

Congress of the United States

Washington, DC 20515

December 5, 2025

The Honorable Scott Kupor
Director
Office of Personnel Management
1900 E St NW
Washington, D.C. 20415

Dear Director Kupor:

We urge you to stop the Office of Personnel Management (OPM) from administering government contributions for Members of Congress and Congressional staff in connection with health insurance plans that cover elective abortion, in violation of the longstanding Smith (NJ) Amendment.

Since 1984, the Smith Amendment to the Financial Services Appropriations bill has prohibited the use of appropriated funds "to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefits program which provides any benefits or coverage for abortions," except in cases "where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest" (Consolidated Appropriations Act 2023, Pub. L. 117-328, Div. D, Title VI, sec. 613, 614, December 29, 2022). This longstanding provision of law restricts OPM from administering government contributions in connection with any health plan for federal employees that covers elective abortion.

However, OPM is currently subsidizing plans that cover elective abortion in clear violation of the Smith Amendment. While the Affordable Care Act (ACA) limits Members of Congress and designated Congressional staff to purchasing health plans offered through an Exchange, under a current Obama-era rule in effect since plan year 2014 (5 CFR § 890.501(h), 78 FR 60653, October 2, 2013), OPM administers government contributions under 5 U.S. Code § 8906 for Members of Congress and Congressional staff enrolled in any Gold level health insurance plan offered through the District of Columbia's Health Exchange Small Business Health Options Program (DC SHOP)—also known as DC Health Link—including plans that cover elective abortion.

In its regulatory preamble (78 FR 60654, October 2, 2013) and on its Frequently Asked Questions webpage, OPM claims that these abortion subsidies are allowed by attributing the segregated costs of the elective abortion coverage and associated administrative expenses to the individual's contribution, rather than the taxpayers' contribution. OPM's use of this accounting gimmick to grant abortion subsidies to Congress is not provided for under Section 1303 of the ACA and is blatantly illegal under the Smith Amendment's strict requirement for a complete exclusion of elective abortion coverage for federal employees. By flouting the Smith Amendment, such subsidies also violate the Antideficiency Act, which prohibits the authorization of expenditures or obligations without an appropriation by law.

Taxpayers, who contribute 72 to 75 percent of these health benefit premiums, do not want their hard-earned tax dollars to pay for abortions. The Smith Amendment does not allow Members of Congress and Congressional staff to operate under a different set of rules than other federal employees when it comes to taxpayer funding of abortion. **For 2026, there are only two health plans offered through DC Health Link that do not cover abortion, CareFirst's BluePreferred PPO Gold and United Healthcare's Choice Plus Gold.**

Therefore, we request swift action by OPM to ensure that any health insurance subsidies for members of Congress or Congressional staff are in full compliance with the clear terms of the Smith Amendment. Any DC SHOP plan that covers elective abortion should not be eligible for a government contribution.

Thank you for your attention to this important matter. We look forward to working with you to ensure the health and safety of the American people.

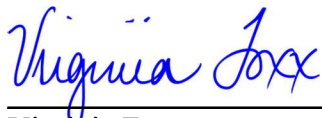
Sincerely,



Christopher H. Smith
Member of Congress



Michael S. Lee
United States Senator



Virginia Foxx
Member of Congress




Steve Daines
United States Senator



Eric Burlison
Member of Congress



Jim Banks
U.S. Senator



Sheri Biggs
Member of Congress



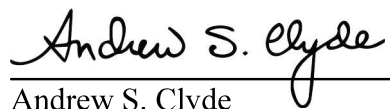
Kevin Cramer
United States Senator



Mary E. Miller
Member of Congress



Michael Guest
Member of Congress



Andrew S. Clyde
Member of Congress



Michael Cloud
Member of Congress



Marlin A. Stutzman
Member of Congress



Keith Self
Member of Congress



Clay Higgins
Member of Congress



Daniel Webster
Member of Congress



Ben Cline
Member of Congress



Barry Moore
Member of Congress



Mark B. Messmer
Member of Congress



Tim Burchett
Member of Congress



Russ Fulcher
Member of Congress



Ted Cruz
United States Senator



Pete Ricketts
United States Senator



James Lankford
United States Senator