

Simat Corp v. Arizona Health Care Cost Containment System (2002)

In the 2002 case *Simat Corp v. Arizona Health Care Containment System*, the Arizona Supreme Court ruled that the Arizona Health Care Containment System must pay for abortions when they are necessary to preserve the health of pregnant women in the system. In the case, the Court ruled that the Arizona Revised Statutes 35-196.02 and the Arizona Health Care Containment System (AHCCCS) policies, which banned public funds from being used for abortions, were unconstitutional. AHCCCS is Arizona's Medicaid insurance system, which enables low-income residents to receive medical care. The decision in *Simat Corp v. Arizona Health Care Cost Containment System* required AHCCCS to pay for abortions in cases for which pregnancies put women's health at risk, allowing low-income women greater access to therapeutic abortions.

In 1965, US Congress in Washington, D.C., passed Title XIX of the Social Security Act, also called Medicaid. Medicaid granted federal money to states that provided medical insurance to low-income residents. In developing Medicaid, Congress passed a series of federal requirements for funding, which are included in Title XIX. While states must follow the federal guidelines to remain eligible for federal money, states may also create their own requirements for Medicaid participation. That flexibility enabled states to adapt to meet the needs, economic climate, and social values of each individual state.

In 1976, US Congress passed the Hyde Amendment, which restricted federal Medicaid funds so that they couldn't be spent on abortions. The Hyde Amendment allowed for a few exceptions for funding abortions, including cases of rape, incest, or when a woman's life is immediately endangered by the pregnancy. Federal money wouldn't cover cases in which abortions are recommended for the treatment of medical conditions when women's health, but not their lives, were at risk.

Throughout the twentieth century, the US Supreme Court in Washington, D.C., upheld the constitutionality of the Hyde Amendment throughout various cases. The Court also ruled that states do not have an obligation to fund abortions in the absence of federal funding. In *Maher v. Roe* (1977) the US Supreme Court ruled that a Connecticut statute barring funds for abortions, except to save the life of the pregnant woman, was constitutional. Additionally, in *Harris v. McRae* (1980) the Court ruled that state governments have an interest in protecting potential life of the fetus and therefore the decision to withhold funding from abortions was constitutional. In both cases, the US Supreme Court used the equal protection clause of the Fourteenth Amendment to the US Constitution to justify its decisions. The equal protection clause provides that states cannot deny citizens equal protection under the law, meaning that state governments must treat all people regardless of race, gender, or other features. Those two US Supreme Court cases established the relevance of equal protection analysis to state statutes that limit Medicaid recipients' access to funding for abortions.

In 1982, the Arizona State legislature in Phoenix, Arizona, created a state Medicaid program called the Arizona Health Care Cost Containment System (AHCCCS). The program received and allocated funds from Medicaid to provide low-income residents with health care. AHCCCS followed the regulations established by the Hyde Amendment and provided funds for abortions only in cases of rape, incest, or when the pregnant women's lives were at risk. Under the AHCCCS Medical Policy for Maternal and Child Health, AHCCCS did not allocate funds for abortions that were recommended to preserve the health of pregnant women, but whose pregnancies posed them no mortal danger. In addition to AHCCCS policies regarding abortion funding, the Arizona State Legislature passed in 1980 a law later classified as Arizona Revised Statute (ARS) 35-196.02, which prohibited the use

of public funds for most abortions. Public funds included both federal and state funds. The law provided an exception if the abortion was necessary to save the life of the pregnant woman.

In the summer of 1999, a group of Arizona reproductive health clinics and providers challenged the constitutionality of the Arizona statute and AHCCCS policy restricting Medicaid funding for abortions. The group included four reproductive health clinics: Simat Corp/Abortion Services, Reproductive Medicine and Gynecology, Family Planning Associates Medical Group, all in Phoenix, and Tucson Woman's Clinic of Tucson, Arizona. Joining the group were doctors from Phoenix and Tucson practicing obstetrics and gynecology: Robert Tamis, Joel Bettigole, Damon Raphael, and William Meyer. The group was represented by Phoenix lawyers Christopher LaVoy and Mark Chernoff, and by attorneys Bebe Anderson, Suzanne Novak, and Deborah Baumgarten from the Center for Reproductive Law and Policy based in New York City, New York.

The physicians provided reproductive health services, including abortions, to patients eligible for Medicaid and AHCCCS reimbursement. In addition, the physicians stated that they treated many patients with illnesses that were serious, but not immediately life threatening. They argued that as treatments for many serious illnesses can cause serious or fatal conditions to fetuses, those treatments required that patients not be pregnant, and that any pregnant patient undergo an abortion prior to treatment.

