

## Footnotes

- <sup>1</sup> Centers for Disease Control and Prevention (CDC), *Pregnancy-Related Deaths Among Hispanic, Asian/Pacific Islander, and American Indian/Alaska Native Women – United States, 1991-1997*, 50 MMWR 361 (2001).
- <sup>2</sup> CDC, *Pregnancy-Related Deaths*, *supra* note 1; OFFICE OF FAMILY PLANNING, U.S. DEP'T OF HEALTH AND HUMAN SERVICES, *HEALTHY PEOPLE 2010 – REPRODUCTIVE HEALTH 16-4* (2001).
- <sup>3</sup> NATIONAL MINORITY AIDS COUNCIL (NMAC), *EMPOWERMENT: A STRATEGY FOR HIV PREVENTION AND ACCESS TO CARE AMONG WOMEN OF COLOR*, CONFERENCE PROCEEDINGS AND RECOMMENDATIONS 7 (1997).
- <sup>4</sup> Division of Vascular and Interventional Radiology, Georgetown Hospital, *Uterine Artery Embolization, What are Fibroids?* at <http://www.fibroidoptions.com/backgrnd.htm> (last visited Nov. 15, 2002); OBGYN.net Publications, *Theories of Fibroids*, at [http://www.obgyn.net/ah/articles/theories\\_fibroids.htm](http://www.obgyn.net/ah/articles/theories_fibroids.htm) (reprinted courtesy of Brigham and Women's Hospital) (last visited Nov. 15, 2002).
- <sup>5</sup> UNEQUAL TREATMENT: CONFRONTING RACIAL AND ETHNIC DISPARITIES IN HEALTH CARE 1 (Brian D. Smedley et al. eds., Institute of Medicine 2002); Press Release, National Academies, *Minorities More Likely to Receive Lower-Quality Health Care, Regardless of Income and Insurance Coverage*, at <http://www.omhrc.gov/omhrc/pressreleases/2002press0320.htm> (Mar. 20, 2002). See also NMAC, *HIV/AIDS & ASIANS AND PACIFIC ISLANDERS* 9 (1999).
- <sup>6</sup> CDC, *Safe Motherhood: Promoting Health for Women Before, During, and After Pregnancy* (2002).
- <sup>7</sup> Nancy Berglas & Jean Lim, *Racial and Ethnic Disparities in Maternal and Child Health*, National Center for Education in Maternal and Child Health (NCEMCH) Policy Brief No. 3, Nov. 1998, at 2 (noting that Asian/Pacific Islander populations appear to have the nation's lowest infant mortality rates, but still suffer from significant maternal and infant health problems).
- <sup>8</sup> *Id.*
- <sup>9</sup> CDC, *Pregnancy-Related Deaths*, *supra* note 1.
- <sup>10</sup> KAREN SCOTT COLLINS ET AL., U.S. MINORITY HEALTH: A CHARTBOOK 56 (1999).
- <sup>11</sup> CDC, *Pregnancy-Related Deaths*, *supra* note 1.
- <sup>12</sup> OFFICE OF FAMILY PLANNING, *HEALTHY PEOPLE 2010*, *supra* note 2.
- <sup>13</sup> Division of Vascular and Interventional Radiology, Georgetown Hospital, *supra* note 4; OBGYN.net Publications, *supra* note 4.
- <sup>14</sup> CDC, *Invasive Cervical Cancer Among Hispanic and Non-Hispanic Women – United States, 1992-1999*, 51 MMWR 1067 (2002).
- <sup>15</sup> NMAC, *EMPOWERMENT*, *supra* note 3, at 7.
- <sup>16</sup> Mitch Mitchell & Jeff Claassen, *Disparity Found in Minority Treatment*, FORT WORTH STAR-TELEGRAM, Nov. 3, 2002, at 1.
- <sup>17</sup> THE HENRY J. KAISER FAMILY FOUNDATION (KFF), *RACE, ETHNICITY & MEDICAL CARE: A SURVEY OF PUBLIC PERCEPTIONS AND EXPERIENCES* Chart 10 (1999).
- <sup>18</sup> NMAC, *HIV/AIDS*, *supra* note 5, at 9.
- <sup>19</sup> *Id.*
- <sup>20</sup> Historically, minority women's reproductive freedom has been severely imperiled. For instance, under colonization, decisions about Native American women's reproductive health were made "with little regard to individual rights." See Native American Women's Health Education Resource Center (NAWHERC), *Indigenous Women's Reproductive Rights and Pro-Choice* Page, at <http://www.nativeshop.org/pro-choice.html> (last visited Nov. 15, 2002). During slavery in the United States, black women had little or no control over any facet of their lives, and their reproductive and sexual lives were no exception. New births by slaves



