



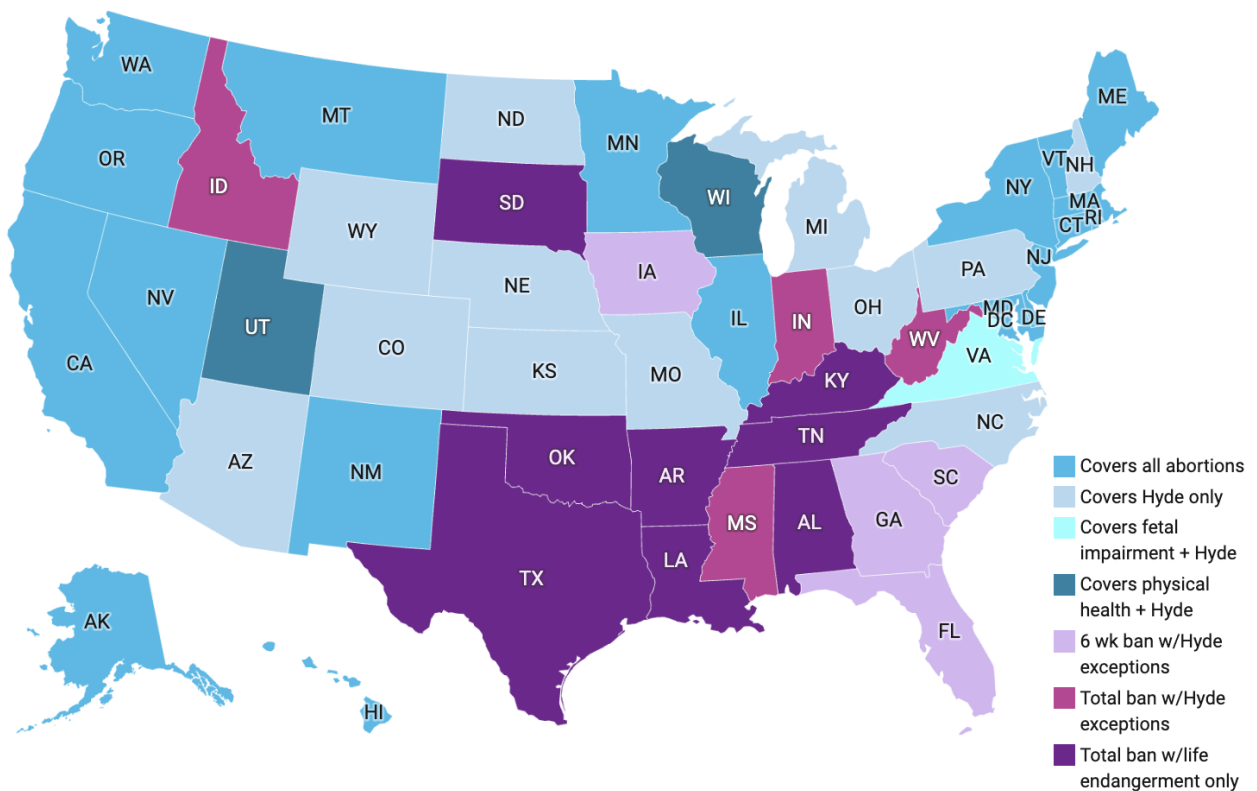
Abortion Coverage Under Medicaid

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Introduction

This FAQ provides an overview of the Hyde Amendment, its impact on the scope of Medicaid coverage of abortion and related services, and the process for obtaining coverage in the states in which funding is limited by the Hyde Amendment.

Abortion Coverage under Medicaid in the 50 States



This map illustrates the landscape of abortion access for Medicaid enrollees across the country.

What is the Hyde Amendment?

