

AAUW Capitol Hill Lobby Corps
Prevention through Affordable Access Act (H.R. 4054)
November 15, 2007

I. SUMMARY

Message: Cosponsor the Prevention through Affordable Access Act (H.R. 4054) so clinics and university health care providers can again have access to low cost birth control.

The Deficit Reduction Act of 2005 inadvertently excluded over 400 clinics from programs run by pharmaceutical companies providing nominally priced birth control. This means that many women, especially college students, are excluded from receiving low cost birth control from their local safety net healthcare provider. This was not the intent of the Deficit Reduction Act of 2005 and so Congress must act to restore access to these women.

II. BACKGROUND

The Medicaid Anti-Discriminatory Drug Price and Patient Benefit Restoration Act

Passed in 1990, the Medicaid Anti-Discriminatory Drug Price and Patient Benefit Restoration Act established the system by which Medicaid is guaranteed to receive the lowest drug prices in the market. This is done through a mechanism that evaluates the marketplace and calculates a best price which Medicaid is afforded. At this time, pharmaceutical companies were already engaged in providing safety net health care providers, including university health care clinics, with nominally priced drugs, such as penny a pack birth control. Since these nominally priced drugs would affect the best price calculations for Medicaid in a negative way, this piece of legislation excluded these nominally priced drugs from the calculations of best price. In this way, Medicaid was assured the lowest marketplace drug prices while safety net health care providers could still obtain drugs at nominal prices.

When this bill passed, Congress clearly expressed its intent to continue to permit the sale of nominally priced drugs to safety net health care providers through statements for the *Congressional Record*.¹ Also, the Senate Special Committee on Aging issued a report stating “Congress does not want to threaten” the discounts offered to “charitable organizations and clinics.”²

The Deficit Reduction Act of 2005

The Deficit Reduction Act of 2005 was signed into law in February of 2006 with provisions intended to address concerns that manufacturers were selling nominally priced drugs beyond the scope originally intended in the legislation passed in 1990. Selling more nominally priced drugs drives up the best price of drugs and decreases the amount of rebates manufacturers pay states for Medicaid drugs. And so the DRA included provisions that better clarify what institutions are eligible for nominally priced drugs. The specifications instituted by Congress included

- 1) 340B institutions, which receive money through Title X of family planning programs or section 318 of the STD prevention program;
- 2) Facilities for the mentally retarded;
- 3) State-owned or operated nursing facilities.

There is a fourth stipulation that allows inclusion of any other facility or entity that the secretary determines is a safety net health care provider. While these categories do cover some safety-net providers, for example about three-quarters of Planned Parenthoods are 340B institutions, many providers are not covered. Although the Centers for Medicare and Medicaid Services has been given the authority to define safety net provider under this legislation, it has chosen not to, most recently explaining on July 6th that such a definition is unnecessary. Safety-net health care providers have been cut out of the nominal drug pricing program which must be remedied.

The Reality Now

The Deficit Reduction Act of 2005 came into effect in January 2007. Planned Parenthood estimates that over 500,000 women will be unable to afford birth control in these clinics over the course of the year. Over 3 million undergraduates on college campuses are feeling the same pressure. Their birth control costs have increased, in some instances, by ten times the amount they were paying only one year ago.

The American Association of University Women supports the right of every woman to safe, accessible, affordable, and comprehensive family planning and reproductive health services. This position stems from AAUW's 2007-2009 Public Policy Program, which advocates: "choice in the determination of one's reproductive life" and "increased access to health care and family planning services and expansion of patients' rights."³ AAUW members have made reproductive rights a policy principle since 1977.

III. TALKING POINTS

- Cosponsor the Prevention Through Affordable Access Act of 2007.
- This bill would provide a legislative fix to the Deficit Reduction Act of 2005, which inadvertently eliminated many safety-net health care providers, including university health clinics, from the nominally priced drug distribution program.
- Over 3 million undergraduate students have seen their birth control costs rise.⁴
- College women have seen their birth control prices skyrocket from \$10 up to \$40 or \$50 in some cases.
- This is bipartisan, pro-prevention, pro-women's health legislation that will not cost taxpayers a dime. It is simply a legislative fix to permit continued business between safety net health care providers, including university health clinics, and pharmaceutical manufacturers.
- H.R. 4054 does not provide any new benefits to clinics. It simply restores the policy that was in place before DRA was enacted.

WHAT THIS BILL WOULD ACCOMPLISH

1. This bill would provide a legislative fix to the Deficit Reduction Act of 2005, which inadvertently eliminated many safety-net health care providers, including university health clinics, from the nominally priced drug distribution program.
2. The bill will simply clarify that entities eligible for nominally priced drugs include: clinics operated by a health center of an institution of higher education, the primary purpose of which is to provide health services to students of that institution; and an entity that is a public or private nonprofit providing services according to section 1001(a) of the Public Health Service Act.

IV. STATUS

Sponsor: Rep Crowley, Joseph [NY-7] (introduced 11/1/2007)

Cosponsors: 123

Status: 11/1/2007 Referred to the House Committee on Energy and Commerce. There is a Senate companion bill, by the same name, introduced by Sen. Obama.

