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Title X (Public Health Service Act) Family Planning Program

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Summary

The federal government provides grants for voluntary family planning services through the Family Planning Program, Title X of the Public Health Service Act (42 U.S.C. §§300 to 300a-6). Enacted in 1970, it is the only domestic federal program devoted solely to family planning and related preventive health services. In 2013, Title X-funded clinics served 4.6 million clients.

Title X is administered through the Office of Population Affairs (OPA) in the Department of Health and Human Services (HHS). Although the authorization of appropriations for Title X ended with FY1985, funding for the program has continued through appropriations bills for the Departments of Labor, Health and Human Services, and Education, and Related Agencies (Labor-HHS-Education).

The FY2015 Consolidated and Further Continuing Appropriations Act (P.L. 113-235) provides $286 million for Title X, the same as the FY2014 level. The FY2015 act continues previous years' requirements that Title X funds not be spent on abortions, that all pregnancy counseling be nondirective, and that funds not be spent on promoting or opposing any legislative proposal or candidate for public office. Grantees continue to be required to certify that they encourage "family participation" when minors seek family planning services and to certify that they counsel minors on how to resist attempted coercion into sexual activity. The appropriations law also clarifies that family planning providers are not exempt from state notification and reporting laws on child abuse, child molestation, sexual abuse, rape, or incest.

The law (42 U.S.C. §300a-6) prohibits the use of Title X funds in programs where abortion is a method of family planning. According to OPA, family planning projects that receive Title X funds are closely monitored to ensure that federal funds are used appropriately and that funds are not used for prohibited activities such as abortion. The prohibition on abortion does not apply to all the activities of a Title X grantee, but only to activities that are part of the Title X project. A grantee's abortion activities must be "separate and distinct" from the Title X project activities.

Contents

Figures

Tables

Contacts

Title X Program Administration and Grants

The federal government provides grants for voluntary family planning services through the Family Planning Program, Title X of the Public Health Service Act (42 U.S.C. §§300 to 300a-6). Enacted in 1970, it is the only domestic federal program devoted solely to family planning and related preventive health services.

Although Title X is the only federal domestic program primarily focused on family planning, other programs also finance family planning, among their other services. These programs include Medicaid, the Health Centers program under Section 330 of the Public Health Service Act, Maternal and Child Health Block Grants, and Social Services Block Grants. In FY2010, Medicaid accounted for 75% of U.S. public family planning expenditures (including federal, state, and local government spending). In comparison, Title X accounted for 10%.[1]

Administration

Title X is administered by the Office of Population Affairs (OPA) under the Office of the Assistant Secretary for Health in the U.S. Department of Health and Human Services (HHS). Although the program is administered through OPA, funding for Title X activities is provided through the Health Resources and Services Administration (HRSA) in HHS. Authorization of appropriations expired at the end of FY1985, but the program has continued to be funded through appropriations bills for the Departments of Labor, Health and Human Services, and Education, and Related Agencies (Labor-HHS-Education).

OPA administers three types of project grants under Title X: family planning services;[2] family planning personnel training;[3] and family planning service delivery improvement research grants.[4]

Family Planning Services Grants

Services

Ninety percent of Title X funds are used for clinical services.[5] Grants for family planning services fund family planning and related preventive health services, such as contraceptive services; natural family planning methods; infertility services; services to adolescents; breast and cervical cancer screening and prevention; sexually transmitted disease (STD) and HIV prevention

[1] Adam Sonfield and Rachel Benson Gold, *Public Funding for Family Planning, Sterilization and Abortion Services, FY1980-2010*, Guttmacher Institute, March 2012, http://www.guttmacher.org/pubs/Public-Funding-FP-2010.pdf. More background is in Institute of Medicine (IOM), "Non-Title X Family Planning Funding Sources," in *A Review of the HHS Family Planning Program: Mission, Management, and Measurement of Results*, ed. Adrienne Stith Butler and Ellen Wright Clayton (Washington: The National Academies Press, 2009), pp. 117-121, http://www.nap.edu/catalog.php?record_id=12585.

[2] *Catalog of Federal Domestic Assistance (CFDA)*, Program number 93.217, http://www.cfda.gov.