were the only way to maintain the slave population following the prohibition on new slave imports in 1808, and slave women suffered forced reproduction as a result. See THE NATIONAL BLACK WOMEN'S HEALTH PROJECT (NBWHP), *OUR BODIES, OUR VOICES, OUR CHOICES: A BLACK WOMAN'S PRIMER ON REPRODUCTIVE HEALTH AND RIGHTS* 13 (1998). In the late 1800s and early 1900s, the U.S. enacted exclusionary immigration and anti-miscegenation laws aimed largely at restricting the Asian American population. See ASIANS AND PACIFIC ISLANDERS FOR REPRODUCTIVE HEALTH, *THE HEALTH AND WELL-BEING OF ASIAN AND PACIFIC ISLANDER AMERICAN WOMEN* (1995), *citing* additional sources. Eager to take more control of their destinies, many women of color embraced the birth control movement of the early 20th century. However, its link to the eugenics movement – which sought to reduce the fertility of “inferior” races through forced sterilization – caused some people of color to approach the spread of birth control with doubt and distrust. See Loretta J. Ross, *African-American Women and Abortion*, in *ABORTION WARS: A HALF CENTURY OF STRUGGLE, 1950-2000* 162, 168-72 (Rickie Solinger ed., 1998); LINDA GORDON, *WOMAN'S BODY, WOMAN'S RIGHT: BIRTH CONTROL IN AMERICA* 274-79 (1990). For example, nationalist leader Marcus Garvey equated birth control with “race suicide.” During the civil rights movement, many male-dominated African American organizations, viewing abortion as genocide, echoed Garvey's position and voiced opposition to reproductive rights for African American women. See Ross, *African-American Women and Abortion*, *supra*, at 180-84. By the 1970s, thousands of minority women had been coercively sterilized, often through federally funded programs. See GORDON, *WOMAN'S BODY, WOMAN'S RIGHT*, *supra*, at 437-42; Nancy Ehrenreich, *The Colonization of the Womb*, 43 *DUKE L.J.* 515 (1993), *citing* additional sources. These sterilizations were frequently performed on women who had been misinformed or not informed at all about the irreversibility of the procedure. See Stephen Trombley, “Sterilization and Informed Consent: The 1960s,” *from Sterilization Abuse and Informed Consent*, in *THE RIGHT TO REPRODUCE: A HISTORY OF COERCIVE STERILIZATION* 175-213 (1988). Some women faced threats of denial of welfare benefits or medical care unless they “consented” to sterilization procedures. One study found that some medical residents performed unnecessary hysterectomies on

low-income women as part of their surgical training. See GORDON, *WOMAN'S BODY, WOMAN'S RIGHT*, *supra*, at 440; *Walker v. Pierce*, 560 F.2d 609 (4th Cir. 1977), *cert. denied*, 434 U.S. 1075 (1978). By 1982, 42 percent of Native American women, 35 percent of Puerto Rican women, and 24 percent of African American women were sterilized, compared to 15 percent of white women. See BERNARD ROSENFELD ET AL., *A HEALTH RESEARCH GROUP STUDY ON SURGICAL STERILIZATION: PRESENT ABUSES AND PROPOSED REGULATIONS* 2-9 (1973). Further, a significant number of African Americans avoid seeking medical services because of distrust from past abuse, such as the notorious Tuskegee syphilis study. The Tuskegee study involved 400 African American male sharecroppers with untreated syphilis. The men were not told they had the disease and not counseled on ways to avoid spreading the disease, nor given medical treatment during the 40 year-course of the experiment. See Stephen B. Thomas & Sandra Crouse Quinn, *Public Health Then and Now: The Tuskegee Syphilis Study, 1932 to 1972: Implications for HIV Education and AIDS Risk Education Programs in the Black Community*, 81 *AM. J. PUB. HEALTH* 1498 (1991).

<sup>21</sup> KFF, *RACE, ETHNICITY & MEDICAL CARE*, *supra* note 17. See also *UNEQUAL TREATMENT*, *supra* note 5, at 555-56.

<sup>22</sup> NMAC, *EMPOWERMENT*, *supra* note 3, at 15.

<sup>23</sup> *Id.*

<sup>24</sup> CDC, *RACIAL AND ETHNIC APPROACHES TO COMMUNITY HEALTH (REACH 2010): ADDRESSING DISPARITIES IN HEALTH* (2002).

<sup>25</sup> *Id.*

<sup>26</sup> Press Release, California Department of Health Services, *New PSAs Promote HIV/AIDS Awareness in Asian Pacific Islander Communities*, at <http://www.applications.dhs.ca.gov/pressreleases/store/pressreleases/28-98.html> (Mar. 1998).

<sup>27</sup> Rah Bickley, *Infant Mortality Rate at Record Low in Durham*, *RALEIGH NEWS & OBSERVER*, Sept. 20, 2002.

<sup>28</sup> Ann Robbins et al., *East Texas STD Awareness Campaign* (undated).

<sup>29</sup> CDC, *Percent of Mothers Beginning Prenatal Care in the First Trimester*, 50 *NAT'L VITAL STAT. REP.* 66 (2002).

