

[Harris v. McRae \(1980\)](#) ^[1]

By: Gerais, Reem

On 30 June 1980, in a five to four decision, the US Supreme Court ruled in the case *Harris v. McRae* that the Hyde Amendment of 1976 did not violate the US Constitution. The Hyde Amendment banned the use of federal funding to pay for any [abortion](#) ^[2] services. The US Supreme Court's decision in *Harris v. McRae* overturned the decision of *McRae v. Califano* (1980), in which the US District Court for the Eastern District of New York had ruled that the funding restrictions established by the Hyde Amendment violated the US Constitution. After the US Supreme Court's ruling in *Harris v. McRae*, the Hyde Amendment continued to prohibit federal Medicaid funding for [abortion](#) ^[2] services, limiting the funds available for low-income women seeking abortions.

In 1976, US House of Representatives member Henry J. Hyde, a Republican from Illinois, proposed to amend the Departments of Labor and [of] Health, Education, and Welfare Appropriation Act, an act passed by US Congress in Washington, D.C., each fiscal year outlining the budget of both departments. The proposed amendment barred federal funds from being used to pay for [abortion](#) ^[2] services. On 28 January 1976, Congress passed the Department of Labor and Health, Education, and Welfare Appropriation Act of 1977, which included the so-called Hyde Amendment. That Act prevented federal funding of [abortion](#) ^[2] services through programs such as Medicaid, a joint federal and state program established in 1965 by Title XIX of the Social Security Act that provided healthcare services to qualifying low-income individuals.

On 30 September 1976, Cora McRae, a New York Medicaid recipient who sought to terminate her [pregnancy](#) ^[3] during the first [trimester](#) ^[4], filed a lawsuit challenging the Hyde Amendment in the US District Court for the Eastern District of New York in New York City. On the same day the Hyde Amendment was scheduled to take effect, McRae filed the suit against the secretary of the US Department of Health, Education, and Welfare, David F. Mathews, as that department administered Medicaid funding.

Joining McRae's suit was Planned Parenthood, a non-profit corporation headquartered in New York City that operated [abortion](#) ^[2]-providing health clinics across the US, as well as a group of sixteen New York Hospitals, collectively called the New York City Health and Hospital Corporations. McRae and the other plaintiffs argued that they would be injured by enforcement of the Hyde Amendment. They filed a class action lawsuit, meaning that all people in similar situations in the state of New York were represented in the lawsuit and would be impacted by the court's decision. Furthermore, they requested that the district court issue a preliminary injunction preventing the US Department of Health, Education, and Welfare from enforcing the Hyde Amendment.

On 22 October 1976, district court judge John F. Dooling Jr. ruled in *McRae v. Mathews* that McRae's arguments were substantial, and he granted the preliminary injunction, meaning that the US Department of Health, Education, and Welfare the Hyde Amendment could not enforce the Hyde Amendment until the case was decided.

After Dooling's decision, the new secretary of the Department of Health, Education, and Welfare, Joseph A. Califano, Jr., appealed *McRae v. Mathews* to the US Supreme Court in Washington, D.C., where the case was renamed *Califano v. McRae*. On 20 July 1977, the US Supreme Court vacated Dooling's injunction and sent the case back to his court to establish the facts for the case.

The case was renamed *McRae v. Califano*. On 28 July 1977, Dooling issued a temporary restraining order that prohibited enforcement of the Hyde Amendment. However, on 4 August 1977, he vacated the order. From October 1977 to December 1978, Dooling heard arguments from McRae and from Califano.

McRae argued that the Hyde Amendment violated the First and Fifth Amendments to the US Constitution by banning the use of federal Medicaid funds to pay for abortions. Specifically, McRae argued that the Hyde Amendment violated the due process clause of the Fifth Amendment, which the US Supreme Court had argued in earlier cases prohibited the government from infringing on the rights of women to seek legal abortions. McRae further argued that the Hyde Amendment violated the establishment clause of the First Amendment, which prohibits laws that favor or disfavor a specific religion over others.

On 15 January 1980, Dooling ruled that the Hyde Amendment was unconstitutional because it violated the due process clause of the Fifth Amendment and the establishment clause of the First Amendment. Dooling's ruling blocked the US Department of Health and Human Services, previously the Department of Health, Education, and Welfare, from implementing the Hyde Amendment, and required the federal government to provide reimbursements for all [abortion](#) ^[2] services performed on Medicaid recipients.

