



November 15, 2022

The Honorable Patty Murray
Chairwoman, U.S. Senate Committee
Health, Education, Labor, and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Robert “Bobby” Scott
Chairman, U.S. House Committee on
Education and Labor
2176 Rayburn House Office Building
Washington, DC 20515

Dear Chair Murray and Chair Scott,

I write with alarm about a recent press report suggesting that **a Republican Commissioner at the U.S. Equal Employment Opportunity Commission may be attempting to bully U.S. companies out of providing their employees with reproductive health care benefits.**

The U.S. Supreme Court decision in *Dobbs v. Jackson Women’s Health Organization* has led several states to adopt laws to ban abortions, stripping more than 20.9 million women of their fundamental right to access reproductive health care in their home state.¹ With these extreme bans on abortion in place, women who are forced to travel to obtain legal abortions face major financial barriers to accessing care, not to mention a web of state laws penalizing anyone who assists a patient in seeking out-of-state care.²

In response, more than 120 leading U.S. companies have stepped up to provide employees with financial support for out-of-state medical care under their employee benefits packages.³ Companies’ abortion travel policies address a policy failure that forces women without access to affordable healthcare to seek unsafe illegal abortions, potentially saving hundreds of thousands of lives.⁴

Unfortunately, Republican EEOC Commissioner Andrea Lucas is now attacking the companies providing access to critical reproductive health care.

¹<https://www.washingtonpost.com/nation/2022/08/22/more-trigger-bans-loom-1-3-women-lose-most-abortion-access-post-roe/>

²<https://thehill.com/regulation/3558330-battle-lines-emerge-over-out-of-state-abortion/>

³<https://rhiaventures.org/corporate-engagement/whatareyourreprobenefits/>

⁴<https://www.inquirer.com/opinion/commentary/abortion-health-life-death-pennsylvania-20220630.html>

On November 14, 2022, Bloomberg Law⁵ reported that Commissioner Lucas:

“silently initiat[ed] targeted discrimination probes against at least three companies providing their employees with abortion travel benefits...The ‘commissioner charges’ allege that the employers are favoring workers seeking abortions while discriminating against pregnant workers and disabled workers because they are not offering equivalent benefits for their medical needs, according to the attorneys.”

We are concerned that Commissioner Lucas is abusing the authority of the Commission to invoke a false pretext of discrimination and pursue a partisan cause to limit reproductive health care access.

Commissioner Lucas's allegations wrongfully suggest that benefits will favor workers seeking abortions while discriminating against pregnant and disabled workers. Unlike women in red states seeking abortions, pregnant and disabled workers in those states who are not seeking an abortion can easily access care within their home states. In addition, many major U.S. corporations already provide a medical travel benefit for workers seeking care not available within a designated radius of their home.⁶

While only some employees have a need to travel for health care, a medical travel benefit does not “discriminate” against employees who do not need it. Similarly, a workplace benefit offering employees assistance with student loan repayment does not discriminate against workers without student loans, nor does parental leave discriminate against those without children.

Under the Pregnancy Discrimination Act of 1978, there are currently no provisions that prohibit employers from offering abortion care. In addition, when a similar argument was recently raised in a letter sent by the agency's former Republican general counsel Sharon Fast Gustafson, the EEOC formally responded to concerns stating that such views were not reflective of the agency's stance.

Abortion travel benefits offered by companies are critical to combating a growing women's health crisis in states that have banned abortion care. Commissioner Lucas' alarming attempt to invoke the agency's authority for a partisan agenda could have dire consequences for those who depend on this assistance to access crucial care.

⁵<https://www.bloomberglaw.com/product/blaw/bloomberglawnews/daily-labor-report/BNA%2000000184-5910-dcf5-a994-7fd7b9040001?bwid=00000184-5910-dcf5-a994-7fd7b9040001&cti=CORP&emc=bdlnwnl%3A2&et=NEWSLETTER&isAlert=false&item=headline&qid=7380823®ion=featured-story&source=newsletter&uc=1320079796&udvType=Alert&usertype=External>

⁶ <https://www.jnj.com/innovation/employee-benefits-that-help-make-johnson-johnson-a-great-company>

We urge your Committee to ensure the EEOC's authority is not abused to discourage companies from providing critical reproductive health care post-*Dobbs*.

Sincerely,

A handwritten signature in black ink, appearing to read "Jamie Pascal". The signature is fluid and cursive, with the first name "Jamie" and last name "Pascal" clearly distinguishable.

Jamie Pascal
Director of Civic Innovation Policy
Chamber of Progress