- <sup>30</sup> *Id.*
- <sup>31</sup> Family Health Administration, Maryland Dep't of Health & Mental Hygiene, Pregnancy Health, at <http://www.fha.state.md.us/mch/html/prenatal.html> (last visited Dec. 9, 2002).
- <sup>32</sup> The federal poverty level (FPL) is determined annually by the U.S. Department of Health and Human Services to assess eligibility for federal public assistance services. See The 2002 HHS Poverty Guidelines, at <http://aspe.hhs.gov/poverty/02poverty.htm> (last visited Nov. 15, 2002).
- <sup>33</sup> RENEE SCHWALBERG ET AL., KFF, MEDICAID COVERAGE OF PERINATAL SERVICES: RESULTS OF A NATIONAL SURVEY 7 (2000).
- <sup>34</sup> *Id.*
- <sup>35</sup> *Id.*
- <sup>36</sup> Vermont Commission on Women Mission Statement, at <http://www.women.state.vt.us/history.html> (last visited Nov. 15, 2002).
- <sup>37</sup> California Office of Multicultural Health Mission Statement, at <http://www.dhs.cahwnet.gov/director/omh> (last visited Nov. 15, 2002).
- <sup>38</sup> OFFICE OF WOMEN'S HEALTH INITIATIVES, OHIO DEP'T OF HEALTH, STATE-BY-STATE DIRECTORY OF WOMEN'S HEALTH OFFICES (2002).
- <sup>39</sup> National Health Law Program (NHeLP), Executive Order 13166 and Its Implementing Guidance Are Vital to Reduce Medical Harm to LEP Individuals (2001).
- <sup>40</sup> *Id.* at Appendix A: The Consequences of Ineffective Language Assistance.
- <sup>41</sup> Rochelle Shain et al., *A Randomized, Controlled Trial of a Behavioral Intervention to Prevent Sexually Transmitted Disease Among Minority Women*, 340 NEW ENG. J. MED. 93 (1999), citing additional sources; Hosanna Soler et al., *Relationship Dynamics, Ethnicity and Condom Use Among Low-Income Women*, 32 FAM. PLAN. PERSP. 82, 87 (2000).
- <sup>42</sup> JOSEPH R. BETANCOURT ET AL., CULTURAL COMPETENCE IN HEALTH CARE: EMERGING FRAMEWORKS AND PRACTICAL APPROACHES 2 (2002).
- <sup>43</sup> MASS. GEN. LAWS ANN. ch. 111, § 25J (West, WESTLAW through c. 370 of the 2002 2nd Ann. Sess.); MASS. GEN. LAWS ANN. ch. 123, § 23A (West, WESTLAW through c. 370 of the 2002 2nd Ann. Sess.).
- <sup>44</sup> 42 U.S.C.A. § 293(b)(4) (West, WESTLAW through P.L. 107-278).
- <sup>45</sup> See, e.g., MARA YOUDELMAN & JANE PERKINS, PROVIDING LANGUAGE INTERPRETATION SERVICES IN HEALTH CARE SETTINGS: EXAMPLES FROM THE FIELD 38-40 (2002).
- <sup>46</sup> Letter from Timothy M. Westmoreland, Director, Centers for Medicare & Medicaid Services, to State Medicaid Directors, at <http://cms.hhs.gov/states/letters/smd83100.asp> (Aug. 31, 2000).
- <sup>47</sup> YOUDELMAN & PERKINS, PROVIDING LANGUAGE INTERPRETATION SERVICES IN HEALTH CARE SETTINGS, *supra* note 45, at 8. See also Preliminary results from NHeLP's 50 state survey, which will be completed in the fall 2002. For more information, contact NHeLP at (310) 204-6010. Telephone Conversation with Mara Youdelman, Staff Attorney, NHeLP (Oct. 30, 2002).
- <sup>48</sup> E-mail from Kay Michaels, Field Manager, Southeast Region, Planned Parenthood Federation of America (PPFA), to Cristine Nardi, Acting Director, NARAL's Proactive Policy Institute (Aug. 22, 2002).
- <sup>49</sup> This policy option is based on legislation drafted in California. A.B. 2739, 2001-2002 Leg., Reg. Sess. (Cal. 2001).
- <sup>50</sup> "Threshold languages" means primary languages spoken by limited English proficient groups meeting a certain numeric threshold for a particular geographic area. The best definition of threshold language may vary state-by-state based on the geographic concentration of LEP individuals. See for example, A.B. 982, 2001-2002 Leg., Reg. Sess. (Cal. 2001) (to be codified at CAL. BUS. & PROF. CODE §§ 1970 – 1972, 2154.2 – 2154.3; CAL. HEALTH & SAFETY CODE §§ 127928 – 127929).
- <sup>51</sup> BETANCOURT ET AL., CULTURAL COMPETENCE IN HEALTH CARE, *supra* note 42, at 10-11.
- <sup>52</sup> Glenn Flores et al., *The Teaching of Cultural Issues in U.S. and Canadian Medical Schools*, 75 ACAD. MED. 451, 454 (2000).