Following the district court's ruling, Patricia R. Harris, the secretary of the Department of Health and Human Services appealed the decision to the US Supreme Court. On 21 April 1980, the US Supreme Court heard arguments for the case renamed *Harris*

v. McRae. Staff attorney Rhonda Copelon from the Center of Reproductive Rights in New York City argued the case on behalf of McRae. Wade H. McCree, Jr., the Solicitor General for the US Department of Justice, headquartered in Washington, D.C., argued on behalf of Harris.

Copelon raised the same two arguments against the Hyde Amendment that McRae had originally raised in the New York district court. First, Copelon argued that the Hyde Amendment violated the due process clause of the Fifth Amendment to the US Constitution. She cited *Roe v. Wade* (1973), in which the US Supreme Court ruled that government actions could not infringe on the rights of women to choose to obtain abortions in the first trimester^[4] of pregnancy^[3]. In that ruling, the Court relied on the due process clause of the Fifth Amendment, which states that the government may not deprive any citizen of life, liberty, or property without due process of the law. Included in the due process clause, the Court had previously argued, is the assumption that all citizens have rights to personal privacy. The Supreme Court ruled in *Wade* that rights to privacy included the rights of pregnant women to choose to terminate pregnancies in the first trimester^[4], and that state laws infringing on women's decisions to seek abortions were unconstitutional. Copelon argued that the Hyde Amendment discouraged low-income women from seeking abortions by banning their only means of affording the procedure, federal Medicaid funding. Because the Hyde Amendment acted as a barrier preventing women from exercising their right to seek abortions, Copelon argued, the Hyde Amendment violated the due process clause of the Fifth Amendment, and was therefore unconstitutional.

The second argument introduced by Copelon challenged the Hyde Amendment on grounds that it violated the establishment clause of the First Amendment. The establishment clause prohibits the US government from passing legislation that favors one religion over all others or over non-religion. Copelon argued that the Hyde Amendment exemplified an instance of anti-abortion^[2] legislation that favored tenants of the Roman Catholic Church^[5] that prohibit abortions. During the 1960s and 1970s, Catholic organizations in the US opposed the legalization of abortion^[2] services. Those organizations argued that abortions were sinful in all cases and rallied against abortion^[2] reform in the US political system. Copelon argued that the US government violated the establishment clause of the First Amendment by prioritizing the anti-abortion^[2] sentiment of the Catholic Church.

McCree, on behalf of the Department of Health and Human Services, argued that the Hyde Amendment did not restrict all Medicaid funding from paying for abortion^[2] services. Instead, McCree claimed the Hyde Amendment restricted specifically the use of federal funding to pay for those services. Under Title XIX of the 1965 Social Security Amendments, the US federal government, through Medicaid, provided funding to assist participating states in subsidizing medical services for low-income individuals. McCree argued that states participating in Medicaid were obligated to provide funding for abortion^[2] services to Medicaid participants, and that the Hyde Amendment did not negate those obligations. The states participating in Medicaid, McCree argued, were required to cover the total cost of abortion^[2] services in their Medicaid program through state funding.

On 30 June 1980, the US Supreme Court overturned the district court judge's ruling in a five to four ruling. The nine Supreme Court justices who heard the case were John Stewart, Warren Burger, Lewis Powell, William Rehnquist, William Brennan, Byron White, Thurgood Marshall, John Paul Stevens, and Harry Blackmun. Stewart authored the majority opinion, which concluded that the Hyde Amendment did not violate the US Constitution. Justices Burger, Powell, White, and Rehnquist joined the majority opinion. Marshall authored the dissenting opinion, joined by Brennan, Blackmun, and Stevens.

According to Stewart in his majority opinion, funding restrictions implemented by the Hyde Amendment did not violate the due process clause of the Fifth Amendment, as the restrictions did not infringe on the rights of women to decide to receive abortion^[2] services. The decision to seek an abortion^[2], Stewart argued, remained unrelated to laws that restrict federal funding from paying for those services. The Hyde Amendment, according to Stewart, was not in violation of the establishment clause of the First Amendment, either. Although the law shared commonalities with the religious beliefs of the Roman Catholic Church, Stewart argued, the law was not created to favor those specific religious tenants. Though the Hyde Amendment limited national funding for abortion^[2] services, Stewart argued that the amendment was not drafted to favor the anti-abortion^[2] sentiments of the Roman Catholic Church^[5], and therefore did not violate the establishment clause.

The majority ruling also rejected McCree's argument that under Title XIX, states would be obligated to cover the full cost of all legal abortion^[2] procedures for Medicaid recipients. According to Stewart, US Congress intended Medicaid to be a joint effort between states and the national government. Stewart concluded that because federal funding for abortion^[2] services was made unavailable through the Hyde Amendment, states were not required to cover the cost of those services.

