poverty level.

Therefore, family planning clinics funded by Medicaid and Title X are critical to providing contraceptive supplies, services, and education to low-income women. By providing birth control services, publicly supported clinics in Michigan helped avert 25,100 unintended pregnancies in 2014, which would have resulted in 12,200 unplanned births and 9,100 abortions.

However, only 16% of low-income Michigan women who needed family planning services in 2014 received care. While 635,660 women in Michigan were in need of subsidized family planning services that year, the publicly funded clinics served 103,600 patients. Rather than closing clinics, *more* clinics are needed to avert unintended pregnancies, reduce abortion rates, and prevent low-income women from falling further into poverty.

That strategy serves state fiscal policy, too. Avoiding unintended pregnancies saves the government money. In 2010 the federal and Michigan state governments saved \$212.4 million due to the family planning services provided by publicly funded clinics.

In addition to contraception, public opinion and patient demand also support the need for abortion services. The majority of people in Michigan are pro-choice. A survey by the Pew Research Center revealed that 54% of adults in Michigan think abortion should be legal in all or most cases. At least half of American women will experience an unintended pregnancy by age 45, and 3 in 10 women will choose to have an abortion by age 45. In Michigan in 2015, two-thirds of Michigan women who had abortions already had at least one child, and 89% of abortion patients were unmarried.

Furthermore, studies show that political interference that restricts access to abortion:

- Hurts low-income women of color the most;
- Makes women more likely to experience poverty, domestic violence, and poor health; and
- Makes women more likely to seek abortion illegally, putting their lives at risk.

Michigan Progressive Women's Caucus Response

In the 2017 legislative session, Democratic legislators from the Michigan Progressive Women's Caucus introduced a five-bill package aimed at restoring reproductive rights in Michigan. Of course, those bills died in committee because the Republicans control both the state house and senate. If the Democrats win a majority of seats in the 2018 election, those bills can be reintroduced and adopted so that Michigan women can reclaim their right to reproductive healthcare.

The five bills proposed by the Democrats are:

- HB 4760—Repeals the 24-hour informed consent requirement
- HB 4761—Repeals the ban on abortion coverage in healthcare insurance policies

- HB 4762—Prevents healthcare professionals from providing information or services that are not accurate and not evidence-based to patients
- HB 4763—Makes any state law or administrative regulation that places a burden on a woman’s access to abortion unenforceable if it does not confer a legitimate health benefit
- HB 4765—Prohibits a health facility from refusing to provide reproductive health services if withholding them would result in health risks

Ominous Future

In 1931, Michigan passed a near-total ban on abortion, making anyone who causes an abortion guilty of a felony, unless the abortion is necessary to preserve the woman’s life. There is no exception for rape or incest. That law is still on the books. Michigan has not repealed the ban, even after the Supreme Court decision in *Roe v. Wade*. Although currently unenforceable, it would automatically be resurrected in the event that the sitting Supreme Court overturns *Roe v. Wade*. Repealing the 1931 abortion ban is yet another reason to elect a Democratic majority in the Michigan state legislature in 2018.

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