- <sup>53</sup> *Id.* at 453.
- <sup>54</sup> BETANCOURT ET AL., CULTURAL COMPETENCE IN HEALTH CARE, *supra* note 42, at 15-16.
- <sup>55</sup> *Id.* at 15-16, 18-19.
- <sup>56</sup> *Physician Profile: Dr. Albert George Thomas*, CHOICE NOTES (Physicians for Reproductive Choice and Health, New York, N.Y.), Oct. 2002, at 7.
- <sup>57</sup> 42 U.S.C. § 1396d(a)(4) (West, WESTLAW through P.L. 107-278); 42 CFR § 441.20 (West, WESTLAW through Nov. 5, 2002; 67 Fed. Reg. 67494).
- <sup>58</sup> ROBERT JAFFE ET AL., RESHAPING REPRODUCTIVE HEALTH: A STATE-BY-STATE EXAMINATION OF FAMILY PLANNING UNDER MEDICAID MANAGED CARE 2 (2000).
- <sup>59</sup> *Id.*
- <sup>60</sup> Rachel Benson Gold, *New Rules Issued to Govern Delivery of Family Planning Under Medicaid Managed Care*, 4 GUTTMACHER REP. 5-7 (2001).
- <sup>61</sup> Jacqueline Darroch Forrest & Renee Samara, *Impact of Publicly Funded Contraceptive Services on Unintended Pregnancies and Implications for Medicaid Expenditures*, 28 FAM. PLAN. PERSP. 188 (1996), *citing* S.K. Henshaw & J. Van Vort, *Abortion Services in the United States, 1991 and 1992*, 26 FAM. PLAN. PERSP. 100 (1994).
- <sup>62</sup> Fact Sheet, The Office on Women's Health (OWH), U.S. Department of Health and Human Services, *The Health of Minority Women*, at <http://www.4woman.org/owh/pub/minority/barriers.htm> (May 2000); KAREN SCOTT COLLINS ET AL., HEALTH CONCERNS ACROSS A WOMAN'S LIFESPAN: THE COMMONWEALTH FUND 1998 SURVEY OF WOMEN'S HEALTH 56 (1999).
- <sup>63</sup> Stanley Henshaw, *Unintended Pregnancy in the United States*, 30 FAM. PLAN. PERSP. 26 (1998).
- <sup>64</sup> Cynthia Dailard, *U.S. Policy Can Reduce Cost Barriers to Contraception*, The Alan Guttmacher Institute (AGI) Issues in Brief (July 1999).
- <sup>65</sup> *Id.*
- <sup>66</sup> 42 U.S.C. § 1396d(a)(4) (West, WESTLAW through P.L. 107-278); 42 CFR § 441.20 (West, WESTLAW through Nov. 5, 2002; 67 Fed. Reg. 67494); *see also* JAFFE ET AL., RESHAPING REPRODUCTIVE HEALTH, *supra* note 58, at 10.
- <sup>67</sup> ROBERT JAFFE ET AL., RESHAPING REPRODUCTIVE HEALTH, *supra* note 58, at 2.
- <sup>68</sup> RENEE SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES: RESULTS OF A NATIONAL SURVEY 2 (2000).
- <sup>69</sup> Rachel K. Jones et al., *Patterns in the Socioeconomic Characteristics of Women Obtaining Abortions in 2000-2001*, 34 PERSP. SEXUAL REPRO. HEALTH 226, 234 (2002).
- <sup>70</sup> *Id.*
- <sup>71</sup> Forrest & Samara, *Impact of Publicly Funded Contraceptive Services*, *supra* note 61.
- <sup>72</sup> SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 2; Los Angeles Regional Family Planning Council, *Medi-Cal Freedom of Choice Waiver*, at <http://www.fpcai.org/medi-cal.htm>. (last visited Nov. 15, 2002).
- <sup>73</sup> SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 2.
- <sup>74</sup> LISA KAESER ET AL., AGI, TITLE X AT 25: BALANCING NATIONAL FAMILY PLANNING NEEDS WITH STATE FLEXIBILITY 8 (1996).
- <sup>75</sup> *Id.*
- <sup>76</sup> For example, only 52 percent of African American workers and 44 percent of Latino workers have employer-sponsored health coverage, compared to 69 percent of whites. ALLYSON G. HALL ET AL., EMPLOYER-SPONSORED HEALTH INSURANCE: IMPLICATIONS FOR MINORITY WORKERS, at [http://www.cmfwf.org/programs/minority/hall\\_minorityinsur\\_314.asp](http://www.cmfwf.org/programs/minority/hall_minorityinsur_314.asp) (1999).
- <sup>77</sup> SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 55.
- <sup>78</sup> AGI, *Medicaid Family Planning Waivers, State Policies in Brief* (Nov. 1, 2002).

- <sup>79</sup> Rachel Benson Gold, *State Efforts to Expand Medicaid-Funded Family Planning Show Promise*, 2 GUTTMACHER REP. 6 (1999).
- <sup>80</sup> Boa-Ping Zhu et al., *Effect of the Interval between Pregnancies on Perinatal Outcomes*, 340 NEW ENG. J. MED. 589-94 (1999).
- <sup>81</sup> Benson Gold, *State Efforts to Expand Medicaid-Funded Family Planning Show Promise*, *supra* note 79, at 6-7.
- <sup>82</sup> SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 4.
- <sup>83</sup> JAFFE ET AL., RESHAPING REPRODUCTIVE HEALTH, *supra* note 58, at 1.
- <sup>84</sup> Balanced Budget Act (BBA) of 1997, Pub. L. 105-33 (1997); see also Rachel Benson Gold, *States Key to Women's Family Planning Access Under New Medicaid Managed Care Rules*, 5 GUTTMACHER REP. 12 (2002). Prior to the Balanced Budget Act of 1997, states that wanted to enroll Medicaid recipients into managed care plans had to seek federal approval through either a Section 1915 waiver or a Section 1115 waiver. See SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 33.
- <sup>85</sup> SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 31.
- <sup>86</sup> Fact Sheet, Institute for Reproductive Health Access, Medicaid Managed Care Index, at <http://medicaidmanagedcare.naralny.org/mmcfacts.html> (last visited Nov. 8, 2002).
- <sup>87</sup> Institute for Reproductive Health Access, at <http://www.naralny.org/institute.htm> (last visited Nov. 15, 2002).
- <sup>88</sup> Rachel Benson Gold et al., *Mainstreaming Contraceptive Services In Managed Care – Five States' Experiences*, 30 FAM. PLAN. PERSP. 8 (1998).
- <sup>89</sup> *Id.*
- <sup>90</sup> NARAL/NY FOUNDATION, WHEN RELIGION COMPROMISES WOMEN'S HEALTH CARE: A CASE STUDY OF A CATHOLIC MANAGED CARE ORGANIZATION 20 (2001).
- <sup>91</sup> 42 C.F.R. §438.10 (describing the information requirements of both the state and Medicaid managed care plans with respect to Medicaid managed care enrollees) (West, WESTLAW through November 5, 2002; 67 Fed. Reg. 67494).
- <sup>92</sup> 67 Fed. Reg. 40989, at 41016-17 (in comments) (West, WESTLAW through June 14, 2002). See also 42 C.F.R. § 438.10(e)(2)(ii)(E), (f)(6)(xii) (deleting the previous requirement mandating health plans to provide information on how and where to obtain information about services that the health plan does not provide due to moral or religious objections) (West, WESTLAW through Nov. 5, 2002; 67 Fed. Reg. 67494).
- <sup>93</sup> 67 Fed. Reg. 40989 §438.10(f)(1) (West, WESTLAW through June 14, 2002); see also Benson Gold, *States Key to Women's Family Planning Access*, *supra* note 84, at 12.
- <sup>94</sup> Balanced Budget Act (BBA) of 1997, Pub. L. 105-33, § 4704 (1997).
- <sup>95</sup> 42 U.S.C. § 1396a(a)(23)(B) (West, WESTLAW through P.L. 107-278); see also 42 C.F.R. § 431.51(a)(4), (5), (6) (West, WESTLAW through Nov. 5, 2002; 67 FR 67494).
- <sup>96</sup> 42 C.F.R. § 438.102 (West, WESTLAW through Nov. 5, 2002; 67 Fed. Reg. 67494) (describing the information requirements of both the state and Medicaid managed care plans with respect to Medicaid managed care enrollees).
- <sup>97</sup> SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 4.
- <sup>98</sup> Earl Dick Hoffman, Jr., et al., Brief Summaries of Medicare & Medicaid: Title XVIII and Title XIX of the Social Security Act as of November 1, 2001, at <http://cms.hhs.gov/publications/overview-medicare-medicaid/default.asp> (July 30, 2002); FY 2002 Consolidated Appropriations Act, Pub. L. No. 107-116, Tit. V, §§ 508, 509, 115 Stat. 2118, 2119 (2002).
- <sup>99</sup> In its current form, the Hyde Amendment bans federal funding for abortions except in cases of rape, incest or in some cases of life endangerment. FY 2002 Consolidated Appropriations Act, Pub. L. No. 107-116, Tit. V, §§ 508, 509.



