Research Protocol for Restrictions on Insurance Coverage of Abortion

Prepared by the Policy Surveillance Program Staff

December 2019
Restrictions on Insurance Coverage of Abortion
Abortion Law Project

I. Date of Protocol Creation: December 2019

II. Scope: Compile state laws, regulations, case law, and attorney general opinions that restrict private insurance coverage of abortions. This dataset is one of 16 datasets examining laws regulating abortion laws in the United States.

III. Primary Data Collection


b. Dates Covered in the Dataset: This dataset started out as cross-sectional, analyzing laws restricting private insurance coverage of abortion as they were in effect at one point in time, December 1, 2018. The datasets were subsequently updated to be longitudinal, covering changes in the law from December 1, 2018 through December 1, 2019.

c. Data Collection Methods: The Policy Surveillance Program Staff (“Team”) building this dataset consisted of four legal researchers (“Researchers”) and one supervisor (“Supervisor”). WestlawNext was used to identify which states had laws restricting private insurance coverage of abortion. Subject matter experts from Guttmacher Institute, Resources for Abortion Delivery, American Civil Liberties Union, Center for Reproductive Rights, National Abortion Federation, and Planned Parenthood Federation of America were consulted to assist with defining the scope of the laws included in the Abortion Law Project.

d. Databases Used: Research was conducted using WestlawNext and state-specific legislature websites. The Researchers also consulted a combination of secondary sources from the Guttmacher Institute.
i. Full text versions of the laws were collected from each respective state legislature website.

e. Search Terms:
i. Keyword searches and search strings were supplemented by examination of the table of contents of each relevant section of the state law identified for statues and regulations related to restrictions on private insurance coverage of abortion:
   a. abortion
   b. ("termination" /s "pregnancy")

f. Inclusion and Exclusion Criteria:
i. Included laws pertaining to private insurance coverage of abortions:
   - Laws restricting private insurance coverage of abortion.
   - Laws restricting coverage of abortion in health exchange created pursuant to the federal Patient Protection and Affordable Care Act.

ii. Court decisions and attorney general opinions directly affecting enforceability of state restrictions on private insurance coverage of abortion. Citations for relevant court or attorney general opinions were included in the legal text. However, the text of the opinions was not included in the dataset. Details of relevant court and/or attorney general opinions were captured in caution notes. Excluded laws pertaining specifically to:
   - Laws that allow insurance providers or health maintenance organizations to exclude abortion coverage.
   - Laws that restrict the use of public resources for abortion.
   - Laws that restrict the use of Medicaid funds for abortion.
   - Laws that restrict insurance coverage for public employees.
   - Laws that require coverage of medically necessary abortions without explicitly restricting any abortion coverage.

IV. Coding

a. Development of Coding Scheme: The Team conceptualized and created the coding questions, then circulated them to the subject matter experts from Guttmacher Institute, Resources for Abortion Delivery, American Civil Liberties Union, Center for Reproductive Rights, National Abortion Federation, and Planned Parenthood Federation of American to review and finalize. When the questions were finalized, the Team entered the questions into the MonQcle, a web-based software coding platform. As the Team developed the coding scheme they recorded the dataset terminology below:
   i. Dataset terminology:
• “Abortion” is the induced termination of pregnancy by medical or procedural/surgical means.

b. Coding Methods:
   i. The legal text coded was limited to requirements relating specifically to laws restricting private insurance coverage of abortion. Statutes and regulations that are cited or cross-referenced in these policies were only coded and included in the legal text if necessary to answer a coding question. External third-party “guidelines” incorporated by reference into policies are referenced but not coded or included in the legal text.
   ii. As stated above, citations for relevant court or attorney general opinions were included in the legal text. However, the text of the opinions was not included in the dataset. Details of relevant court and/or attorney general opinions were captured in caution notes.

Below are specific coding rules used when coding the questions and responses in the Restrictions on Insurance Coverage of Abortion dataset. Note that this section only lists questions and responses that required further explanation of the question itself, the responses, or to understand specific coding decisions and rules.

Question 1: “Does the state restrict insurance coverage of abortion?”
   • States were coded as “Yes” if they had a law restricting private insurance coverage of abortions generally, or a law restricting coverage for abortions through a health exchange.

Question 2: “Does the state restrict private insurance coverage of abortions?”
   • “Yes” was coded where the law restricted private insurance coverage of abortions generally, or where the law restricted health care and disability insurance coverage of abortions generally.
   • “No” was coded where the law only restricted insurance coverage of abortion in a health exchange plan.

Question 2.1.1: “In what circumstances does the state allow private insurance to cover abortions?”
   • When the law allowed private insurance coverage for medically necessary abortions, without defining “medically necessary,” “Life endangerment” and “Serious health risk” were coded.

Question 3: “Does the state restrict abortion coverage in the state’s Health Exchange plans?”
• “Yes” was coded where the law explicitly restricted insurance coverage of abortions in a health exchange.

Question 5: “Has the law been limited in whole or in part?”
• This question was coded “Yes” where there was a relevant court opinion or attorney general opinion affecting the enforceability of one or more of the requirements coded.
• If the limiting law was overturned in an update, “No” was coded and the relevant information was included in a Caution Note.

