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HHS: Obamacare Insurers Must Send Enrollees Two Bills — Individuals to pay separately for abortion-related coverage under novel Hyde Amendment interpretation

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WASHINGTON -- Health insurers selling policies on the Affordable Care Act's health insurance exchanges will be required to send enrollees a separate bill for abortion coverage under a [final rule issued Friday](#) by the Department of Health and Human Services (HHS), taking effect June 27, 2020.

"Individual market Exchange issuers must determine the amount of, and collect, from each enrollee, a separate payment for an amount equal to the actuarial value of the coverage for abortions for which public funding is prohibited, which must be no less than \$1 per enrollee, per month," the rule says. "QHP [Qualified Health Plan] issuers must also segregate funds for non-Hyde abortion services collected through this payment into a separate allocation account used to pay for non-Hyde abortion services." The word "Hyde" refers to the [Hyde Amendment](#), a law passed by Congress in 1976 which bars federal funds from being used to pay for abortions.

"Providing these separate bills is an essential step in implementing the Affordable Care Act's bar on tax credits going toward coverage of abortions for which public funding is prohibited," HHS Secretary Alex Azar [said in a statement](#). "The separate billing requirement fulfills Congress' intent and reflects President Trump's strong commitment to preventing taxpayer funding of abortion coverage."

The rule's *Federal Register* notice said the Trump administration doesn't think current methods for separating out the abortion part of the insurance bill are adequate. "HHS now believes that some of the methods for billing and collection of the separate payment for coverage of non-Hyde abortion services described as permissible in the preamble to the 2016 Payment Notice do not adequately reflect Congress's intent," it states.

"We believe Congress intended that QHP issuers collect two distinct (that is, 'separate') payments, one for the coverage of non-Hyde abortion services, and one for coverage of all other services covered under the policy, rather than simply itemizing these two components in a single bill, or notifying the enrollee that the monthly invoice or bill will include a separate charge for these services."

Abortion rights supporters were not happy with the new rule. "The last thing people need are more obstacles between them and their health care -- and yet President Trump and Vice President Pence continue to look for new, damaging ways to get in between patients and their care providers and to chip away at access to reproductive health care," Sen. Patty Murray (D-Wash.) said in a statement.

"After their partisan parade of ideological judicial nominees and harmful gag rules, this is just the latest attack in President Trump and Vice President Pence's damaging crusade to bring us back to the days when women couldn't make their own decisions about their own bodies. But we are not going to let them take us back; Democrats are going to continue speaking out for families across the country and fighting back to protect every woman's right to a safe, legal abortion."

"As a family medicine doctor, taking care of patients through all stages of life and circumstances is at core of what I do. This includes taking care of patients when they need abortion care," said April Lockley, DO, a family physician in Far Rockaway, New York, and a fellow with Physicians for Reproductive Health, a pro-choice organization. "The Trump administration continues to attack patients who need access to health care, which includes abortion care. This is the latest in a long line of efforts to shame, stigmatize, and financially burden people who have abortions. And the burden will fall hardest on families struggling to get by."

Health plans also expressed concern. "Health care is complex enough as it is," said Margaret Murray, CEO of the Association of Community Affiliated Plans, which represents safety-net health plans serving more than 20 million people. "Requiring people to pay two bills for one product -- health coverage -- is a non-solution in search of a problem."

"Failing to pay both bills every month will set consumers on a path to total termination of coverage," she continued. "It's hard to think of another industry where the government mandates, as the Trump administration would here, that consumers cut two checks a month for the same service.... This provision will wrap Marketplace coverage in red tape. The administration should withdraw these requirements immediately."

Indeed, the *Federal Register* notice acknowledged that most comments on an earlier draft opposed the rule, and "nearly all objecting commenters stated that the proposals would cause considerable and unnecessary confusion and frustration for enrollees that may jeopardize their health insurance coverage. Commenters expressed concern that these billing changes would make it more difficult for policy holders to pay their premium bills, and could result in coverage being terminated for unintentional non-payment. Commenters expressed concerns that, despite issuer notices and communications to explain the second bill and separate payment requirement, enrollees would likely not understand this change in billing."

Nevertheless, administration officials "continue to believe that the statute contemplates issuers billing separately for coverage of non-Hyde abortion services, consistent with Congress's intent that issuers collect separate payments for such services," the *Federal Register* notice said. However, in order to save insurers money on mailing expenses, insurers "may include the separate bill for coverage of non-Hyde abortion services in the same envelope or mailing as the bill for the portion of the premium attributable to coverage of all other services."

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