The Hyde Amendment is an annual federal appropriations bill rider that restricts the use of federal funding for abortion services to the narrow circumstances of rape, incest, or life endangerment. While the exact language of the Hyde Amendment has slightly evolved since its introduction in 1976, the core function has always remained the same: to restrict funding and abortion access. Four years after its first passage, the U.S. Supreme Court upheld the Hyde Amendment's restrictions on federal funding and found that states are not obliged to "pay for those medical services for which federal reimbursement is unavailable."¹ While the Hyde Amendment restricts federal funding, states may use their own funding to cover abortions past these circumstances for Medicaid enrollees.² As of publication, nineteen states do so.³

What are the Hyde Amendment exceptions?

The Hyde Amendment requires federal funding of abortion when a pregnancy is the result of rape or incest, or when it is necessary to save the pregnant person's life.⁴ The current version of the Hyde Amendment defines life endangerment as when a patient "suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed."⁵

The Centers for Medicare and Medicaid Services (CMS), the federal agency within the U.S. Department of Health and Human Services that oversees Medicaid, clarified that covered abortions under the Hyde exceptions "should be considered to fall within the scope of services that are medically necessary," and that participating states are required to cover such abortions in their state Medicaid programs.⁶

¹ *Harris v. McRae*, 448 U.S. 297, 315-21, 326 (1980).

² Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-147, § 507(c).

³ These states are Alaska, California, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington.

⁴ Pub. L. No. 118-147, §§ 506-507.

⁵ *Id.* § 507(a)(2).

⁶ HCFA, Dear State Medicaid Director (Feb. 12, 1998)

<https://www.medicaid.gov/Federal-Policy-Guidance/downloads/smd021298.pdf>.

When any of these circumstances arise, most states require that a provider fill out a specific form in order to process Medicaid reimbursement for the abortion.⁷ Other states only require a provider letter or written statement outlining the justification for the request.⁸ In addition, states may, but are not obliged to, require that the rape or incest survivor report their assault to government authorities, so long as those requirements include a waiver if the patient is unable to comply for physical or psychological reasons.⁹ As of publication, 20 states have such reporting requirements.¹⁰

How does the application of the life endangerment exception work?

Under the life endangerment provision, health care providers must determine and certify in writing to the state Medicaid agency that based on their professional judgment, the life of the patient would be endangered if the pregnancy were carried to term.¹¹ Some states require that the provider detail the medical justification for the abortion and attach any pertinent information including laboratory tests, radiological evaluations, consultations, etc.¹² (See Appendix).

How does the application of the rape and incest exceptions work?

⁷ See e.g., Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

⁸ These states are Idaho, Indiana, Louisiana, Nebraska, New Mexico, North Carolina, North Dakota, and Rhode Island. The District of Columbia also requires a written statement.

⁹ HCFA, *supra* note 6.

¹⁰ These states are Arizona, Arkansas, Delaware, Idaho, Iowa, Louisiana, Massachusetts, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, West Virginia, Wisconsin, Wyoming.

¹¹ See Pub. L. No. 118-47, § 614.

¹² These states are Arizona, Arkansas, Colorado, Delaware, Iowa, Missouri, North Carolina, South Carolina, Tennessee. Arizona requires “all documentation of medical necessity” but does not specify in the provider manual what that constitutes. Montana does not require additional documents, but instructs providers to attach additional documents “as needed.” Michigan, Nevada, Virginia and Wisconsin ask for details, but do not ask for any attachments.

Federal funding, including Medicaid, must cover abortions when the pregnancy resulted from rape or incest, as defined by the state's criminal code.¹³ Federal policy permits but does not require documentation or certification for abortions that fall under the rape or incest exceptions.¹⁴

Are there reporting requirements for the rape and incest exceptions?

Federal law does not impose mandatory reporting requirements. However, states may institute "reasonable reporting or documentation requirements" on Medicaid enrollees and Medicaid providers to confirm that a pregnancy was the result of rape or incest.¹⁵ This policy may involve reporting the rape or incest to a law enforcement agency, child protective services, or other government agency. Twenty states require Medicaid enrollees to report the assault that caused the pregnancy in order to receive Medicaid coverage.¹⁶

Are there waivers or exceptions to these reporting requirements?

