

Fighting Federal Attacks on Health Care Access and Equity through Legal and Policy Advocacy

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Roadmap

- The so-called One Big Beautiful Bill Act (OBBBA): what it means for health care access generally
- Administrative attacks on language access and immigrants
- Litigation affecting health care access
- Federal Attacks on sexual and reproductive health (SRH)
 - What OBBBA means for SRH
 - Administrative attacks on and threats to SRH
 - *Medina v. Planned Parenthood South Atlantic*

About NHeLP

- For over 55 years, NHeLP has advocated, educated and litigated to improve health access and quality for low-income and underserved people
- State & local partners:
 - Health Law Partnerships
 - Disability rights and sexual and reproductive health, rights, and justice advocates
 - Poverty & legal aid advocates
- [About Us](#) & [Equity Stance](#)



The So-Called One Big Beautiful Bill Act

Disclaimers

- We are still at the beginning of the analysis of OBBBA
- A lot depends on future regulations and guidance from the Administration on OBBBA, health equity, civil rights laws, etc.
- We are not providing specific legal advice about implementation or the impacts

Magnitude of the Cuts

- \$1 trillion in cuts to Medicaid
- Elimination of health care coverage of 11.8 million people by 2034
- With expiration of enhanced marketplace tax credits, potential total of 17 million losing health care
- Unprecedented—biggest cut in Medicaid history
- Theme: Extra hurt for Medicaid expansion states

Medicaid Cuts

Eligibility – more frequent/onerous eligibility checks

- Requires eligibility redetermination every 6 months for Medicaid expansion enrollees instead of yearly [Effective date: 1/1/27]
- Cuts Medicaid retroactive eligibility period from 3 months to 1 month (for expansion enrollees) and 2 months (for non-expansion) [Effective date: 1/1/27]
- Reduces Home Equity Limits [Effective date: 1/1/28]
- Prevents implementation of federal regulations that streamlined eligibility for Medicaid applicants who are older or have disabilities and MSPs [Date of enactment through 9/30/34]

Medicaid Cuts

Financing – severely limits the ways states raise funds to pay for their share of Medicaid costs

- Freezes provider taxes for all states
- Reduces provider taxes in expansion states from 6% to 3.5%
- Directs HHS to cap state directed payments [Starts on 1/1/28]

Work Requirements (“Community Engagement”)

- Adds mandatory requirement for Medicaid expansion enrollees/applicants aged 19–64, with numerous attempts at carve-outs and data matching
- Any combination that adds up 80 hours per month – paid work, community service, or participation in a work program or student (at least half-time)

Medicaid Cuts

- Reimburses for emergency-only Medicaid based on state's regular FMAP, not 90% rate, for immigrants [Effective date: 1/1/26]
 - States have been getting 90% federal match for immigrants who would be enrolled in Medicaid expansion but for immigration status
- Requires cost-sharing of up to \$35 per service for individuals 100%-138% FPL [Effective date: 10/1/28]
- Analysis on SRH implications of bill later

Marketplace Cuts

- Fails to extend ePTCs [1/1/26]
- Rescinds limits on recapture of excess APTCs [1/1/26]
- Prohibits PTCs for income-based Special Enrollment Period enrollees [1/1/26]
- Limits non-citizen eligibility for PTCs & excludes immigrants under 100% FPL [1/1/27]
- PTC “Lockout” Related to Medicaid Work Requirements [1/1/27]
 - Individuals who are denied or disenrolled from Medicaid due to WR are ineligible for PTCs to purchase Marketplace coverage
- Pre-enrollment verification of eligibility for Premium Tax Credits (PTCs)
 - Effectively prohibits automatic re-enrollment for individuals with PTCs (1/1/28)
 - Requires Marketplaces to establish a pre-verification processes no later than 8/1/27

Lawfully Present Immigrants – Eligibility Changes

- **Eligible** for Medicaid, CHIP, Medicare & marketplace tax credits:
 - Lawful permanent residents (green card holders)
 - Certain Cuban & Haitian nationals (“entrants”)
 - COFA (Compact of Free Association) migrants from Micronesia, Palau or the Marshall Islands
- Newly **ineligible** for Medicaid, CHIP, Medicare & marketplace tax credits:
 - Individuals granted asylum or withholding of removal
 - Refugees
 - Survivors of domestic violence with pending/approved application for lawful status under VAWA
 - Survivors of trafficking with a pending/approved T visa
 - People with Temporary Protected Status and valid visa holders
- States retain flexibility to cover lawfully present pregnant women and children
- Effective dates: Medicaid/CHIP – 10/1/2026; Medicare – 7/4/2025 (although those already enrolled as of 7/4/2025 may remain for 18 months)

