

Right to Health and Access to Health Care

Concluding Observation 15

The COVID-19 pandemic has highlighted and exacerbated longstanding racial inequities. People of color disproportionately lack access to affordable health care and face higher risks of COVID-19 infection, hospitalization, and death. Efforts have been made to increase the vaccination rates for Black and Latino people, but even still, the overstretched health systems, poverty, and chronic illnesses have resulted in an exceptionally high toll of deaths, particularly in rural areas. At one point in 2020, Black rural dwellers were dying at roughly six times the rate of White dwellers. And these racial disparities have continued. During the worst of the Omicron wave in winter 2022, Black and Hispanic death rates were higher than those of White people in towns and cities of every size. The federal government has taken some steps to address these racial inequities, but much more needs to be done.

- The passage of the Affordable Care Act (ACA) in 2010 was a milestone in expanding health care coverage for millions of Americans, and the Biden administration and Congress have provided subsidies to enable lower- and middle-income families to purchase affordable health insurance.
- The ACA also provided for an expansion of Medicaid, which covers health care for the poorest Americans. However, the Supreme Court declared that this provision would not be mandatory; instead, the Court left it up to each state to voluntarily take up this expansion of health care, which was generously funded by the federal government.
- To date, the Medicaid expansion has been taken up by 38 states and the District of Columbia, but 12 states, eight of which are in the South with substantial African American and Latino populations, have refused to take up the expansion. While millions of lower income people of color have gained access to

ACA health coverage, there are still 2.2 million adults without any health care in the 12 states that have refused the expansion. More than 60 percent of those without access to coverage are people of color, even though people of color comprise just 41 percent of the population in non-expansion states. For example, in Texas, more than 400,000 Latinos and more than 100,000 Black adults are without any health coverage. In both Florida and Georgia, more than 100,000 Black adults lack any health insurance.

- The ACA also included a far-reaching anti-discrimination provision, Section 1557, which prohibits discrimination in health care based on race, ethnicity, sex (including sexual orientation and gender identity), disability, and age. Although the Obama administration issued strong regulations implementing this nondiscrimination law in 2015, the Trump administration failed to enforce it and repealed part of the rules as they relate to sexual orientation and gender identity. The Biden administration just released its proposed regulations, which will be the basis of enforcement along with Title VI, against discrimination in federally funded health care services.
- This June, in the *Dobbs v. Jackson Women's Health Organization* decision, the Supreme Court stripped away the constitutional right to abortion established almost 50 years ago in *Roe v. Wade*. As many as 28 states could now ban or further limit abortion, and many have done so already. These laws will only further exacerbate racial and socioeconomic disparities in health outcomes. For example, these laws contribute to clinic closures and abortion deserts, which increase the costs of obtaining an abortion. Black women are half as likely to be able to travel 25 to 50 miles for abortion care than White women, who tend to

have more financial resources, information, and social networks that allow them to travel. Further, restrictions on accessing abortion mean that many women of color have to choose between receiving abortion care and paying their rent, purchasing food, or paying for other basic necessities. Women who are denied abortions are more likely to experience poor health outcomes, including maternal death, as compared to women who receive abortions, a trend that is particularly concerning for Black women who are up to four times more likely to experience pregnancy-related death than White women. Conversely, abortion access has been shown to increase women’s participation in the workforce, particularly for Black women, and has led to gains in educational attainment.

- Congress must pass legislation to close the Medicaid coverage gap so that people of color in every state have access to affordable, quality health care.
- The House of Representatives has passed, and now the Senate must pass, the Women’s Health Protection Act to codify *Roe* and make abortion legal nationally. The Senate also must pass the Right to Contraception Act, which protects access to the full range of contraception.
- Congress must also repeal the Hyde amendment, which bars the use of federal funds, including Medicaid, to pay for abortions.
- The Biden administration, including the Department of Justice, must take additional action to protect access to medication abortion, the right to travel across state borders, and patient privacy. President Biden signed two executive orders to increase access to abortion care, including to ensure that health care providers comply with federal nondiscrimination laws, but the administration must go further.
- Congress must pass the Black Maternal Health Omnibus Act, which addresses a multitude of factors responsible for the unnecessary deaths of Black pregnant women.

Recommendations

- The federal government — led by the Office of Management and Budget and working with the Census Bureau and other agencies, including the Centers for Disease Control and Prevention — and community stakeholders should develop protocols for data disaggregation for race and ethnicity (and other key characteristics) for the Department of Health and Human Services and other federal agencies.

[Read the full report, “Holding the Line: Combating Racial Discrimination in a Divided America,” here: civilrights.org/CERD2022.](https://civilrights.org/CERD2022)