



New York State Joint Legislative Budget Hearing on Health/Medicaid, FY24

***Testimony in Support of Spending Proposals to Expand Access to Reproductive Health Care***

Submitted: February 28, 2023

*This testimony is being submitted on behalf of the National Institute for Reproductive Health Action Fund (NIRH-AF). NIRH AF and its sister organization, the National Institute for Reproductive Health (NIRH), are advocacy organizations that work to advance just and equitable access to reproductive health care at the state and local level across the country. We do this by building coalitions, securing policy change, and electing champions who will stand up for reproductive freedom. Our track record of advocacy in New York spans more than five decades. Please contact Andrea Miller, NIRH Action Fund President, at [amiller@nirhealth.org](mailto:amiller@nirhealth.org), if you have any questions.*

**Introduction**

New York State has long been a leader in safeguarding reproductive freedom, including the right and ability to access abortion care. The Empire State legalized abortion in 1970, three years before *Roe v. Wade*; continued to cover abortion care under Medicaid after the pernicious and discriminatory Hyde Amendment cut off federal funding in the late 1970s; and enacted the Reproductive Health Act in 2019 – kicking off a spate of states acting over the course of the following three years to enshrine the right to make reproductive decisions into state law with *Roe* under attack. Even so, those needing abortions and other reproductive health services continued to face barriers to access – lack of insurance coverage, long distances to providers, insufficient support to manage family and work obligations so that they can seek care when they need it, among others; these barriers take their greatest toll on those already living with health and economic inequities: Black, Indigenous, Latino, and other communities of color and low-income communities.<sup>1</sup> At the same time, reproductive health care providers have been over-stretched, over-subscribed, under-resourced, and under-reimbursed.

These reasons alone should compel increased investments in access to reproductive health care in the FY24 New York State budget. But the needs of New Yorkers and others who seek this care in the Empire State have been heightened exponentially by the U.S. Supreme Court's ruling last June in *Dobbs v. Jackson Women's Health Organization*. By overturning *Roe*, and removing federal protection for abortion rights, the High Court opened the floodgates for states hostile to reproductive freedom to ban abortion outright. Not content with the more than 1300 laws against abortion these conservative state legislatures were able to adopt even while *Roe*

remained the law of the land,<sup>2</sup> as of today, fourteen of those states have effectively banned all abortions, while another eight are actively seeking to do so.<sup>3</sup> The result is that demand for access to abortion in states with protections in place, like New York, is significantly on the rise, compounding the existing barriers to access for those needing abortion care and the pressures facing those health care providers who serve them.

Within this context, NIRH Action Fund requests that the Legislature and the Executive include the following in the Fiscal Year 2024 New York State Budget:

### **\$25M in Grant Funding to Invest in Reproductive Health Care Providers**

We applaud the Governor's commitment to invest \$25 million in grants to abortion providers to improve and expand access to this essential care, and we urge the Legislature to support this budget item. Last summer, the Governor's allocation of \$35M in infrastructure and security funds in the wake of the *Dobbs* decision was a game-changer, marking the first truly intentional investment in the those providing these critical services. But that one-time infusion is not sufficient to make up for decades of inadequate Medicaid reimbursement rates, the impact of the COVID epidemic on health care providers, inflationary pressures on the cost of delivering care, and the exponentially growing need for New York abortion providers to meet the demand for abortion care as more and more states further restrict and outright ban this care. Including such grants in this and future budgets will enable providers to invest in their infrastructure, build their capacity, enhance their facilities and equipment, and expand training and staffing investments. The grant funding should allow for the greatest flexibility for providers to use the funds to best fit the needs of their patients, especially in the fast-changing national landscape. Moreover, these funds must be made available to all types of abortion providers licensed in the state of New York, not only those incorporated as not-for-profits.

***NIRH Action Fund urges the Legislature to sustain the Governor's \$25M investment in grants to abortion providers in the FY24 budget.***

### **At least \$1M in Grant Funding to Reduce Financial and Logistical Barriers to Abortion Care**

While investments in the reproductive health care infrastructure are both critical and laudable, they do not sufficiently address the significant financial and logistical barriers faced by those seeking abortion care, including the cost of abortion care for those not covered by private or public insurance, travel expenses, childcare, lodging, lost wages, and the like. In the wake of the *Dobbs* decision, these already-significant barriers have become even more heightened – and the need for action by state governments even more necessary. And New York State has yet to act. To remedy this, we urge the Legislature to include at least an additional \$1 million to be directed to grants to not-for-profit organizations addressing the financial and practical support

needs of people seeking abortion care, as envisioned by the Reproductive Freedom and Equity Program (A.361A/S.348B).

In anticipation and in the wake of *Dobbs*, three states that have, like New York, safeguarded reproductive freedom in their state statutes and committed to covering abortion care through their Medicaid programs -- California, Massachusetts, Oregon -- have created similar grant programs for nonprofit organizations to provide practical and financial support to people seeking abortion care, demonstrating that this approach is both feasible and impactful in states with both significant and smaller populations; funding for the programs in those states range from \$2M (Massachusetts)<sup>4</sup> to \$20M (California).<sup>5</sup> Moreover, 17 cities across the country -- in states spanning the spectrum of abortion legality, from protected to banned -- have established similar grant programs. Half a dozen of these have funded such grant programs at or above \$1M/annually, including New York City (\$1M), Fresno, CA (\$1M), Columbus, OH (\$1M), Seattle/Kings County (\$1.25M), St. Louis, MO (\$1.75M).<sup>6</sup>