What Health Care Cuts Mean

- More uninsured – Medicaid & Marketplace but also Medicare
- More lawfully present immigrants uninsured & without other options
- Higher costs for marketplace coverage
- Fewer services provided in Medicaid & fewer providers

Massive cuts to Medicaid will force states to fill huge budget holes by making changes

Likely Impact of Health Cuts on States, Cities & Public Health Departments

- Fewer state & local dollars needing to go farther
- Increased demand on health care system
- Less access to safety net, especially for immigrants
- Hospitals & clinics (inc. Planned Parenthood clinics) will close, particularly in rural areas that will transfer strain to cities

Administrative Actions – Language Access

EO 14224 – Designating English as the Official Language of the United States (3/1/25)

- Declares English the official language of the United States & revokes EO 13166
- BUT
 - does **not** require or direct any change in the services provided by any agency
 - agency heads are **not** required to amend, remove or otherwise stop productions of documents, products, or other services prepared or offered in languages other than English
- Rescinds any policy guidance documents pursuant to EO 13166
 - DOJ already rescinded its guidance

EO 14281 – Restoring Equality of Opportunity and Meritocracy (4/23/25)

- It is the policy of the United States to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible
 - all agencies shall deprioritize enforcement of all statutes and regulations to the extent they include disparate-impact liability
 - sets up repealing or amending T. VI regulations
- “Disparate impact” refers to unintentional discrimination, where a policy or practice, on its face, appears neutral but has a discriminatory effect on a protected group

EOs vs. Title VI & Sec. 1557

- Executive Orders **cannot** overturn existing statutes (T. VI, Sec. 1557)
- Executive Orders **cannot** overturn existing regulations
 - Title VI and Section 1557 have implementing regulations
- Executive Orders can rescind prior Executive Orders and guidance (DOJ LEP Guidance)

Administrative Actions – Immigrants

Administrative Actions – Federal Public Benefits

- Only “qualified” immigrants can access FPBs:
 - lawful permanent residents (LPRs)
 - refugees, asylees, persons granted withholding of deportation/removal, conditional entry, or paroled into the U.S. for at least one year
 - Cuban/Haitian entrants
 - battered spouses and children
 - victims of trafficking and their derivative beneficiaries who have obtained a T visa or whose application for a T visa sets forth a prima facie case
 - COFA migrants
- NOTE: “Qualified immigrant” for purposes of FBP (8 U.S.C.) is different than OBBA definition for Medicaid/CHIP/Medicare/marketplace eligibility (42 U.S.C.)

Administrative Actions – Federal Public Benefits

- This administration has expanded definition of Federal Public Benefit
 - [1998 Notice](#) – only programs providing services directly to an individual, including cash assistance & health programs like Medicaid (but not emergency Medicaid) & Medicare were FBP
 - [2025 Notice](#) – adds programs including federally qualified community health centers, T. X family planning clinics, and many block grants to list of programs/services that only qualified immigrants can access
- Also we expect a regulation constraining definition of state residency for Medicaid purposes
- And CMS has said it will share Medicaid enrollment data with DHS for immigration enforcement purposes

What's Next?

Outlook for 2025 and Beyond

- OBBBA Implementation will ramp up, particularly at state level
 - Expect guidance from Administration over next months/year
- Title VI and Section 1557 remain the law
 - Only if Congress passes an amendment or new law would the nondiscrimination requirements change
 - Administration could propose revisions to existing regulations
 - Must go through a formal notice-and-comment process, consider comments, issue a final rule
 - Previous changes to Section 1557 regulations were subject to litigation and not all went into effect

Next Steps

- Identify ways to bridge the gaps in care for individuals, stresses on the health care system and safety net in particular
- Work to identify models from other states/cities/entities to replicate
- Communicate with rural partners to monitor access and impact on your resources
- Ensure information is culturally & linguistically accessible – multiple languages & alternative formats to reach different audiences
- Provide support to help navigate the new rules – immigrant eligibility, work requirements, etc. – and prevent chilling effect
- Avoid anticipatory compliance – a lot is unknown and won't be for awhile

Litigation Affecting Health Care Access

Lots of Litigation since January

- Overall
 - Lots of challenges to Trump EOs
 - Lots of challenges to ending of federal funding & cutting of federal staff
 - Lots of challenges to new requirements re: DEI (or really, anti-DEI)
 - Trackers by a variety of organizations
 - [Democracy Forward](#)
 - [Lawfare](#)
 - [Georgetown O'Neill Institute](#) (only health litigation)

Kennedy v. Braidwood Management Inc.