Question 5.1: “Has the law been limited by a court decision?”
• This question was coded “Yes” where there was a relevant court opinion affecting the enforceability of one or more of the requirements coded.
• A brief summary of the opinion’s ruling, including which provisions were affected by the ruling, were captured in a caution note.
• Where related court opinions were not in scope of the dataset, this question was coded as “No.”

Question 5.2: “Has the law been limited by an attorney general opinion?”
• This question was coded “Yes” where there was a relevant attorney general opinion affecting the enforceability of one or more of the requirements coded.
• A brief summary of the opinion’s ruling, including which provisions were affected by the ruling, were captured in a caution note.
• Where related attorney general opinions were not in scope of the dataset, this question was coded as “No.”

V. Quality Control

a. Quality Control – Background Research: All 51 jurisdictions were 100% redundantly researched to confirm that all relevant laws were being collected by the Researchers. The Researchers independently recorded the relevant citations on a Master Sheet for each jurisdiction that had laws restricting private insurance coverage of abortions. The Master Sheet includes the most recent legislative history for the statute, regulation, case and/or attorney general opinion as well as its effective date. The Supervisor reviewed the original Master Sheet against the redundant Master Sheet, and the Team resolved all divergences (differences between research findings) prior to collecting the legal text.
   i. The research showed that 27 of 51 jurisdictions [AL, AR, AZ, FL, GA, ID, IN, KS, KY, LA, MI, MO, MS, NC, ND, NE, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WI] have a law restricting private insurance coverage of abortion.
b. Quality Control – Original Coding: Quality control consisted of the Supervisor exporting the data into a Microsoft Excel document as the Researchers completed coding to examine the data for any missing responses, citations, and caution notes.

c. Quality Control – Redundant Coding: Quality control consisted of the Supervisor exporting the data into a Microsoft Excel document after the Researchers coded and redundantly coded to examine the data for divergences (differences between the coded responses). The Team discussed and resolved all divergences for each Batch of states detailed below.

- **Redundant Coding for Batch One**
  The Supervisor assigned Batch One [AL, AZ, FL, KS, MO, OK, SD, TX, WV, WI] for redundant coding and the rate of divergence was 9.23% on May 23, 2018.

- **Redundant Coding for Batch Two**
  The Supervisor assigned Batch Two [AK, AR, CA, CO, CT, DE, DC, GA, MT, TN, UT, VA, VT, WA, WY] for redundant coding and the rate of divergence was 5.3% on August 28, 2018.

- **Redundant Coding for Batch Three**
  The Supervisor assigned Batch Three [NE, NV, NH, NJ, NM, NY, NC, ND, PA, RI, SC, OR, OH, KY, IN] for redundant coding and the rate of divergence was 21.2% on October 22, 2018.

- **Redundant Coding for Batch Four**
  The Supervisor assigned Batch Four [HI, ID, IL, IA, LA, ME, MD, MA, MI, MN, MS] for redundant coding and the rate of divergence was 0.36% on December 7, 2018.

d. Quality Control – Post-Production Statistical Quality Control (SQC): The Supervisor typically runs a statistical quality control procedure after each dataset is completed. However, since this dataset was redundantly coded at 100% and the Team had a subject matter expert repeatedly checking the validity of the coding, there was no post-production statistical quality control check.

e. Quality Control – Final Data Check: The Team checked the final coding against secondary sources from Guttmacher. Each divergence was discussed as a group and resolved. Prior to publication, the Supervisor downloaded all coding data into Microsoft Excel to do a final review of coding answers, statutory and regulatory citations, and caution notes. All unnecessary caution notes were deleted, and all necessary caution notes were edited for publication.
VI. Quality Control – 2019 Update

a. Quality Control – Background Research: All 51 jurisdictions were researched to collect amendments to existing laws restricting private insurance coverage of abortions, changes to case law and/or Attorney General opinions, or new laws restricting private insurance coverage of abortions enacted since December 1, 2018. The Researchers consulted a combination of secondary sources (Guttmacher.org, Center for Reproductive Rights, ANSIRH) to verify changes to the law.

b. Quality Control – Original Coding: Quality control consisted of the Supervisor exporting the data into a Microsoft Excel document once the Researchers completed coding to examine the data for any missing responses, citations, and caution notes.

c. Quality Control – Redundant Coding: Quality control consisted of the Supervisor exporting the data into a Microsoft Excel document once the Researchers completed redundant coding to calculate divergence rates. 100% of the records with substantive updates to the law were redundantly coded. The initial assignment of redundant coding, for two jurisdictions (ID, WA) produced a divergence rate of 24%. The additional assignment of redundant coding, for three jurisdictions (GA, RI, UT), which included updates to the new iterations of the law, produced a divergence rate of 52%. The Team discussed and resolved all divergences.

d. Quality Control – Final Data Check: Prior to publication, the Supervisor downloaded all coding data into Microsoft Excel to do a final review of coding answers, statutory and regulatory citations, and caution notes. All unnecessary caution notes were deleted, and all necessary caution notes were edited for publication.