Federal law requires that, if states choose to impose reporting requirements, they must be reasonable and "may not serve to deny or impede coverage for abortions."¹⁷ States must waive any reporting or documentation requirements and still provide reimbursement if the "treating physician certifies that in his or her professional opinion, the patient was unable, for physical or psychological reasons, to comply with the [reporting] requirements."¹⁸ With the exception of six states (Indiana, Iowa, Massachusetts, Tennessee, Virginia, Wisconsin), all states that have reporting requirements have also instituted waivers.

How do providers apply for a reporting waiver?

¹³ See Pub. L. No. 118-47, § 507. See also HCFA, *supra* note 6.

¹⁴ HCFA, *supra* note 6.

¹⁵ See *Id.*

¹⁶ Delaware, Massachusetts, Montana, and New Mexico have such reporting requirements, but those states cover abortions beyond Hyde with state funding. Of the twenty states that have reporting requirements, four (Arkansas, Louisiana, Oklahoma, and Tennessee) have near-total abortion bans in place and likely do not provide coverage for those cases despite having the reporting requirement on the books.

¹⁷ See HCFA, *supra* note 6.

¹⁸ See *Id.*

Most states' reimbursement forms include an option to waive the reporting requirement and offer providers the opportunity to attest that in their opinion the patient was unable to comply with this reporting.

Can patients get coverage for other reproductive health services even though their state Medicaid programs only cover Hyde abortions?

While the Hyde Amendment severely restricts federal reimbursement for abortions and abortion-related services, federal funding must pay for services, tests, and procedures that normally would have been performed for a pregnant person, even if the patient eventually sought abortion services. The extent of coverage depends on whether the state Medicaid plan covers these ancillary services and whether these services are affiliated with the non-covered abortion.¹⁹

The CMS State Medicaid Manual outlines some of the services for which federal funding is available, including:

- tests to identify sexually transmitted infections (such as chlamydia, gonorrhea, and syphilis);
- laboratory tests routinely performed on a pregnant patient, such as pregnancy tests, pap smears, and urinalysis;
- family planning.²⁰

In addition, federal funding is available for treating any medical problems resulting from a “medically unsupervised abortion” or for an ectopic (tubal) pregnancy, which must always be removed.²¹ However, no federal funding is available for services related to abortions that do not fall into one of Hyde’s three exceptions.²²

¹⁹ CMS, STATE MEDICAID MANUAL § 4432(B).

²⁰ *Id.* § 4432(B)(2).

²¹ The CMS State Medicaid Manual further defines a “medically unsupervised abortion” as one “where someone other than a physician, such as the patient, has induced the abortion.” It is important to note that the risk of complications from abortion care are exceedingly low, as countless studies have shown that abortions (including self-managed abortions) are extremely safe. See Nisha Verma & Daniel Grossman, *Self-Managed Abortion in the United States*, 12 CURR. OBSTET. GYNECOL. REP. 2 (2023), <https://doi.org/10.1007/s13669-023-00354-x>; Abigail Aiken et al., *Safety and effectiveness of self-managed medication abortion provided using online telemedicine in the United States: A population based study*, 10 LANCET REG. HEALTH AM. (2022), <https://doi.org/10.1016/j.lana.2022.100200>.

²² CMS, STATE MEDICAID MANUAL § 4421(A)(2). For more information on post-abortion coverage of other reproductive health care services, see Fabiola Carrión & Elizabeth McCaman, Nat’l Health Law Prog., *Post-Abortion Contraceptive Coverage in Medicaid* (2021), <https://healthlaw.org/wp-content/uploads/2021/04/Post-Abortion-Contraceptive-Coverage-in-Medicaid.pdf>.

