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THE MARYLAND HOUSE OF DELEGATES
Annapolis, Maryland 21401

February 27, 2025

Testimony in SUPPORT of HB 930: Public Health Abortion Grant Program

Summary: HB 930 creates a grant program housed in the Maryland Department of Health for the purpose of reimbursing providers for the cost of an abortion. This program is funded through an external source: a surplus of insurance premiums mandated by the Affordable Care Act to be held in a separate account only to be used for abortion care. The current balance of the funds available in Maryland is approximately $25 million and generates an additional approx. $3 million in available funds every year after the carriers use what they need to cover abortion care. This program does not require any state general funds.

Overview: Now that the public has enshrined the right to abortion in the state constitution, this bill will create a ground-breaking, first in the nation program to secure access to that right.

In the first six months following the 2021 *Dobbs* decision which overturned *Roe v. Wade*, some states made emergency funding available to address the immediate crisis as abortion bans in over a dozen states went into effect. Governors and legislators in Maryland, Massachusetts, New Mexico, New York, and Oregon set aside funding. In Maryland, two local jurisdictions – Baltimore City and Montgomery County – also set aside funding.

Now, we are almost three years past the *Dobbs* decision, and the landscape for abortion access has only become more unpredictable. Every day brings new challenges for abortion providers and people seeking abortion care. Nearly half the states have attempted to ban abortion with 13 states having a total abortion ban. Some bans have been blocked by state courts for now, but the uncertainty has a profound impact on the availability of services.

As of December 13, 2024, 508 state provisions have been introduced that would restrict access to abortion care across the county.

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There are reports, complaints, and litigation in multiple states – including Florida, Idaho, Tennessee, and Texas – where abortion bans have resulted in women being denied emergency medical care. There have been reports of several preventable deaths of women who were denied care due to abortion bans in Georgia and Texas. Amber Thurman and Candi Miller, two Black women in Georgia, died in 2022 because they were denied abortion care or feared seeking care under the state's abortion ban. Three women in Texas—Porsha Ngumezi, a Black woman, Josseli Barnica, an immigrant from Honduras, and Neveah Crain, a teenager— died after they were denied miscarriage care under the state's abortion ban.

Abortion bans in early pregnancy are concentrated in the South, Southeast and Midwest, affecting not just state residents but also creating regional ripple effects. Guttmacher data shows that interstate travel for abortion care doubled from 2020 to 2023. As more states impose bans, people need to travel further for care, which is increasingly difficult for those with limited resources, especially given that donations to abortion funds are not sufficient. This environment makes it very difficult for health care practitioners, even in states like Maryland, to provide reproductive health care.

Maryland has increased access to abortion care with groundbreaking legislation such as the Abortion Care Access Act in 2022 and in the most recent election an overwhelming 76% of voters supported the constitutional amendment to add the fundamental right to reproductive freedom in Maryland's constitution.

However, access to abortion care is still challenging even in a state like Maryland. While state-regulated plans and Medicaid are required to provide coverage, about 2/3 of people with private insurance are in ERISA plans exempt from state requirements. Many can't figure out what exactly is covered, and even when people have abortion coverage, they may be afraid to use it. When insurers send an explanation of benefits document home, the information could compromise the safety of people who live in at risk situations.

Abortion funds across the country, including in Maryland, are being stretched to the limit in covering the cost of care for in-state residents and the increasing number of people traveling out-of-state for care. Private contributions to these funds spiked following the *Dobbs* decision, but have since leveled off. We need a more sustainable solution for abortion care, as there are no public health grant programs for abortion care. This is the result of long-standing restrictions on using federal funds for abortion care in public health grant programs.

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In Maryland, we are facing a critical juncture in ensuring the sustainability of abortion access. We are also facing a state fiscal crisis at the same time. HB 930 offers a solution – our state can tap into a sustainable funding source to support abortion access both now and in the future. In 2022, we had the foresight to include a small but important reporting requirement in the Abortion Care Access Act. Now, every year, the Maryland Insurance Administration must report on how many dollars are unspent in premiums collected for abortion coverage by Exchange plans (also known as qualified health plans). We have found that there is an average of $3 million in unspent funds every year. HB 930 proposes to use these unspent dollars to fund an annual appropriation for the Abortion Care Access Fund.

To understand why insurers have so many unspent dollars for abortion coverage, we need to go back to the history of the Affordable Care Act. This federal legislation has expanded access to care more so than any other legislation in our lifetime. However, there is one hidden provision that was intended to restrict access to care in Section § 1303. Exchange plans are required to charge at least $1 per member per month for abortion coverage, even though this premium far exceeds the actuarial value of abortion coverage. The Exchange plans are then required to keep these premium dollars in a separate account to only be used for abortion care. The accounting rules are intended to demonstrate that abortion coverage is not supported by advanced premium tax credits which are funded by the federal government. These requirements were designed to make abortion coverage expensive and difficult for carriers to manage. However, many insurance companies have learned to navigate the complexities of these requirements.

With HB 930, Maryland would be the first state to create a sustainable funding source for abortion care access. The $1 monthly premium requirement was intended to discourage abortion coverage and limit access. We cannot change the federal law. However, we can ensure that these funds are used for their intended purpose – supporting abortion care access. Under this new law, each year, the Maryland Insurance Commissioner would assess the dollar amount of those unspent funds from the prior year. Insurers would have the opportunity to work with the Insurance Commissioner in verifying the accuracy of the numbers. Then the Insurance Commission would order the transfer of 90% of the balance to the Abortion Care Access Fund under the Department of Health..Transfer occurs 15-months after the end of the plan year to allow time to pay claims. Here are the fund balances (does not include interest):

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- From 2014-2022, the total accumulated fund balance is $18,887,445[1]
- Fund balance grows at about $3 million a year. So the estimated fund balance by the end of 2024 is about **$25 million**.
- Carriers have not reported interest in the account, but federal rules would apply to interest.
- Any carrier with a qualified health plan has a segregated account.

With those surplus insurance funds, HB 930 provides grant funding, administered by MDH, to non-profit, qualified abortion funds and providers with internal abortion funds. Funds may be used for abortion care services for uninsured and underinsured individuals as well as individuals who have abortion coverage but have confidentiality concerns because of an explanation of benefits being sent to the policy holder. The program and participants are prohibited from imposing restrictions inconsistent with law (e.g. spousal consent).The bill includes special privacy protections to protect the personal information about people administering the grants, providers, and patients. MDH must award 90% of total program funds to grantees and may use 10% for administrative costs.

Conclusion: We need a sustainable funding source to support access to the right to an abortion as enshrined in the Maryland constitution. While we have protected abortion access in our law, we know that a legal right does not equate to access to care. HB 930 provides Maryland with the opportunity to create sustainable funding for abortion care access without any addition to the state budget deficit.

Thank you and I ask for a favorable report on HB 930.

[1]
https://insurance.maryland.gov/Consumer/Appeals%20and%20Grievances%20Reports/Abortion-Care-Access-Act-Data-Report.pdf
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