

October 7, 2016

Sylvia Matthews Burwell
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

RE: RIN 937-AA04; Compliance with Title X Requirements by Project Recipients in Selecting Subrecipients

Dear Secretary Burwell:

The American Congress of Obstetricians and Gynecologists (ACOG), the American Academy of Family Physicians (AAFP), and the American Academy of Pediatrics (AAP), representing nearly 250,000 physicians nationwide, are pleased to offer these comments on the Department of Health and Human Services' (HHS) Office of Population Affairs' (OPA) proposed rule clarifying how the Agency might strengthen project recipients' compliance with Title X requirements regarding the award of funds to subrecipients. ACOG, AAFP, and AAP (collectively, the Associations) strongly support the Title X program as the only federal grant program exclusively dedicated to providing low-income and adolescent patients with access to effective family planning and related preventive health services.¹ Similarly, the Associations are concerned about the adverse impact some recent State regulations and legislation are having on the Title X population's access to essential care.

We commend HHS and OPA for issuing this proposed rule to ensure the effective administration of Title X funds by clarifying the requirements Title X projects must meet to be eligible for awards. This clarification is necessary to prevent State-initiated efforts that would limit low-income and adolescent patients' health care access for reasons not supported by current medical evidence or best practices and to ensure the quality of such care.

Title X Clinics Provide Family Planning and Preventive Services with Invaluable Clinical Benefits

While our organizations strongly support the inclusion of all Food and Drug Administration (FDA)-approved contraceptives among the preventive services for women that must be covered without cost-sharing under the Affordable Care Act (ACA), the implementation of the law does not diminish the need for additional resources through the Title X program to provide access to these services. The access to care that Title X clinics provide low-income and adolescent patients is critical to improving the health of these patients and to decreasing health care costs for all Americans. In 2013, 20.1 million U.S. women were in need of publicly-funded contraceptive services and supplies, either because they had an income below 250 percent of the federal poverty level or because they were younger than 20 years.² One in four women in the United States who obtain contraceptive services seek these services at publicly funded

¹ Office of Population Affairs, *Title X Family Planning Program Priorities*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, <http://www.hhs.gov/opa/title-x-family-planning/title-x-policies/program-priorities/index.html> (last visited Sept. 29, 2016).

² Guttmacher Institute. Frost, J., Zolna, M., and Frohwirth, L. *Contraceptive Needs and Services, 2013 Update*. July 2015. Available at: <http://www.guttmacher.org/pubs/win/contraceptive-needs-2013.pdf>. Retrieved Sept. 30, 2016.

family planning clinics.³ The number of women in need of publicly funded contraceptive services increased by 17 percent, or nearly three million women, from 2000 to 2010, and by 2013 increased by another 5%, or an additional 918,000 women.⁴ Limiting access to these services would be especially harmful for the adolescent population, where studies indicate that primary care service utilization, especially for preventive care services, is particularly low compared with other age groups.⁵

The benefits of contraception, named as one of the 10 great public health achievements of the 20th century by the Centers for Disease Control and Prevention, are widely recognized and include improved health and well-being, health benefits of pregnancy spacing for both mother and child, increased engagement of women in the work force, and economic self-sufficiency for women.⁶ Ninety-nine percent of U.S. women who have been sexually active report having used some form of contraception.⁷ Universal coverage of contraceptives is cost effective and reduces unintended pregnancy and abortion rates.⁸ Additionally, non-contraceptive benefits may include decreased bleeding and pain with menstrual periods and reduced risk of gynecologic disorders, including a decreased risk of endometrial and ovarian cancer.