[Rep Abercrombie, Neil](#) [HI-1] - 11/6/2007

[Rep Allen, Thomas H.](#) [ME-1] - 11/1/2007

[Rep Berkley, Shelley](#) [NV-1] - 11/1/2007

[Rep Ackerman, Gary L.](#) [NY-5] - 11/1/2007

[Rep Baldwin, Tammy](#) [WI-2] - 11/1/2007

[Rep Berman, Howard L.](#) [CA-28] - 11/1/2007

[Rep Biggert, Judy](#) [IL-13] - 11/6/2007
[Rep Blumenauer, Earl](#) [OR-3] - 11/1/2007
[Rep Boyda, Nancy E.](#) [KS-2] - 11/1/2007
[Rep Brown, Corrine](#) [FL-3] - 11/1/2007
[Rep Capuano, Michael E.](#) [MA-8] - 11/13/2007
[Rep Castor, Kathy](#) [FL-11] - 11/1/2007
[Rep Clay, Wm. Lacy](#) [MO-1] - 11/1/2007
[Rep Cohen, Steve](#) [TN-9] - 11/1/2007
[Rep Davis, Susan A.](#) [CA-53] - 11/1/2007
[Rep DeGette, Diana](#) [CO-1] - 11/1/2007
[Rep Dent, Charles W.](#) [PA-15] - 11/1/2007
[Rep Doggett, Lloyd](#) [TX-25] - 11/13/2007
[Rep Farr, Sam](#) [CA-17] - 11/1/2007
[Rep Filner, Bob](#) [CA-51] - 11/1/2007
[Rep Giffords, Gabrielle](#) [AZ-8] - 11/1/2007
[Rep Green, Al](#) [TX-9] - 11/1/2007
[Rep Grijalva, Raul M.](#) [AZ-7] - 11/1/2007
[Rep Hall, John J.](#) [NY-19] - 11/1/2007
[Rep Hastings, Alcee L.](#) [FL-23] - 11/1/2007
[Rep Hirono, Mazie K.](#) [HI-2] - 11/1/2007
[Rep Honda, Michael M.](#) [CA-15] - 11/1/2007
[Rep Inslee, Jay](#) [WA-1] - 11/1/2007
[Rep Jackson, Jesse L., Jr.](#) [IL-2] - 11/1/2007
[Rep Kagen, Steve](#) [WI-8] - 11/1/2007
[Rep Kind, Ron](#) [WI-3] - 11/1/2007
[Rep Klein, Ron](#) [FL-22] - 11/1/2007
[Rep Langevin, James R.](#) [RI-2] - 11/13/2007
[Rep Lee, Barbara](#) [CA-9] - 11/1/2007
[Rep Loeb sack, David](#) [IA-2] - 11/1/2007
[Rep Lowey, Nita M.](#) [NY-18] - 11/1/2007
[Rep Markey, Edward J.](#) [MA-7] - 11/6/2007
[Rep Matsui, Doris O.](#) [CA-5] - 11/1/2007
[Rep McCollum, Betty](#) [MN-4] - 11/1/2007
[Rep McGovern, James P.](#) [MA-3] - 11/1/2007
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[Rep Miller, Brad](#) [NC-13] - 11/1/2007
[Rep Mitchell, Harry E.](#) [AZ-5] - 11/1/2007
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[Rep Norton, Eleanor Holmes](#) [DC] - 11/1/2007 [Rep Olver, John W.](#) [MA-1] - 11/1/2007
[Rep Pascrell, Bill, Jr.](#) [NJ-8] - 11/1/2007 [Rep Payne, Donald M.](#) [NJ-10] - 11/1/2007
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[Rep Ramstad, Jim](#) [MN-3] - 11/1/2007 [Rep Rothman, Steven R.](#) [NJ-9] - 11/1/2007
[Rep Roybal-Allard, Lucille](#) [CA-34] - 11/1/2007 [Rep Ryan, Tim](#) [OH-17] - 11/1/2007
[Rep Sanchez, Linda T.](#) [CA-39] - 11/1/2007 [Rep Sanchez, Loretta](#) [CA-47] - 11/1/2007
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[Rep Wasserman Schultz, Debbie](#) [FL-20] - 11/1/2007 [Rep Waxman, Henry A.](#) [CA-30] - 11/1/2007
[Rep Weiner, Anthony D.](#) [NY-9] - 11/6/2007 [Rep Welch, Peter](#) [VT] - 11/1/2007
[Rep Wexler, Robert](#) [FL-19] - 11/1/2007 [Rep Woolsey, Lynn C.](#) [CA-6] - 11/13/2007
[Rep Wu, David](#) [OR-1] - 11/1/2007 [Rep Wynn, Albert Russell](#) [MD-4] - 11/1/2007
[Rep Yarmuth, John A.](#) [KY-3] - 11/1/2007

V. TARGETS:

Dems on Energy and Commerce, Dem Women, Pro-Choice R's

VI. WHO TO ASK FOR:

Women's Issues LA

¹ 136 CONG REC. S12954-55, (daily ed. Sept 12, 1990) (Statement of Sen. Pryor)

² S. Rep. No. 102-28(I) (Mar. 22, 1991)

³ 2007 – 09 AAUW Public Policy Program (approved July 2007).

⁴ "Reps. Crowley, Schiff, Ryan, Ramstad, Kirk Unveil Bill to Restore Birth Control Access at College Clinics." (November 1, 2007). <http://crowley.house.gov/news/record.asp?id=1076>