The dissenting opinion, authored by Marshall, critiqued the majority opinion that the Hyde Amendment was constitutional. According to Marshall, by prohibiting national funds from covering abortion^[2] services for women participating in Medicaid, the federal government denied women their constitutional rights to seek abortion^[2] services. Women participating in Medicaid, Marshall argued, rely solely on Medicaid to pay for abortion^[2] services. According to Marshall, the Hyde Amendment strips those women of their abilities to seek abortion^[2] services by restricting their only means of affording the procedure. The majority opinion, Marshall argued, justified an unconstitutional attempt by the federal government to violate the rights of women to seek abortions.

Following the court's ruling in *Harris v. McRae*, US Congress enacted similar statutes limiting the use of federal funding to pay for abortion^[2] services for federal employees, military personal, and federal prisoners. By 2017, revised versions of Hyde Amendment remained part of each annually enacted federal budget.

Sources

1. Califano v. McRae, 434 US 1301 (1977).
2. Departments of Labor and Health, Education, and Welfare Appropriation Act, 1977, Pub. L. 94–439, 90 Stat. 1418 (Enacted September 30, 1976). <http://uscode.house.gov/statutes/pl/94/439.pdf> ^[6] (Accessed October 30, 2016).
3. First Amendment to the US Constitution (1791). https://www.law.cornell.edu/constitution/first_amendment ^[7] (Accessed February 8, 2017).
4. Fifth Amendment to the US Constitution (1791). https://www.law.cornell.edu/constitution/fifth_amendment ^[8] (Accessed February 8, 2017).
5. Greenhouse, Linda, and Reva B. Siegel. "Before (and after) *Roe v. Wade*^[9]: new questions about backlash." *Yale Law Journal* 120 (2010): 2028. <http://www.jstor.org/stable/41149586> ^[10] (Accessed June 22, 2017).
6. Harris v. McRae, 448 U.S. 297 (1980). https://scholar.google.com/scholar_case?q=Harris+v.+McRae&hl=en&as_sdt=806&case=8833310949486291357&scilh=0 ^[11] (Accessed August 31, 2016).
7. McRae v. Mathews, 421 F. Supp. 533 (1976). https://scholar.google.com/scholar_case?q=mcrave&hl=en&as_sdt=806&case=7129584189214110253&scilh=0 ^[12] (Accessed February 8, 2017).
8. McRae v. Califano, 491 F. Supp. 630 (1980). https://scholar.google.com/scholar_case?q=mcrave&hl=en&as_sdt=806&case=5555547904825454548&scilh=0 ^[13] (Accessed February 8, 2017).
9. *Roe v. Wade*^[9], 410 US 113 (1973). https://scholar.google.com/scholar_case?q=roe+v+wade&hl=en&as_sdt=806&case=12334123945835207673&scilh=0 ^[14] (Accessed March 30, 2017).
10. Social Security Amendments of 1965, Pub.L. 89–97, 79 Stat. 286 (Enacted July 20, 1965). <https://www.gpo.gov/fdsys/pkg/STATUTE-79/pdf/STATUTE-79-Pg286.pdf> ^[15] (Accessed October 30, 2016).

On 30 June 1980, in a five to four decision, the US Supreme Court ruled in the Case Harris v. McRae that the Hyde Amendment of 1976 did not violate the US Constitution. The Hyde Amendment banned the use of federal funding to pay for any abortion services. The US Supreme Court's decision in Harris v. McRae overturned the decision of McRae v. Califano (1980), in which the US District Court for the Eastern District of New York had ruled that the funding restrictions established by the Hyde Amendment violated the US Constitution. After the US Supreme Court's ruling in Harris v. McRae, the Hyde Amendment continued to prohibit federal Medicaid funding for abortion services, limiting the funds available for low-income women seeking abortions.

Subject

[Contraception](#) ^[16] [United States. Congress. House. Committee on Appropriations. Subcommittee on Departments of Labor and Health, Education, and Welfare, and Related Agencies Appropriations](#) ^[17] [Medicaid](#) ^[18] [Abortion--Law and legislation--United States](#) ^[19] [Abortion](#) ^[20] [Birth control clinics](#) ^[21] [United States. Social Security Act](#) ^[22] [Reproductive rights](#) ^[23] [United States. Social Security Amendments of 1965](#) ^[24] [Health insurance--United States](#) ^[25] [Poor--Medical care--United States](#) ^[26] [McCorvey, Norma, 1947-2017](#) ^[27] [Abortion--Law and legislation--United States](#) ^[19] [Hyde, Henry J.](#) ^[28] [McRae, Cora](#) ^[29] [Dooling, John Francis](#) ^[30] [United States. Supreme Court](#) ^[31] [United States. Department of Health and Human Services](#) ^[32]

Topic

[Legal](#) ^[33]

Publisher

Arizona State University. School of Life Sciences. Center for Biology and Society. Embryo Project Encyclopedia.

