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September 7, 2016

Mr. Gene Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Dodaro,

As the Co-Chairs of the House Pro-Choice Caucus, we are very concerned about growing trends in the enactment of state and local laws that make reproductive health services inaccessible to people who need them. In 1973, the landmark *Roe v. Wade* decision made clear that the Constitution protects a woman's choice to have an abortion. As a result, states cannot enact laws or policies that make abortion illegal. Nevertheless, many states have restricted access with policies targeting clinics, doctors, or women themselves.

The Supreme Court of the United States has recognized the constitutional problems these laws can create in several cases subsequent to *Roe*. Most importantly, in 1992, the Court held in *Planned Parenthood v. Casey* that states cannot impose an "undue burden" on a woman's fundamental right to have an abortion. The Court recently clarified the "undue burden" standard in *Whole Woman's Health v. Hellerstedt*. To determine whether an undue burden exists, courts must "consider the burdens a law imposes on abortion access together with the benefits those laws confer." Moving forward, lower courts will surely apply this balancing test to a wide range of laws and regulations that restrict access to reproductive health services.

Whole Woman's Health used the clarified undue burden standard to evaluate the constitutionality of a Texas law (HB 2) that required clinics providing abortion services to comply with ambulatory surgical center requirements and required physicians who performed abortions to have admitting privileges at nearby hospitals. The Supreme Court emphatically rejected arguments that HB 2 helps protect patient health and safety, citing national data demonstrating that abortion is a safe medical procedure. There is significantly lower risk of adverse effects from abortion than for other medical events (e.g., colonoscopies, giving birth) on which Texas did not impose restrictive regulations. While the Court found "the virtual absence of any health benefit" from HB 2, the burdens imposed by the law were clear. The Justices noted that HB 2 caused clinic closures, long driving distances, fewer abortion providers, increased waiting times and crowding. These factors, taken together with the lack of benefit, led the Court to strike down HB 2 as an unconstitutional restriction on abortion access.

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Even though *Whole Woman's Health* will undoubtedly enhance protection of women's fundamental rights, we remain concerned that many state laws will continue to deprive women of any meaningful right to choose without imparting true benefits. Women's ability to access care is often dependent on many variables that can lead to different experiences based on socio-demographic characteristics, geographic location, and the policy environment a woman lives in. Women on Medicaid, for example, could face additional costs or challenges compared to women with private health insurance. These overlapping factors should be considered when assessing the burden women face in exercising their rights.

With this in mind, we request that GAO examine what is known about 1) Medicaid beneficiaries' access to covered abortion services and 2) the challenges American women, in general, face in obtaining abortion services.

Without realistic access to care, many women lack any practical ability to exercise their constitutional right to choose. GAO's study pursuant to this request will support us in our efforts to ensure the women's fundamental reproductive rights are both meaningful and protected. If you have any questions or need additional information, please contact Polly Webster (Polly.Webster@mail.house.gov) with Rep. DeGette's office, or Colleen Bell (Colleen.Bell@mail.house.gov) with Rep. Slaughter. Thank you for your attention to this request.

Sincerely,

Diana DeGette
Ranking Member
House Energy & Commerce Committee
Subcommittee on Oversight & Investigations

Louise Slaughter
Ranking Member
House Rules Committee