Lastly, CMS confirms, the hospital or clinic must be able to distinguish between costs attributable to an abortion versus those attributable to a family planning service (and cites sterilization as an example).²³ It establishes, “When multiple procedures are performed during a single hospital stay or clinic visit, you must distinguish between costs attributable to an abortion or other procedure matched at the [Federal Medical Assistance Percentage], and those attributable to a family planning service.” Therefore, it is clear that a family planning service, such as contraceptive counseling or device insertion, can be covered by Medicaid when performed during a single hospital or clinic visit if the services are distinguished.

What if state law has an abortion ban that violates the Hyde Amendment?

As a result of the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*, which eliminated the constitutional right to abortion, eight states have abortion bans in place that have no exceptions for rape or incest, regardless of gestational age.²⁴ This conflicts with the federal minimum established in the Hyde Amendment, which requires coverage for enrollees who seek abortions due to pregnancies resulting from rape or incest or if it is necessary to save the pregnant person’s life. Case law reinforces the notion that states participating in Medicaid must cover abortions that are eligible for federal reimbursement; some courts have concluded that the Hyde Amendment has a preemptive effect for conflicting state laws.²⁵

While it is unclear how courts will resolve conflicts between state law and federal coverage requirements in the post-Roe landscape, we believe state Medicaid agencies must comply with

²³ CMS, STATE MEDICAID MANUAL § 4432(B).

²⁴ These states are Alabama, Arkansas, Kentucky, Louisiana, Oklahoma, South Dakota, Tennessee, and Texas. See Guttmacher Inst., *Interactive Map: US Abortion Policies and Access After Roe*, <https://states.guttmacher.org/policies/arizona/abortion-policies> (last visited Apr. 2, 2025); KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits*, <https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/> (last visited Apr. 2, 2025).

²⁵ *Planned Parenthood Affiliates of Mich. v. Engler*, 73 F.3d 634 (6th Cir. 1996); See e.g., *Hern v. Beye*, 57 F.3d 906, 909 (10th Cir. 1995). For more context see Fabiola Carrión et al., *Leveraging the Tools Available: Using the Hyde Amendment to Preserve Minimum Abortion Access and Mitigate Harms in Restrictive States*, 51 J. LAW MED. ETHICS 3 (2023), <https://doi.org/10.1017/jme.2023.92>.

the Medicaid Act and, by extension, the minimum coverage requirements in the Hyde Amendment.²⁶ Despite this, these states are likely failing to meet these obligations and these bans may have created a chilling effect and Medicaid enrollees whose abortions should be covered instead likely opt to travel out of state to obtain care or are forced to carry the pregnancy to term.

²⁶ Carrión et al., *supra* note 22.

APPENDIX²⁷

State	Fund Abortions Beyond Hyde	Form or Written Statement Required	Mandatory Law Enforcement Report for Rape/Incest	Waiver to Reporting Req.'s
Alabama*	No	<u>Form for life endangerment only</u> Written Statement for rape/incest (policy in Section <u>28.6.7</u>)	No	N/A
Alaska	Yes	<u>Form</u>	No	N/A
Arizona	No ²⁸	<u>Form</u>	Yes	Yes
Arkansas*	No	<u>Form (DMS-2698)</u>	Yes	Yes
California	Yes	No	No	N/A
Colorado	No ²⁹	<u>Sexual assault/incest form</u> , <u>Life endangerment form</u>	No	N/A
Connecticut	Yes	<u>Form</u> (only under rape, incest, and life endangerment)	No	N/A

²⁷ Note: States with an asterisk have near total abortion bans with no rape or incest exceptions, which means they likely do not provide coverage for these exceptions.

²⁸ While the Arizona provider manual ([p. 12](#)) claims AHCCCS covers medically necessary abortions (as required by court order), the state Medicaid program does not pay for medically necessary abortions. See KFF, *State Funding of Abortions Under Medicaid* (2024), <https://www.kff.org/medicaid/state-indicator/abortion-under-medicaid/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last visited Apr. 2, 2025). Providers have the right to submit claims for covered services and are legally entitled to reimbursement – if you are being denied reimbursement please contact the National Health Law Program for assistance pursuing an appeal.