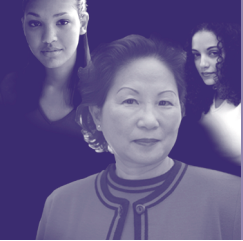
- <sup>100</sup> FY 2002 Consolidated Appropriations Act, Pub. L. No. 107-116, Tit. V, §§ 508, 509.
- <sup>101</sup> Sixteen (16) states fund most or all abortions for Medicaid-eligible women: AK, CA, CT, HI, IN, MD, MA, MN, MT, NJ, NM, NY, OR, VT, WA and WV. Thirty-four (34) states and the District of Columbia severely restrict funding for abortion: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IA, KS, KY, LA, ME, MI, MS, MO, NE, NV, NH, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WI and WY. This information is current as of November 2002. NARAL PRO-CHOICE AMERICA & NARAL PRO-CHOICE AMERICA FOUNDATION, WHO DECIDES? A STATE-BY-STATE REVIEW OF ABORTION AND REPRODUCTIVE RIGHTS, Public Funding for Abortion Chart (12th ed. 2003).
- <sup>102</sup> NATIVE AMERICAN WOMEN'S HEALTH EDUCATION RESOURCE CENTER (NAWHERC), INDIGENOUS WOMEN'S REPRODUCTIVE RIGHTS: THE INDIAN HEALTH SERVICE AND ITS INCONSISTENT APPLICATION OF THE HYDE AMENDMENT 4-5 (2002).
- <sup>103</sup> Fact Sheet, NARAL, Medicaid: Discriminatory Funding for Abortion (Feb. 13, 2002).
- <sup>104</sup> Stanley K. Henshaw & Lynn S. Wallisch, *The Medicaid Cutoff and Abortion Services for the Poor*, 16 FAM. PLAN. PERSP. 170, 179 (1984).
- <sup>105</sup> This policy option is modeled after a Washington state statute. WASH. REV. CODE § 9.02.160 (West, WESTLAW through end of 2002 Reg. Sess.).
- <sup>106</sup> E-mail from Clarence Small, Division of Information Analysis and Technical Assistance, Health Care Financing Administration, to Melissa Schober, NARAL (Jan. 3, 2002).
- <sup>107</sup> KFF, Rate of Nonelderly Medicaid Enrollees by Race/Ethnicity, 1999-2000, State Health Facts Online: 50 State Comparisons, at <http://www.statehealthfacts.kff.org/cgi-bin/healthfacts.cgi?action=compare> (last visited Nov. 15, 2002).
- <sup>108</sup> This information is current as of November 2002. NARAL PRO-CHOICE AMERICA & NARAL PRO-CHOICE AMERICA FOUNDATION, WHO DECIDES?, *supra* note 101, at Public Funding for Abortion Chart.
- <sup>109</sup> NATIONAL GOVERNOR'S ASSOCIATION CENTER FOR BEST PRACTICES, MCH UPDATE 2001: TRENDS IN STATE HEALTH INSURANCE COVERAGE OF PREGNANT WOMEN, CHILDREN, AND PARENTS 4-5, Table 5 (2002).
- <sup>110</sup> National Governor's Association, State Coverage Initiatives, State Coverage Matrix, at <http://www.statecoverage.net/coverageprogram.htm> (last visited Nov. 15, 2002).
- <sup>111</sup> For example, a Washington state regulation defines "pregnancy related conditions" to include: miscarriage, pregnancy termination, and the complications of pregnancy. WASH. ADMIN. CODE § 162-30-020 (West, WESTLAW with amendments adopted through Oct. 2, 2002).
- <sup>112</sup> SARA SILLS ET AL., PROTECTING REPRODUCTIVE HEALTH CARE FOR LOW-INCOME WOMEN: AN ORGANIZING GUIDE FOR REPRODUCTIVE HEALTH CARE ADVOCATES AND LEGAL SERVICES ORGANIZATIONS, 1-2 (2002).
- <sup>113</sup> *Id.*
- <sup>114</sup> An epidural is the injection of local anesthetic into the space surrounding the spine resulting in a numbing of the lower body. Thomas E. Obst et al., *Maternal Health Insurance Coverage as a Determinant of Obstetrical Anesthesia Care*, 12 J. HEALTH CARE POOR & UNDERSERVED 180 (2001).
- <sup>115</sup> *Id.* at 178.
- <sup>116</sup> Robert Pear, *Mothers on Medicaid Overcharged for Pain Relief*, N.Y. TIMES, Mar. 8, 1999, at A1.
- <sup>117</sup> *Epidurals Banned in Some Cases; Greenville Hospital to Deny Treatment to Women in Labor Unable to Communicate with Their Doctors*, AUGUSTA CHRONICLE (Georgia), July 6, 1998, at B2.
- <sup>118</sup> Letter from Sally K. Richardson, Director, Center for Medicaid and State Operations, to State Medicaid Directors, Inappropriate Cash Payments (Jan. 27, 1999).
- <sup>119</sup> Robert Pear, *Feds Warn Medics on Pain-Shot Fees; Some Maternity Patients Are Charged in Cash for Epidurals that Medicaid Won't Cover*, DAYTON DAILY NEWS, Mar. 8, 1999.

