



## Maher v. Roe

432 U.S. 464 (1977)

**Country:** United States

**Region:** Americas

**Year:** 1977

**Court:** Supreme Court

**Health Topics:** Health care and health services, Health systems and financing, Poverty, Sexual and reproductive health

**Human Rights:** Right to due process/fair trial, Right to privacy, Right to social security

### Facts

Petitioners challenged the constitutional validity of regulations contained in the Social Security Act (the Act) Connecticut which limited Medicaid benefits for first trimester abortions to those that are "medically necessary". For a benefit to be paid, the regulations required the submission of a written request by the pregnant woman, a physician's certificate of medical necessity, and prior authorization by the Department of Social Services.

The Petitioners, two indigent women who were unable to obtain a physician's certificate of medical necessity, claimed that the State must accord equal treatment to abortion and childbirth by funding medical expenses incident to both under the same requirements.

The District Court enjoined the enforcement of the regulations, declaring that the requirements infringed upon the constitutionally protected right of a woman to choose to terminate her pregnancy, and that no compelling state interest was found to justify the infringement.

### Decision and Reasoning

The Court first examined whether the State's distinction between funding for medically necessary abortions and nontherapeutic abortions was constitutionally valid. The Court applied the less demanding rational review standard rather than the strict scrutiny test after declaring the absence of a suspect class. It held that the State's interest in promoting childbirth constituted a reasonable basis for the distinction between medically necessary and nontherapeutic abortions. As a result, the Court supported the State's freedom to "make a value judgment favoring childbirth over abortion and to implement that judgment by the allocation of public funds."

The Court then examined whether *Roe v. Wade*, 410 U.S. 113 (1973) created an unqualified constitutional right to abortion. The Court stated that "Roe did not declare an unqualified constitutional right to abortion, but rather the right created was one which "protects the woman from unduly burdensome interference with her freedom to decide whether to terminate her pregnancy". The right is qualified as it "can be understood only by considering both the woman's interest and the nature of the State's interference with it".

The Court then sought to determine whether indigent women who sought funding under the Act for a nontherapeutic abortion could be considered a "suspect class". The Court found that the case involved no discrimination against a suspect class, holding that financial need alone can not be used to identify a suspect class for the purposes of analysing equal protection. The Court acknowledged that the State may influence a woman's decision whether to have an abortion. It also noted that in circumstances of indigency, an abortion may be impossible due to dependence on private sources, which may be too costly. However, it concluded that the regulations did not pose a constitutional issue as they did not create any additional obstacle on access to abortion services.

The Court finally examined whether the provisions of the Act requiring prior written request by the pregnant woman, the certificate of medical necessity, and prior authorization by the Department of Social Services were constitutionally valid. The Court held that these procedural requirements were not unreasonable or unduly burdensome given the State's interest in promoting childbirth through limiting public funding to only medically necessary abortions.

### Decision Excerpts

“We certainly are not unsympathetic to the plight of an indigent woman who desires an abortion, but the Constitution does not provide judicial remedies for every social and economic ill.”<sup>TM</sup> *Lindsey v. Normet*, supra, at 74. Our cases uniformly have accorded the States a wider latitude in choosing among competing demands for limited public funds. In *Dandridge v. Williams*, 397 U. S., at 485, despite recognition that laws and regulations allocating welfare funds involve “the most basic economic needs of impoverished human beings,” we held that classifications survive equal protection challenge when a “reasonable basis”<sup>TM</sup> for the classification is shown. As the preceding discussion makes clear, the state interest in encouraging normal childbirth exceeds this minimal level. • 432 U.S., p. 479.

The decision whether to expend state funds for nontherapeutic abortion is fraught with judgments of policy and value over which opinions are sharply divided. Our conclusion that the Connecticut regulation is constitutional is not based on a weighing of its wisdom or social desirability, for this Court does not strike down state laws “because they may be unwise, improvident, or out of harmony with a particular school of thought.”<sup>TM</sup> *Williamson v. Lee Optical Co.*, 348 U. S. 483, 488 (1955), quoted in *Dandridge v. Williams*, supra, at 484. Indeed, when an issue involves policy choices as sensitive as those implicated by public funding of nontherapeutic abortions, the appropriate forum for their resolution in a democracy is the legislature. We should not forget that “legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts.”<sup>TM</sup> *Missouri, K. & T. R. Co. v. May*, 194 U. S. 267, 270 (1904) (Holmes, J.). • 432 U.S., pp. 479 “ 480.

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