²⁹ In November 2024, Colorado voters approved a ballot measure that enshrines abortion access into the state Constitution and removes the state's public funding ban. There is legislation pending to implement abortion coverage for Medicaid enrollees starting in 2026. Jesse Paul, *Colorado is projected to save money by covering abortions for Medicaid, Child Health Plan Plus recipients* (Mar. 18, 2025), <https://coloradosun.com/2025/03/18/colorado-abortion-medicaid-child-health-plan-plus/>.

State	Fund Abortions Beyond Hyde	Form or Written Statement Required	Mandatory Law Enforcement Report for Rape/Incest	Waiver to Reporting Req.'s
Delaware	Yes ³⁰	Life endangerment: <u>Abortion Justification Form</u> (in Appendix M), Rape/incest: Written statement (policy in <u>Section 2.7.2</u>)	Yes ³¹	Yes
District of Columbia	No	Written Statement (<u>policy here</u>)	No	N/A
Florida	No	<u>Form</u>	No	N/A
Georgia	No	<u>Form (DMA-311)</u>	No	N/A
Hawaii	Yes	No	No	N/A
Idaho	No	Written Statement (<u>policy on p. 20</u>)	Yes	Yes
Illinois	Yes	No	No	N/A
Indiana	No ³²	Written Statement (<u>policy on p. 16</u>)	No	No

³⁰ In 2024, Delaware's governor signed **HB 110** into law, which went into effect January 1, 2025. For more information on implementation, see Del. Div. of Medicaid & Med. Assist, *House Bill 110: Additional Coverage for Termination of Pregnancy Special Provider Bulletin* (Jan., 2025),

https://medicaidpublications.dhss.delaware.gov/docs/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core_Download&EntryId=1804&language=en-US&PortalId=0&TabId=94

³¹ While Delaware's policy includes a waiver, it does not use the language recommended by HHS guidance and instead uses the subjective standard of "just cause" which the DMAP will consider on a case-by-case basis.

³² An Indiana Supreme Court ruling requires the state Medicaid program to cover abortions necessary to prevent grave, long-lasting physical harm to the patient. However, none of the State's materials indicate that such abortions are covered. *Humphreys v. Clinic for Women Inc.*, 796 N.E.2d 247 (Ind. 2003).

State	Fund Abortions Beyond Hyde	Form or Written Statement Required	Mandatory Law Enforcement Report for Rape/Incest	Waiver to Reporting Req.'s
Iowa	No ³³	Form (Form 470-0836)	Yes	No
Kansas	No	Form ³⁴	No	N/A
Kentucky*	No	Form ³⁵	No	N/A
Louisiana*	No	Written Statement (policy here)	Yes	Yes
Maine	Yes	No	No	N/A
Maryland	Yes	No	No	N/A
Massachusetts	Yes	Form (CPA-2)	Yes	No
Michigan	No ³⁶	Form (MSA-4240)	No ³⁷	N/A
Minnesota	Yes	Form (DHS-2327)	No	N/A
Mississippi	No ³⁸	Form (MA-1034)	No	N/A

³³ Iowa also covers a narrow exception for fetal impairment, which is included on the State's certification form. Furthermore, Iowa's budget makes Medicaid reimbursement "contingent upon receipt of approval from the office of the governor of reimbursement for each abortion performed under the program," H.F. 2698, 90th Gen. Assemb., Reg. Sess. (Iowa 2024), <https://www.legis.iowa.gov/docs/publications/LGE/90/HF2698.pdf>.

³⁴ If this link does not work, Kansas's forms are available on the provider portal found [here](#).

