



The Community Health Center Fund

The President and Secretary Sebelius have repeatedly stated their strong commitment to ensuring that health insurance reform does not change the status quo on abortion policy. In the health insurance reform legislation pending in Congress, the status quo is maintained: There is no federal funding for abortions except in cases of rape or incest, or where the life of the woman would be endangered. In particular, as set forth below, the law is clear that abortion funding policies for community health centers will not change.

The Senate-approved health reform legislation would establish a new Community Health Center (CHC) Fund, which would provide additional federal funds for community health centers to provide services under the existing CHC grants program administered by the Health Resources and Services Administration (HRSA), an agency within the Public Health Service (PHS). There have been concerns that the Senate bill does not include an explicit provision that would subject these new funds to the abortion-related restrictions under the Hyde Amendment. Regardless of whether the Senate bill would do so, there have existed for over 30 years regulations that prohibit federal funds from being used for abortion services in programs administered by HRSA and other PHS agencies, except in cases of rape or incest, or where the life of the woman would be endangered. 42 C.F.R. §§ 50.301, et seq.

These regulations on their face would apply to these new funds. 42 C.F.R. § 50.301 provides that the prohibition on abortion funding applies to “programs or projects for health services which are supported in whole or in part by Federal financial assistance, whether by grant or contract, appropriated to the Department of Health and Human Services and administered by the Public Health Service.” Accordingly, these regulations apply to the CHC grants program administered by HRSA. See 56 Fed. Reg. 11,453 (1991); 56 Fed. Reg. 8356 (1991); 46 Fed. Reg. 10016 (1981) (delegating the administration of the CHC grants program to HRSA, a PHS agency). Notably, these regulations apply to the \$2 billion that were appropriated for community health centers in the American Recovery and Reinvestment Act last year.

42 C.F.R. § 50.303 unequivocally mandates that “Federal financial participation is not available for the performance of an abortion in programs or projects to which this subpart applies” except under specified circumstances. These specified circumstances are limited to those in which the life of the woman would be endangered, 42 C.F.R. § 50.304, or in cases of rape or incest, 42 C.F.R. § 50.306.

Accordingly, regardless of concerns that the Senate bill might not subject these new funds to the abortion-related restrictions under the Hyde Amendment, these new funds would in fact be subject to such restrictions by virtue of these regulations.