- <sup>120</sup> Sharon Bernstein, *California Women Denied Epidurals File Class-Action Lawsuit*, L.A. TIMES, June 17, 1999, at C2; Yvette Cabrera, *Medical Center Apologizes for Denial of Anesthesia*, DAILY NEWS OF LOS ANGELES, July 3, 1998; Sharon Bernstein, *Hospital Apologizes to Patient; Northridge Facility Publicly Expresses Regret to Woman Denied Epidural Anesthesia; State Official, However, Castigates the Medical Center*, L.A. TIMES, July 3, 1998, at B8.
- <sup>121</sup> Obst et al., *Maternal Health Insurance Coverage*, *supra* note 114, at 180, 188.
- <sup>122</sup> Letter from Sally K. Richardson, *supra* note 118; see also the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. § 1395dd (requiring that women in active labor, for which transfer to another hospital would pose a threat, be provided the same treatment as other patients regardless of their insurance status) (West, WESTLAW through P.L. 107-278).
- <sup>123</sup> Robert D. Vincent, Jr. & David H. Chestnut, *Epidural Analgesia During Labor*, 58 AMER. FAM. PHYSICIAN 1785, 1788 (1998).
- <sup>124</sup> Letter from Sally K. Richardson, *supra* note 118.
- <sup>125</sup> *Id.*
- <sup>126</sup> Pear, *Mothers on Medicaid Overcharged for Pain Relief*, *supra* note 116.
- <sup>127</sup> The model legislation in this section is based on a 1998 California law, but includes additional enforcement tools and more detailed notice requirements for individuals with limited English-speaking abilities. CAL. HEALTH & SAFETY CODE § 1256.2 (West, WESTLAW through urgency and immediately effective tax legislation up to c. 1170 (end) of 2002 Reg.Sess., c. 19 (end) of 2nd Ex.Sess., c. 4 (end) of 3rd Ex.Sess. & Mar. election).
- <sup>128</sup> Pear, *supra* note 119, at A2.
- <sup>129</sup> 42 U.S.C. § 1396a(a)(30)(A) (West, WESTLAW through P.L. 107-278), 42 CFR § 447.204 (equal access provision requiring states to make Medicaid reimbursement rates sufficient to attract enough providers to adequately serve the Medicaid population) (West, WESTLAW through Nov. 5, 2002; 67 Fed. Reg. 67494).
- <sup>130</sup> Obst et al., *Maternal Health Insurance Coverage*, *supra* note 114, at 188-89.
- <sup>131</sup> *Id.*
- <sup>132</sup> Fact Sheet, KFF, Sexually Transmitted Diseases, at [http://www.kff.org/content/archive/1447/std\\_fs.html](http://www.kff.org/content/archive/1447/std_fs.html) (last visited Nov. 5, 2002).
- <sup>133</sup> DEIRDRE WULF ET AL., MICROBICIDES: A NEW DEFENSE AGAINST SEXUALLY TRANSMITTED DISEASES 24 (1999).
- <sup>134</sup> NMAC, EMPOWERMENT, *supra* note 3, at 7.
- <sup>135</sup> COLLINS ET AL., HEALTH CONCERNS ACROSS A WOMAN'S LIFESPAN, *supra* note 62, at 56.
- <sup>136</sup> *Sexually Active African-American Teenage Girls Lacking STD Knowledge*, KAISER DAILY HIV/AIDS REPORT, Oct. 29, 2001, *citing* Hitt, Reuters Health, Oct. 24, 2001.
- <sup>137</sup> National Coalition Against Censorship, Abstinence-Only Education: A Joint Statement, and Abstinence-Only Education, at [http://www.ncac.org/cen\\_news/cn80sexeducation.html](http://www.ncac.org/cen_news/cn80sexeducation.html) (last visited Nov. 15, 2002).
- <sup>138</sup> NMAC, EMPOWERMENT, *supra* note 3.
- <sup>139</sup> NMAC, EMPOWERMENT, *supra* note 3, at 15-17 (1997).
- <sup>140</sup> Fact Sheet, KFF, Women and HIV/AIDS (May 2001).
- <sup>141</sup> *Id.*
- <sup>142</sup> AIDS ACTION, WHAT WORKS IN HIV PREVENTION FOR WOMEN OF COLOR 1 (2001).
- <sup>143</sup> Fact Sheet, CDC, HIV/AIDS Among U.S. Women: Minority and Young Women at Continuing Risk (Aug. 1999).
- <sup>144</sup> CDC, TRACKING THE HIDDEN EPIDEMICS: TRENDS IN STDs IN THE UNITED STATES 6 (2000)
- <sup>145</sup> *Id.*
- <sup>146</sup> Fact Sheet, CDC, Chlamydia in the United States, at [http://www.cdc.gov/nchstp/dstd/Fact\\_Sheets/chlamydia\\_facts.htm](http://www.cdc.gov/nchstp/dstd/Fact_Sheets/chlamydia_facts.htm) (Apr. 2001).



