



NELSON/HATCH AMENDMENT ON ABORTION

December 7, 2009

Today, Senators Ben Nelson (D-NE) and Orrin Hatch (R-UT), and other senators, including Senator Robert Casey (D-PA), introduced an amendment to Senator Reid’s health care bill to, according to a press release by Senator Nelson’s office, “extend the more than 30-year federal standard disallowing public funding for abortion to the Patient Protection and Affordable Care Act of 2009, the Senate health care bill.” The amendment is substantially similar to the House health care reform bill abortion amendment that was offered by Congressmen Bart Stupak and Joe Pitts, which passed by a vote of 240 to 194.

The first section of the amendment contains three sections relating to the coverage of abortion services. The first clarifies that nothing in the Act “shall be construed to require any health plan to provide coverage of abortion services or to allow the Secretary [of the Department of Health and Human Services] or any other person or entity implementing this Act” to require coverage of abortion services. The second prohibits the public health insurance option, dubbed the “community health insurance option” in the Reid bill, from providing coverage for elective abortion services. The third ensures that health benefits plans that operate in the Exchange may not “discriminate against any individual health care provider or health care facility because of its unwillingness to provide, pay for, provide coverage of, or refer for abortions.”

The second section of the amendment addresses the funding limitations. This language is very similar to the language of the Stupak/Pitts Amendment, which was added to the House health care reform bill. It limits the use of funds authorized or appropriated under the Act from being “used to pay for any abortion or to cover any part of the costs of any health plan that includes coverage of abortion” except in very limited circumstances, such as in the cases of rape, incest, or when the life of the mother is at risk. This is, in essence, placing the Hyde Amendment restrictions into the health care bill. Under the amendment, individuals and “non-Federal entit[ies]” are permitted to purchase separate supplemental abortion coverage or plans that cover abortion services, so long they purchase that coverage or plan with private funds. Furthermore, “non-Federal health insurance issuer[s]” can offer supplemental coverage for abortion services or plans that cover abortion services so long as those plans or coverage are not paid for the with funds authorized or appropriated under the Act and the insurance issuer offers an identical plan without elective abortion coverage.