- Plaintiffs sued HHS claiming the preventive services coverage mandates of the ACA were unconstitutional
 - Mandates were adopted by the US Preventive Services Task Force (USPTF)
- Supreme Court upheld the mandates as constitutional
- NHeLP filed [amicus brief](#) in 5th Circuit and with SCOTUS
- BUT HHS Secretary dismissed all members of USPTF

City of Columbus v. RFK Jr.

- Case challenges “Marketplace Integrity and Affordability” final rule from HHS/CCIIO
 - Unlawfully imposes new fees
 - Weakens coverage standards
 - Creates barriers that would make it harder – and in some cases impossible – for people to get and keep affordable health insurance
- NHeLP filed [amicus brief](#) in support of the plaintiffs
- US District Court of MD granted [preliminary injunction](#) (8/22/25) to block implementation of the challenged provisions of the rule

Federal Attacks on Sexual and Reproductive Health

Medicaid and Sexual and Reproductive Health

- Medicaid covers 71+ million people with low incomes nationwide
- A critical provider of sexual and reproductive health care (SRH) for people with low incomes, particularly BIPOC, disabled, queer, and young people
- The largest payer of U.S. births, covering 41% of total births and more than 2/3 among Black and Indigenous people
- Accounts for 75% of public expenditures on family planning

What The Big Ugly Bill (OBBBA) Means for Sexual and Reproductive Health

Work Requirements are Cuts to Medicaid Expansion, a SRH Lifeline

In the 41 states (including D.C.) that have expanded Medicaid:

- [Increases](#) insurance coverage prior to pregnancy, at birth, and post-pregnancy;
- Increases access to and utilization of SRH services such as:
 - Prenatal, post-pregnancy, and contraceptive care
 - HIV-related services
 - Screening, diagnosis, and/or treatment for reproductive cancers
- Has played a key role in progress toward ending the U.S. [HIV epidemic](#), reducing [maternal mortality](#), and narrowing maternal health [inequities](#)
- Work requirements will increase uncompensated care, hurting SRH providers and access

OBBBA: Provision Excluding Certain Abortion Providers from Medicaid Funding (“Defund” Provision)

Bans “prohibited entities” from receiving Medicaid funding for 1 year

- 501(c)(3) tax-exempt,
- [Essential community providers](#) [45 CFR 156.235] that are primarily engaged in family planning services, reproductive health, and related medical care,
- Provide abortions beyond the narrow Hyde exceptions, **AND**
- Received over \$800,000 in Medicaid funding in FY 2023

“Entity” includes “affiliates, subsidiaries, successors, and clinics.”

Planned Parenthood [filed suit](#) and a federal judge in Boston granted a preliminary injunction. Maine Family Planning also [filed suit](#) but have not yet received any relief.

What the Provider Exclusion Means for SRH

- Leaving the most vulnerable people with nowhere to access care
- Family planning clinics are often the only source of care for people with low incomes.
- [76%](#) of Planned Parenthood health centers are located in rural or medically underserved areas.
- [Over 42%](#) of people of reproductive age already live in areas with provider shortages; [almost half](#) of all U.S. counties have no OB/GYN.

Federal Administrative Attacks on Sexual and Reproductive Health

Federal Administrative Attacks – SRH Generally

- Title X funding freeze
- HHS restructuring – ending or shrinking SRH-related programs and teams
- Digital book burning: removing federal websites and resources that include words like “reproductive rights,” “gender ideology,” “transgender,” “LGBTBQ health,” “women’s health”
- Push toward deregulation (in part an attack on DEIA) – Presidential Memorandum, Office of Manag. & Budget Request for Info
- Pronatalist policymaking (exec order 14216 on IVF)

Abortion

Abortion as a pawn to destabilize programs we care about:

- FDA's authority, via medication abortion drugs [happening now]
- Abortion surveillance as condition for Medicaid funding [Project 2025]
- Abortion coverage mandate as justification for Medicaid funding removal [Trump 1.0]
- Double billing rule in the ACA marketplaces [Trump 1.0]
- Section 1115 waivers to restrict post-pregnancy coverage for people who end up having abortions [happening now]
- Removal of abortion providers from the Medicaid program [also via *Medina v. PPSA*]