- <sup>147</sup> DIVISION OF STD PREVENTION, DEP'T OF HEALTH AND HUMAN SERVICES, SEXUALLY TRANSMITTED DISEASE SURVEILLANCE 2000 91 (2001).
- <sup>148</sup> CDC, TRACKING THE HIDDEN EPIDEMICS, *supra* note 144, at 3, 5, 11-12.
- <sup>149</sup> *Id.* at 11-12.
- <sup>150</sup> *Id.* at 9.
- <sup>151</sup> *Id.*
- <sup>152</sup> *Id.* at 20.
- <sup>153</sup> *Id.*
- <sup>154</sup> Press Release, CDC, African Americans Disproportionately Affected by STDs, at [http://www.cdc.gov/nchstp/dstd/Press\\_Releases/AfAmericans2000.htm](http://www.cdc.gov/nchstp/dstd/Press_Releases/AfAmericans2000.htm) (Dec. 2000).
- <sup>155</sup> *Id.*
- <sup>156</sup> CDC, TRACKING THE HIDDEN EPIDEMICS, *supra* note 144, at 20.
- <sup>157</sup> Press Release, American Social Health Association (ASHA), First HPV Hotline Answers America's Questions, ASHA Launches National HPV and Cervical Cancer Prevention Resource Center, at <http://www.ashastd.org/news/011800.html> (Jan. 2000).
- <sup>158</sup> Fact Sheet, National Institute of Allergy and Infectious Diseases, National Institutes of Health, STD Statistics (December 1998).
- <sup>159</sup> Fact Sheet, The National Breast Cancer and Cervical Cancer Early Detection Program, CDC, Cervical Cancer and Pap Test Information, at <http://www.cdc.gov/cancer/nbcedp/info-cc.htm> (July 30, 2002).
- <sup>160</sup> State of California Gynecologic Cancers 1994-1998, Five Year Incidence and Mortality and Average Age Adjusted Rates by Ethnicity, *citing* CALIFORNIA DEP'T OF HEALTH SERVICES, CANCER IN CALIFORNIA 1988-1998, CANCER SURVEILLANCE SECTION (2000), at [www.dhs.ca.gov/director/owh](http://www.dhs.ca.gov/director/owh) (last visited Nov. 5, 2002).
- <sup>161</sup> DOUGLAS KIRBY, EMERGING ANSWERS: RESEARCH FINDINGS ON PROGRAMS TO REDUCE TEEN PREGNANCY 20 (2001).
- <sup>162</sup> Fact Sheet, CDC, HIV/AIDS Among U.S. Women: Minority and Young Women at Continuing Risk (Aug. 1999).
- <sup>163</sup> *Sexually Active African-American Teenage Girls Lacking STD Knowledge*, *supra* note 136.
- <sup>164</sup> KIRBY, EMERGING ANSWERS, *supra* note 161, at 95.
- <sup>165</sup> Office of the Surgeon General, The Surgeon General's Call to Action to Promote Sexual Health and Responsible Sexual Behavior, at <http://www.surgeongeneral.gov/library/sexualhealth/call.htm> (July 9, 2001); Data from public opinion survey conducted by Hickman-Brown Public Opinion Research for Advocates for Youth and SIECUS (Mar. 1999); The Othmer Institute, Mobilizing Support for Sex Education: New Messages & Techniques, Presentation to the National Coalition to Support Sexuality Education (NCSSE) (June 13, 2002).
- <sup>166</sup> Fact Sheet, NARAL, President George W. Bush and Abstinence-Only Education: An Allegiance that Jeopardizes Young People's Health (Apr. 2002).
- <sup>167</sup> Fact Sheet, NARAL, Abstinence-Only Education: Ideology Over Science (Mar. 20, 2002).
- <sup>168</sup> *Id.*; Georgia Children and Youth Coordinating Council, Grant Adjustment Notice, Subgrant No. 99A-12-0023: Cristo Para Toda Las Naciones Iglesia Presbiteriana (USA) (Oct. 21, 1999); *Coleman v. Caddo Parish School Board*, 635 So.2d 1238 (La. App. 1994).
- <sup>169</sup> KIRBY, EMERGING ANSWERS, *supra* note 161, at 88.
- <sup>170</sup> AGI, Teen Sex and Pregnancy, Facts In Brief (1999).
- <sup>171</sup> KFF & ASHA, SEXUALLY TRANSMITTED DISEASES IN AMERICA: HOW MANY CASES AND AT WHAT COST? 8 (1998).
- <sup>172</sup> SIECUS, SHOP (SCHOOL HEALTH OPPORTUNITIES AND PROGRESS) TALK BULLETIN (Oct. 27, 2000).
- <sup>173</sup> UNAIDS, IMPACT OF HIV AND SEXUAL HEALTH EDUCATION ON THE SEXUAL BEHAVIOR OF YOUNG PEOPLE: A REVIEW UPDATE 8 (1997).