³⁵ Over 90 percent of Medicaid beneficiaries in Kentucky are in a managed care program. At the time of publication, we found significant differences in the abortion coverage policies between managed care organizations. [WellCare](#), [Anthem](#), and [CareSource](#) had policies including coverage for abortions for cases of rape, incest, and life endangerment. United Healthcare explicitly only covers cases of life endangerment while Humana and Molina Healthcare policies only said that abortions "performed out-of-compliance with federal and Kentucky laws and judicial opinions" are not a covered service.

³⁶ While Michigan currently does not provide coverage beyond the Hyde exceptions, a [lawsuit](#) filed in June 2024 argues that the state's public funding ban violates the fundamental right to reproductive freedom, which was added to the Michigan Constitution in 2022. Complaint, *YWCA Kalamazoo v. Michigan*, No. 24-000093-MM (Mich. Ct. Cl. June 27, 2024).

³⁷ Michigan's certification form asks whether or not cases of rape or incest have been reported, however, the form clarifies that a report is not required for reimbursement.

³⁸ Mississippi allows public funds to be used for abortions in the case of fetal impairment, as explained by the provider manual ([Rule 5.4 on p. 43](#)).

State	Fund Abortions Beyond Hyde	Form or Written Statement Required	Mandatory Law Enforcement Report for Rape/Incest	Waiver to Reporting Req.'s
Missouri ³⁹	No	<u>Form</u>	No	N/A
Montana	Yes ⁴⁰	<u>Form (MA-037)</u>	Yes	Yes
Nebraska	No	Written Statement for cases of life endangerment <u>(policy in Title 471 Chapter 10 Section 006.08)</u> ⁴¹	No	N/A
Nevada	Yes ⁴²	<u>Life endangerment form</u> (FA-57), <u>Rape form</u> (FA-54), <u>Incest form</u> (FA-55)	No	N/A

³⁹ Missouri has a near-total abortion ban that does not include an exception for cases of rape or incest. This law is blocked by ongoing litigation, but no providers in the state have resumed providing abortion services due to other restrictions. See Mo. Rev. Stat. § 188.017; Guttmacher Inst., *Interactive Map: US Abortion Policies and Access After Roe – Abortion Policies in Missouri*, <https://states.guttmacher.org/policies/missouri/abortion-policies> (last visited Apr. 2, 2025).

⁴⁰ In 2023, Montana attempted to impose severe restrictions on abortion coverage for Medicaid enrollees (via regulation and legislation). On March 11, 2025, the Montana District Court ruled that the restrictions violated the state Constitution and permanently blocked them from taking effect (read our amicus brief [here](#)). *Planned Parenthood of Montana v. State of Montana*, No. ADV-2023-299 (Mont. Dist. Ct. Mar. 11, 2025).

⁴¹ At the time of publication, we found contradictory information about abortion coverage in Nebraska. Medicaid managed care plans. While **Healthy Blue** covers abortions for cases of rape, incest, and life endangerment, **United Healthcare** and **Total Care** explicitly only cover cases of life endangerment.

⁴² In 2024, a Nevada court struck down the state's public funding ban as a violation of the state constitution's Equal Rights Amendment and **issued an order** requiring the state's Medicaid program to cover medically necessary abortion care. This coverage was implemented in December, 2024. *Silver State Hope Fund v. Nev. Dep't of Health and Human Servs.*, No. A-23-876702-W (Nev. Dist. Ct. Aug. 8, 2024); See Nevada Medicaid, Expansion of Medicaid Coverage to Include Medically Necessary Abortions (Dec., 2024), https://www.medicaid.nv.gov/Downloads/provider/web_announcement_3505_20241217.pdf.