Additional Threats

- Deregulation push -> rescission of various Biden era rules in whole or part, *e.g.*, § 1557, § 504, Medicaid access rules
- New health care refusals rule
- Implementation of the Comstock Act (medication abortion)
- Removal of Emergency Medical Treatment & Active Labor Act protections for stabilizing care
- Restrictions on sexual health services

Fighting Back

OBBBA Damage Mitigation

- Implementing changes in least harmful way possible
- [Special Legislative sessions](#): monitor for SRH-related cuts, create special state-level funding mechanisms for SRH providers and services
- Monitoring Medicaid data privacy (e.g., privacy of work requirement exemption-related data on disability, pregnancy)

Federal Administrative Advocacy

- Tracking and responding to forthcoming guidance and rulemaking
- Building a robust administrative record for litigation

Documenting the Harm

- Data monitoring and evaluation, op-eds, story collection on harms to SRH access

Medina v. Planned Parenthood South Atlantic

Medina: Background

Section 1983 and private right of action

Authorizes private individuals to sue state or local officials who deprive them of “any rights, privileges, or immunities secured by the Constitution and laws.”

Health and Hospital Corporation of Marion County v. Talevski (2023)

Medicaid beneficiaries have a private right of action - e.g. “sue to enforce their rights”

Free choice of provider in Medicaid – 42 U.S.C. § 1396a(a)(23)(A)

Medicaid beneficiaries may access health care from any provider

At Issue in *Medina*

Does the Medicaid free choice of provider provision, 42 U.S.C. § 1396a(a)(23), unambiguously confer a right upon beneficiaries to choose a specific provider?

1. Is there a private right of action under Medicaid through §1983? Applies the Gonzaga test (“if Congress wishes to create new rights enforceable under §1983, it must do so in clear and unambiguous terms”)
2. If so, can the freedom of choice provision be enforced by Medicaid beneficiaries?

SCOTUS: Freedom of choice does not pass this test

Broad Impact on Medicaid at Large

- Enforcement of most Medicaid statutory provisions will be much more challenging going forward.
- Considering other alternatives to § 1983 enforcement litigation.

Resources:

- [NHeLP Webinar: *Medina v. Planned Parenthood* Breaking Down the Court's Decision](#)
- [NHeLP: *Medina v. Planned Parenthood of South Atlantic*: Explainer on the Impact on Medicaid and Sexual and Reproductive Health](#)
- [NHeLP Case Explainer: *Medina v. Planned Parenthood of South Atlantic*](#)

Devastating Impact on Sexual and Reproductive Health Care

- Will severely harm SRH access for South Carolinians
- Will lead to more unintended pregnancies, worse pregnancy outcomes, undetected illnesses, and poorer overall health outcomes.
- Will exacerbate health care provider shortages, increase health inequities, and escalate the public health crisis.
- Will mostly harm underserved communities.
- Only applies to SC, though other states may follow suit [e.g., AR, TX].

Resources

NHeLP Resources – General

- NHeLP's [website](#)
- Join NHeLP's listserv:
<https://healthlaw.org/sign-up/>

Resources – OBBBA

- NHeLP's OBBBA damage mitigation [resource library](#)
- NHeLP's OBBBA implementation charts:
 - High-Level: [Implementation Dates](#)
 - Detailed: [Implementation Dates, Funding, and Administrative Authorities](#)
- Blog post series on SRH implications
- [H.R. 1 – Text](#)
- [NILC: Fact Sheet on the Anti-Immigrant Policies in Trump's OBBB](#)

NHeLP Resources – Section 1557

- [Section 1557 webpage](#)
 - [Section 1557 Final Rule analysis](#)
 - [Issue Brief on Title VI and Section 1557](#)
 - [Medicaid and CHIP Reimbursement Models for Language Services: 2024 Update](#)
 - [The High Costs of Language Barriers in Medical Malpractice](#)
- NHeLP Blog: [Despite new Executive Order, Language Access is Still the Law!](#)
- NHeLP Blog: [Language Access is Mission Critical... and Still the Law](#)

NHeLP Resources – Sexual and Reproductive Health Resources

- NHeLP Sexual and Reproductive Health Practice Area landing page:
<https://healthlaw.org/sexual-reproductive-health/>
- SRH and Health Care Reform – post-OBBBA SRH resources
- SRH Equity – resources on NHeLP’s work to fight discrimination and inequities impacting the SRH of underserved communities
- [An Advocate’s Guide to Sexual and Reproductive Health in the Medicaid Program](#)

Questions?



Please take this survey to evaluate conference sessions.



THANK YOU