- <sup>174</sup> SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 1.
- <sup>175</sup> *Id.*
- <sup>176</sup> *Id.* at 21.
- <sup>177</sup> JAFFE ET AL., RESHAPING REPRODUCTIVE HEALTH, *supra* note 58, at 15.
- <sup>178</sup> *Id.* at 192.
- <sup>179</sup> SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 2.
- <sup>180</sup> 42 U.S.C. § 1396a(a)(23)(B) (West, WESTLAW through P.L. 107-278); see also 42 C.F.R. § 431.51(a)(4), (5), (6) (West, WESTLAW through Nov. 5, 2002; 67 Fed. Reg. 67494); see also SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 37.
- <sup>181</sup> SCHWALBERG ET AL., MEDICAID COVERAGE OF FAMILY PLANNING SERVICES, *supra* note 68, at 2.
- <sup>182</sup> COLLINS ET AL., HEALTH CONCERNS ACROSS A WOMAN'S LIFESPAN, *supra* note 62, at 56.
- <sup>183</sup> KFF, RACE, ETHNICITY & MEDICAL CARE, *supra* note 17, at Chart 10.
- <sup>184</sup> NMAC, EMPOWERMENT, *supra* note 3, at 15.
- <sup>185</sup> The Tuskegee study involved 400 African American male sharecroppers with untreated syphilis. The men were not told they had the disease and were not counseled on ways to avoid spreading the disease, nor were they given medical treatment during the 40 year-course of the experiment. See Stephen B. Thomas & Sandra Crouse Quinn, *The Tuskegee Syphilis Study, 1932 to 1972: Implications for HIV Education and AIDS Risk Education Programs in the Black Community*, 81 AM. J. PUB. HEALTH 1498 (1991).
- <sup>186</sup> KFF, RACE, ETHNICITY & MEDICAL CARE, *supra* note 17, at Chart 11.
- <sup>187</sup> CDC, Chlamydia in the United States, *supra* note 146.
- <sup>188</sup> Gabrielle Strobel, *Cloak Partly Lifted on Tiny Chlamydia; Science Moves Closer to Effective Vaccine*, FOCUS: NEWS FROM HARVARD MEDICAL, DENTAL & PUBLIC HEALTH SCHOOLS (Feb. 9, 2001).
- <sup>189</sup> DIVISION OF STD PREVENTION, SEXUALLY TRANSMITTED DISEASE SURVEILLANCE 2000, *supra* note 147, at 91.
- <sup>190</sup> *Id.*
- <sup>191</sup> CDC, TRACKING THE HIDDEN EPIDEMICS, *supra* note 144, at 20.
- <sup>192</sup> California STD/HIV Prevention Training Center, Chlamydia Online Training Review, at [http://www.stdhivtraining.org/educ/training\\_module/docs/Course\\_Summary.pdf](http://www.stdhivtraining.org/educ/training_module/docs/Course_Summary.pdf) (last visited Nov. 15, 2002). Chlamydia-infected women who are successfully treated have a 15 to 30 percent chance of reinfection within six months if they resume sexual activity with an untreated partner. Charles Ornstein, *Medi-Cal Proposed to Aid Sex Partners*, L.A. TIMES, Feb. 19, 2002, at B1. See also American Social Health Association, Position Statement of STD Prevention Partnership: Women and Sexually Transmitted Diseases, at <http://www.ashastd.org/advocacy/wompos.html> (last visited Nov. 15, 2002). Partner reinfection is especially prevalent among adolescents. See *Screening Adolescents for Sexually Transmitted Infections*, 280 JAMA 564 (1998).
- <sup>193</sup> CDC, Chlamydia in the United States, *supra* note 146.
- <sup>194</sup> California STD/HIV Prevention Training Center, Chlamydia Online Training Review, *supra* note 192.
- <sup>195</sup> *Id.*, citing J. Schillinger et al., *Patient-Delivered Partner Treatment with Azithromycin to Prevent Repeated Chlamydia Trachomatis Infection Among Women: A Randomized Controlled Trial*, SEX. TRANSM. DIS. (in press).
- <sup>196</sup> From 1987 to 2000 the reported rate of chlamydia infection among women increased from 78.5 cases per 100,000 population to 404.0. These increases likely represent increased screening, increased use of more sensitive tests and improved reporting, as well as the increased incidence rates. DIVISION OF STD PREVENTION, DEP'T OF HEALTH AND HUMAN SERVICES, SEXUALLY TRANSMITTED DISEASE SURVEILLANCE 2000 SUPPLEMENT: CHLAMYDIA PREVALENCE MONITORING PROJECT ANNUAL REPORT 2000 5-6 (2000).



<sup>197</sup> CAL. HEALTH & SAFETY CODE §120582 (West, WESTLAW through urgency and immediately effective tax legislation up to c. 1170 (end) of 2002 Reg.Sess., c. 19 (end) of 2nd Ex.Sess., c. 4 (end) of 3rd Ex.Sess. & Mar. election).

<sup>198</sup> Charles Ornstein, *Medi-Cal Proposed to Aid Sex Partners*, L.A. TIMES, Feb. 19, 2002, at B1.

<sup>199</sup> Charles Ornstein, *STD Plan is Rejected by U.S.*, L.A. TIMES, Mar. 12, 2002, at B7.

<sup>200</sup> *Id.*

<sup>201</sup> CDC, *Chlamydia in the United States*, *supra* note 146.

<sup>202</sup> *Id.*



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