Supporting the Broad-Based Provision of Title X Services Is Cost Effective for All Americans

Expanding access to publicly funded family planning services produces cost savings by reducing unintended pregnancy. Currently, nearly half of pregnancies are unintended.⁹ The cost of unintended pregnancy is high, with U.S. births from unintended pregnancies resulted in approximately \$21 billion in government expenditures in 2010.¹⁰ Facilitating affordable access to contraceptives not only would improve health but also would reduce health care costs, as each dollar spent on publicly funded family planning services saves the Medicaid program nearly \$7.09.¹¹

State Policies That Limit Title X Providers Also Limit Access to Care

Texas' experience with limiting Title X providers based on reasons other than the subrecipient's effectiveness in providing Title X services is instructive. In the 2011 session, the Texas state legislature passed three measures that decreased funding for the state's family planning budget; allocated the remaining family planning funds via a "tier" system that prioritized funding based on the types of services the subrecipient provided; and reauthorized the exclusion of organizations affiliated with abortion

³ Frost JJ. *U.S. women's use of sexual and reproductive health services: trends, sources of care and factors associated with use, 1995–2010*. New York (NY): Guttmacher Institute; 2013. Available at: <http://www.guttmacher.org/pubs/sources-of-care-2013.pdf>. Retrieved Sept. 29, 2016.

⁴ Frost JJ et al, *supra* note 2.

⁵ J Nordin et al. *Adolescent primary care visit patterns*. *Annals of Family Medicine*. Nov. 2010; 8(6):511-516.

⁶ Sonfield A, Hasstedt K, Kavanaugh ML, Anderson R. *The social and economic benefits of women's ability to determine whether and when to have children*. New York (NY): Guttmacher Institute; 2013. Available at: <http://www.guttmacher.org/pubs/social-economic-benefits.pdf>. Retrieved Sept. 29, 2016.

⁷ Daniels K, Mosher WD. *Contraceptive methods women have ever used: United States, 1982-2010*. *Natl Health Stat Report* 2013;(62):1–15.

⁸ Peipert JF, Madden T, Allsworth JE, Secura GM. *Preventing unintended pregnancies by providing no-cost contraception*. *Obstet Gynecol* 2012;120:1291–7.

⁹ Finer LB, Zolna MR. *Unintended pregnancy in the United States: incidence and disparities, 2006*. *Contraception* 2011;84:478–85.

¹⁰ Sonfield A, Kost K. *Public costs from unintended pregnancies and the role of public insurance programs in paying for pregnancy-related care: national and state estimates for 2010*. New York (NY): Guttmacher Institute; 2015. Available at: <http://www.guttmacher.org/pubs/public-costs-of-UP.pdf>. Retrieved Oct. 3, 2016.

¹¹ Guttmacher Institute. Frost, J., Sonfield, A., Zolna, M., and Finer, L. *Return on Investment: A Fuller Assessment of the Benefits and Cost Savings of the US Publicly Funded Family Planning Program*. 2014. Available at: https://www.guttmacher.org/pubs/journals/MQ-Frost_1468-0009.12080.pdf. Retrieved Sept. 30, 2016.

providers from the program.¹² The resulting negative impacts on access were immediate. Certain Title X providers lost all of their state family planning funds; several organizations decreased their offered services and/or reduced hours; access to contraceptives by minors decreased; and the cost of providing care increased for some providers.¹³ Most notably, client volume decreased drastically, with as much as a 54 percent decrease in the number of clients who received state-funded family planning services.¹⁴ These types of results are contrary to the goals of the Title X program and can only lead to adverse impacts on the health of the patients whose access to care has been so dramatically reduced. Indeed, family planning organizations in Texas reported that many contraceptive methods were not as widely available to their clients as they had been prior to the policy changes, with access to long-acting reversibly contraception being particularly reduced.¹⁵

HHS and OPA have been consistent in their efforts to ensure effective and accessible reproductive health care for all populations. We urge HHS to continue to uphold that important principle in any future policymaking. We look forward to working with HHS and OPA on our shared goal of fulfilling the promise of Title X and ensuring the broadest possible access to reproductive health care for all populations. Thank you for the opportunity to provide these comments. If you have any questions, please do not hesitate to contact Stefanie Jones at sjones@acog.org or 202-863-2544.

Sincerely,

American Academy of Family Physicians
American Academy of Pediatrics
American Congress of Obstetricians and Gynecologists

¹² White K, Hopkins K, Aiken A, Stevenson A, Hubert C, Grossman D, Potter J. *The Impact of Reproductive Health Legislation on Family Planning Clinic Services in Texas*. *Am J Pub Health* 2015; 105:851–8.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*