State	Fund Abortions Beyond Hyde	Form or Written Statement Required	Mandatory Law Enforcement Report for Rape/Incest	Waiver to Reporting Req.'s
New Hampshire	No	Form (Form 904)	No ⁴³	N/A
New Jersey	Yes	Form (FD-179 policy on p. 105)	No	N/A
New Mexico	Yes	Written Statement in cases of rape and incest (Section 8.325.7.11 in policy)	Yes	Yes
New York	Yes	No	No	N/A
North Carolina	No	Written Statement (policy in Sec. 5.3)	No	N/A
North Dakota	No	Written Statement (policy here)	Yes	Yes
Ohio	No	Form (ODM 03197)	Yes	Yes
Oklahoma*	No	Form	Yes	Yes
Oregon	Yes	No	No	N/A
Pennsylvania	No ⁴⁴	Form (MA 3)	Yes	Yes
Rhode Island	Yes	Written Statement (policy here)	No ⁴⁵	N/A
South Carolina	No	Form	Yes	Yes

⁴³ Please note that there is an option for the patient to include information if they chose to report the case of rape or incest, but it is not required.

⁴⁴ While Pennsylvania currently does not provide coverage beyond the Hyde exceptions, in January 2024, the Pennsylvania Supreme Court [issued a ruling](#) that recognized that abortion restrictions are sex-based discrimination and stated that the Medicaid ban is “presumptively unconstitutional.” This ruling does not overturn the state Medicaid ban, but paves the way for a future challenge. *See Allegheny Reproductive Health Ctr v. Pa. Dept. of Human Servs.*, No. 26 MAP 2021 (Pa. Sup. Ct. 2024).

⁴⁵ While the Rhode Island certification policy encourages providers to tell their patients about the importance of reporting their assault, NHeLP does not interpret this language requiring a report for reimbursement.

State	Fund Abortions Beyond Hyde	Form or Written Statement Required	Mandatory Law Enforcement Report for Rape/Incest	Waiver to Reporting Req.'s
South Dakota*	No	No	N/A ⁴⁶	N/A
Tennessee*	No	<u>Form (TC0140)</u>	Yes	No
Texas*	No	<u>Form</u>	No ⁴⁷	N/A
Utah	No	<u>Abortion Acknowledgement and Certification Form</u>	Yes	Yes
Vermont	Yes	<u>DVHA 219A [Hyde abortions]</u> , <u>DVHA 219B [non-Hyde abortions]</u> ⁴⁸	No	N/A
Virginia	No ⁴⁹	<u>Life endangerment form (MAP-3006)</u> <u>Rape, incest, or fetal impairment form</u>	Yes	No
Washington	Yes	No	No	N/A
West Virginia	No ⁵⁰	<u>Form</u>	Yes ⁵¹	N/A
Wisconsin	No ⁵²	<u>Form (F-01161)</u>	Yes	No
Wyoming	No	<u>Form</u>	Yes	Yes

⁴⁶ South Dakota does not cover rape or incest despite federal requirements.

⁴⁷ While the Texas policy encourages providers to tell patients about the importance of reporting their assault, NHeLP does not interpret this as requiring a report for reimbursement.

⁴⁸ Vermont maintains two separate certification forms - one for abortions for cases of rape, incest, or life endangerment (labeled as Hyde abortions) and a second form for abortions necessary for the patient's well-being (labeled as non-Hyde abortions).

⁴⁹ In Virginia, the Department of Health covers abortions for cases of rape, incest, or fetal impairment, while the Department of Medical Assistance Services covers cases of life endangerment, as explained [here](#).

⁵⁰ West Virginia also has a fetal viability exception, which is included on the State's certification form. However, the state limits coverage for cases of rape and incest to "within the first 8 weeks of pregnancy" for adults and 14 weeks for minors.

⁵¹ While not noted in the certification form, the State's [provider manual](#) says the West Virginia Bureau for Medical Services will only reimburse providers if the patient has "reported the sexual assault or incest to a law enforcement agency at least 48 hours prior to the abortion."

⁵² Wisconsin also covers a narrow exception for "grave, long-lasting physical damage," which is included on the State's certification form.