

## **OMB MEETING RE: EXCHANGE PROGRAM INTEGRITY RULE (RIN 0938–AT53)**

The Attorneys General for the States of California and Oregon submit the following document containing pertinent information discussed at the OMB Meeting held on December 9, 2019 at 3:30 PM (EST) regarding the *Patient Protection and Affordable Care Act (PPACA): Exchange Program Integrity Rule* (RIN 0938–AT53).

***The States are deeply concerned about the changes sought by HHS’s Exchange Program Integrity (Separate Abortion Billing) Rule, and urge HHS to consider the extent to which the Rule’s abortion provisions are in direct conflict with our State laws.***

### **CALIFORNIA**

- This rule explicitly contradicts Knox-Keene’s language that protects a women’s access to abortion.
- California’s Reproductive Privacy Act of 2002 (RPA) declares as state public policy that, “[e]very woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion.” Cal. Health & Saf. Code § 123462(b). The RPA expressly provides that: “The state may not deny or interfere with a woman’s right to choose or obtain an abortion ....” Cal. Health & Saf. Code § 123466.
- Recent case law reaffirms this policy – “Because California law guarantees every woman the right to choose whether to bear a child or obtain an abortion, the only legally tenable interpretation of the law is that abortions are basic health care services, which health care service plans are required to cover.” *Missionary Guadalupanas of Holy Spirit Inc. v. Rouillard*, 38 Cal. App. 5th 421, 427–28 (Ct. App. 2019), review denied (Nov. 20, 2019).

### **OREGON**

- Section 2 of Oregon’s Reproductive Health Equity Act (RHEA) requires all health benefit plans offered in the state to provide coverage for abortions and prohibits imposition of “a deductible, coinsurance, copayment or any other cost-sharing requirement on the coverage required by this section.” Or. Rev. Stat. § 743A.067 (2)-(3).
- Section 8 of the RHEA also prohibits any public body from interfering with or restricting, in the regulation or provision of benefits, services, or information to terminate or assist in the termination of a patient’s pregnancy. Or. Rev. Stat. § 659.880.