We urge the Legislature and the Executive to take action in this budget and include resources that will ensure the creation of a dedicated fund within the Department of Health to help eliminate financial and logistical barriers for those seeking abortion care here in the Empire State. As is clear from a recent communique from Chelsea Williams-Diggs, Interim Executive Director at the New York Abortion Access Fund, time is of the essence: "In the first seven weeks of 2023, we have already pledged \$421,778....If we continue funding at this rate, and without additional funding resources, we could come to a point where we'd have to pause abortion funding for the first time in our 22 year history."<sup>7</sup>

***NIRH Action Fund urges the Legislature and the Executive to include at least \$1M in funding in the FY24 budget for a grant program at the Department of Health for abortion funds and practical support organizations.***

### **Increased Medicaid Reimbursement Rates for *Both* In-Clinic Procedural Abortion Care and Medication Abortion as well as for Family Planning**

We also urge the final budget to include a robust Medicaid reimbursement increase for *both* in-clinic procedural abortion care and medication abortion care alongside greater reimbursement for family planning care. Even as we strongly endorse the Governor's budget proposal to increase Medicaid reimbursement for procedural abortion care to \$1000 for first-trimester procedures and \$1300 for later procedures, as outlined by the Department of Health during its budget webinar on February 23, 2023, as well as the 30% increase in family planning rates, we call upon the Legislature and the Executive to also raise reimbursement rates for medication abortion.

New York's Medicaid reimbursement rates for reproductive health care are more than a decade old, and thereby fail to account for inflationary trends, changes in health care delivery, and greater financial demands on providers. As a result, the Medicaid reimbursement rates are well

below the actual cost of providing reproductive health care, forcing those who remain committed to providing care to low-income patients to effectively lose hundreds of dollars for each Medicaid patient they serve. Moreover, New York is woefully behind several other states that have enhanced their commitment to advancing just and equitable access to reproductive health care in recent years.

Consider the cautionary tale from Illinois, which initially failed to increase reimbursement rates when it reinstated Medicaid coverage for abortions in 2018, forcing some providers to close their doors because their relatively high volume of Medicaid patients and reimbursements at rates significant below the cost of providing care were not sustainable.<sup>8</sup> Thankfully, Illinois has since remedied this situation, increasing their reimbursement rates for abortion care – including, most recently, through a 20% expansion in the wake of the *Dobbs* decision<sup>9</sup>; similarly, California and Oregon have also taken critical steps recently to address their low reimbursements rates – for instance, Oregon’s rates were increased in FY22 from \$300 to more than \$1000 for both procedural and medication abortion). New York can and should join their ranks.

***NIRH Action Fund urges the Legislature and the Executive to increase the Medicaid reimbursement rates to at least \$1000 for first trimester abortion care, at least \$1300 for second trimester abortion care, and at least \$550 for medication abortion, while also raising by 30% the reimbursement for all family planning services.***

## **Endnotes**

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<sup>1</sup> Liza Fuentes, “Inequity in US Abortion Rights and Access: The End of *Roe* is Deepening Existing Divides,” January 17, 2023, Guttmacher Institute, available at: <https://www.guttmacher.org/2023/01/inequity-us-abortion-rights-and-access-end-roe-deepening-existing-divides>.

<sup>2</sup> Guttmacher Institute, “Infographic: US states have enacted 1,381 abortion restrictions since *Roe v. Wade* was decided in 1973,” June 21, 2022, available at: <https://www.guttmacher.org/infographic/2022/us-states-have-enacted-1381-abortion-restrictions-roe-v-wade-was-decided-1973>.

<sup>3</sup> *New York Times*, “Tracking the States Where Abortion is Now Banned,” available at: <https://www.nytimes.com/interactive/2022/us/abortion-laws-roe-v-wade.html>.

<sup>4</sup> [MA Chapter 126](#) appropriated \$2M for grants to support improvements in reproductive health access, infrastructure and security, including grants to the: Jane Fund of Central Massachusetts and Abortion Rights Fund of Western Massachusetts.

<sup>5</sup> [CA S 184](#) created the Abortion Practical Support Fund, a continuously appropriated fund, for the purpose of providing grants to nonprofit organizations that either specialize in assisting pregnant people who are low income, or who face other financial barriers, with both direct practical support services and abortion access. \$20M was allocated the first year.

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<sup>6</sup> See, e.g., National Institute for Reproductive Health, *Meeting the Moment Post-Dobbs: A Review of Proactive Abortion Policies Passed in States & Localities*, June 24 - October 1, 2022, available at: <https://nirhealth.org/resources/meeting-the-moment-post-dobbs/>.

<sup>7</sup> New York Abortion Access Fund, "Subject: URGENT: We risk running out of funds," February 23, 2023, also noting that "[i]f we continue at this rate, we would be on track to pledge more than \$3 million this year – nearly triple what we pledged in 2022, and more than six times what we pledged in 2021." This message from NYAAF demonstrates in vivid terms the heightened need and greater demand among those who face significant financial barriers in seeking this care in New York.

<sup>8</sup> Andy Kravitz, "Whole Women's Health to Close in Peoria," *Peoria Journal Star*, May 30, 2019.

<sup>9</sup> Press Release: Gov. Pritzker Announces Medicaid Reimbursement Increases and Expanded Title X Funds for Reproductive Health Care Providers, August 4, 2022, available at: <https://www.illinois.gov/news/press-release.25265.html>.