Rights

Copyright Arizona Board of Regents Licensed as Creative Commons Attribution-NonCommercial-Share Alike 3.0 Unported (CC BY-NC-SA 3.0) <http://creativecommons.org/licenses/by-nc-sa/3.0/>

Format

[Articles](#) ^[34]

Last Modified

Wednesday, July 4, 2018 - 04:40

DC Date

2017-06-28

DC Date Accessioned

Wednesday, June 28, 2017 - 17:14

DC Date Available

Wednesday, June 28, 2017 - 17:14

DC Date Created

2017-06-28

DC Date Created Standard

Wednesday, June 28, 2017 - 07:00

- [Contact Us](#)

© 2019 Arizona Board of Regents

- The Embryo Project at Arizona State University, 1711 South Rural Road, Tempe Arizona 85287, United States

Source URL: <https://embryo.asu.edu/pages/harris-v-mcrae-1980>

Links

- [1] <https://embryo.asu.edu/pages/harris-v-mcrae-1980>
- [2] <https://embryo.asu.edu/search?text=abortion>
- [3] <https://embryo.asu.edu/search?text=pregnancy>
- [4] <https://embryo.asu.edu/search?text=trimester>
- [5] <https://embryo.asu.edu/search?text=Roman%20Catholic%20Church>
- [6] <http://uscode.house.gov/statutes/pl/94/439.pdf>
- [7] https://www.law.cornell.edu/constitution/first_amendment
- [8] https://www.law.cornell.edu/constitution/fifth_amendment
- [9] <https://embryo.asu.edu/search?text=Roe%20v.%20Wade>
- [10] <http://www.jstor.org/stable/41149586>
- [11] https://scholar.google.com/scholar_case?q=Harris+v.+McRae&hl=en&as_sdt=806&case=8833310949486291357&scilh=0
- [12] https://scholar.google.com/scholar_case?q=mcrae&hl=en&as_sdt=806&case=7129584189214110253&scilh=0
- [13] https://scholar.google.com/scholar_case?q=mcrae&hl=en&as_sdt=806&case=5555547904825454548&scilh=0
- [14] https://scholar.google.com/scholar_case?q=roe+v+wade&hl=en&as_sdt=806&case=12334123945835207673&scilh=0
- [15] <https://www.gpo.gov/fdsys/pkg/STATUTE-79/pdf/STATUTE-79-Pg286.pdf>
- [16] <https://embryo.asu.edu/library-congress-subject-headings/contraception>
- [17] <https://embryo.asu.edu/library-congress-subject-headings/united-states-congress-house-committee-appropriations-subcommittee>
- [18] <https://embryo.asu.edu/library-congress-subject-headings/medicaid>
- [19] <https://embryo.asu.edu/library-congress-subject-headings/abortion-law-and-legislation-united-states>
- [20] <https://embryo.asu.edu/library-congress-subject-headings/abortion>
- [21] <https://embryo.asu.edu/library-congress-subject-headings/birth-control-clinics>
- [22] <https://embryo.asu.edu/library-congress-subject-headings/united-states-social-security-act>
- [23] <https://embryo.asu.edu/library-congress-subject-headings/reproductive-rights>
- [24] <https://embryo.asu.edu/library-congress-subject-headings/united-states-social-security-amendments-1965>
- [25] <https://embryo.asu.edu/library-congress-subject-headings/health-insurance-united-states>
- [26] <https://embryo.asu.edu/library-congress-subject-headings/poor-medical-care-united-states>
- [27] <https://embryo.asu.edu/library-congress-subject-headings/mccorvey-norma-1947-2017>
- [28] <https://embryo.asu.edu/library-congress-subject-headings/hyde-henry-j>
- [29] <https://embryo.asu.edu/library-congress-subject-headings/mcrae-cora>
- [30] <https://embryo.asu.edu/library-congress-subject-headings/dooling-john-francis>
- [31] <https://embryo.asu.edu/library-congress-subject-headings/united-states-supreme-court-0>
- [32] <https://embryo.asu.edu/library-congress-subject-headings/united-states-department-health-and-human-services-0>
- [33] <https://embryo.asu.edu/topics/legal>
- [34] <https://embryo.asu.edu/formats/articles>