One example is treatment for cancer. While cancer can become life threatening without treatment, it is not always an immediate threat to life. However, doctors don't perform chemotherapy, a commonly used cancer treatment, to pregnant women because of serious risks to their developing fetuses. Furthermore, when a pregnant woman with cancer postpones treatment, there could be serious repercussions, including the disease advancing beyond the point of effective treatments. Other examples of serious conditions include heart disease, liver disease, epilepsy, hypertension, and diabetes.

The attorneys for the reproductive health clinics and physicians filed their case against AHCCCS and Phyllis Biedess, the director of the AHCCCS. Biedess and AHCCCS was represented by lawyer Logan Johnston. The suit was filed in the Arizona Superior Court in Phoenix.

In 1999, the case *Simat Corp v. AHCCCS* was argued in the Arizona Superior Court. The attorneys of the Arizona reproductive health clinics and physicians sought a declaratory judgment on the constitutionality of the statutes and an injunction that would prevent the statutes from being enforced. They argued that the Arizona law and the AHCCCS policy regarding funding violated the Arizona state constitution. The attorneys argued that it violated a privacy clause in the constitution, which guarantees Arizona residents the right to privacy in their personal affairs, a due process clause, and an equal privileges and immunities clause.

The Superior Court issued an injunction, which forestalled the state from enforcing the Arizona law and ordered AHCCCS to fund all medically necessary abortions to the same extent as it funded other abortions. The Court ruled that the law violated a person's right to privacy that is explicitly stated as a fundamental right in the Arizona constitution. The court also cited the US Supreme Court decision in *Roe v. Wade* (1973) that said a right to privacy exists in the due process clause of the Fourteenth Amendment, and that right to privacy is broad enough to include women's decisions to terminate pregnancies. The Superior Court ruled that the Arizona law and AHCCCS's policies were unconstitutional and required AHCCCS to pay for all medically necessary abortions, both those to save the lives of and those to preserve the health of women in the AHCCCS system.

That decision contrasted the US Supreme Court decisions that had determined that the Hyde Amendment was constitutional and enabled states to bar public funds from being used for abortions. The decision of the Superior Court meant that the state would have to fund abortions to save the health of pregnant women, as federal funds under the Hyde Amendment would not cover them.

After the decision of the Arizona Superior Court, AHCCCS appealed the decision to the Court of Appeals of Arizona. Judges Jon Thompson, Ann Timmer, and Edward Voss heard the case in the Court of Appeals of Arizona, Division One, in Phoenix. They issued their decision on 7 August 2001. Thompson wrote the majority opinion for the court. Timmer and Voss concurred with the opinion. The Court of Appeals found that the Arizona law and AHCCCS's policies were constitutional and

did not violate citizens' rights to privacy, due process, and equal protection. The Appeals Court reversed the decision of the Superior Court. Following the decision of the Court of Appeals, the reproductive health clinics and physicians appealed the decision to the Arizona Supreme Court in Phoenix, Arizona.

Judges Stanley Feldman, Charles Jones, Rebecca Berch, Ruth McGregor, Thomas Zlaket heard the case in the Arizona Supreme Court. On 22 October 2002, the Arizona Supreme Court released its decision. Feldman wrote the majority opinion for the Court. Judges McGregor and Zlaket concurred with the opinion. Berch wrote a dissenting opinion, which Jones concurred with. The Arizona Supreme Court ruled that the Arizona law and AHCCCS's policies were unconstitutional because they violated the equal protection clause of the Fourteenth Amendment of the US Constitution. The state of Arizona had been funding abortions for women whose lives were at risk because of the pregnancy, but refused to pay for abortions for women whose health, but not life, was at risk. The Court ruled that this was an unconstitutional distinction because it allowed the state to pay for abortions for some women but not for others who were similarly situated, as their health but not their lives were at risk.

The Arizona Supreme Court, using the equal protection clause, ruled that the Arizona statute discriminated against the two classes of pregnant women, those whose health was at risk and those whose lives were at risk. The Court said that the state has a legitimate interest in protecting potential life, but ruled that the state law and AHCCCS policy hindered maternal health by not encouraging women to receive treatments for serious illnesses. The Court argued that the state wrongly promoted new life at the sake of the health of pregnant women. The Court said that the state law and AHCCCS could endanger the health and perhaps eventually the lives of pregnant women. The Arizona Supreme Court found the law to be unconstitutional and mandated that AHCCCS pay for all medically necessary abortions. As the Hyde Amendment prohibited federal Medicaid reimbursements to states for abortions that are necessary to protect the health of the woman, the decision required AHCCCS to pay for the abortion procedures with its own funds.

In 2010, Janice Brewer, the governor of Arizona, signed Senate Bill 1305 into law. That law amended ARS 35-196.02 to additionally prohibit publicly funded insurance from being used to cover the cost of abortions. The amendment excluded instances in which abortions are necessary to save the lives of pregnant women, as well as instances in which abortions are necessary to prevent irreversible damage to women's bodies.

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