[3] *CFDA,* Program number 93.260.

[4] *CFDA,* Program number 93.974.

[5] HHS, Health Resources and Services Administration, *Fiscal Year 2016 Justification of Estimates for Appropriations Committees*, p. 408, http://hrsa.gov/about/budget/budgetjustification2016.pdf.

education, counseling, testing, and referral; preconception health services; and counseling on establishing a reproductive life plan.[6] The services must be provided "without coercion and with respect for the privacy, dignity, social, and religious beliefs of the individuals being served."[7]

Title X clinics provide confidential screening, counseling, and referral for treatment. In this regard, OPA has expressed a commitment to integrating HIV-prevention services in all family planning clinics.[8] OPA provides supplemental grants to help Title X projects implement the Centers for Disease Control and Prevention's "Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health Care Settings."[9]

Title X services offered to males include condoms, education and counseling, STD testing and treatment, HIV testing, and, in some cases, vasectomy services.[10]

Client Charges

Priority for services is given to persons from low-income families, who may not be charged for care.[11] Clients from families with income between 100% and 250% of the federal poverty guideline (FPL) are charged on a sliding scale based on their ability to pay. Clients from families with income higher than 250% FPL are charged fees designed to recover the reasonable cost of providing services.[12]

Client Characteristics

In 2013, Title X-funded clinics served 4.558 million clients, primarily low-income women and adolescents. Of those clients, 8% were male, 70% had incomes at or below the federal poverty level, and 90% had incomes at or below 200% of the federal poverty level.[13] For 61% of clients, Title X clinics are their "usual" or only regular source of health care.[14] In 2013, 63% of Title X clients were uninsured.[15]

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[6] Title X clinical guidelines are laid out in Loretta Gavin, Susan Moskosky, and Marion Carter, et al., "Providing Quality Family Planning Services: Recommendations of CDC and the U.S. Office of Population Affairs," *Morbidity and Mortality Weekly Report*, vol. 63, no. RR-4 (April 25, 2014), pp. 1-29.

[7] *CFDA*, Program number 93.217. See also 42 C.F.R. §59.5.

[8] HHS, Office of Population Affairs (OPA), *HIV Prevention in Family Planning*, http://www.hhs.gov/opa/title-x-family-planning/initiatives-and-resources/hiv-prevention-and-integration/.

[9] Centers for Disease Control and Prevention (CDC), "Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings," *MMWR Recommendations and Reports*, vol. 55, no. RR-14 (September 26, 2006), pp. 1-17. See also CDC, *Testing in Clinical Settings*, http://www.cdc.gov/hiv/testing/clinical/index.html.

[10] HHS, OPA, *Male Services,* http://www.hhs.gov/opa/title-x-family-planning/initiatives-and-resources/male-services/.

[11] 42 C.F.R. §59.2 defines "low-income family" as having income at or below 100% of the Federal Poverty Guidelines (FPL). The regulation states that "'Low-income family' also includes members of families whose annual family income exceeds this amount, but who, as determined by the project director, are unable, for good reasons, to pay for family planning services. For example, unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources."

[12] 42 C.F.R. §59.5.

[13] Christina Fowler, Julia Gable, and Jiantong Wang, *Family Planning Annual Report: 2013 National Summary*, RTI International, Research Triangle Park, NC, November 2014, pp. 8-9, 21-22, http://www.hhs.gov/opa/pdfs/fpar-2013-national-summary.pdf.

[14] Jennifer J. Frost, *U.S. Women's Use of Sexual and Reproductive Health Services:Trends, Sources of Care and* (continued...)

Grantees and Clinics

In 2013, there were 95 Title X family planning services grantees. Such grantees included 50 state, local, and territorial health departments and 45 nonprofit organizations, such as hospitals, community health agencies, family planning councils, and Planned Parenthood affiliates.[16]

Title X grantees can provide family planning services directly or they can delegate Title X monies to other agencies to provide services. Although there is no fixed matching amount required for grants, regulations specify that no Title X projects may be fully supported by Title X funds.[17] In 2013, Title X provided services through 4,168 clinics located in the 50 states, the District of Columbia, and the U.S. territories and Freely Associated States.[18]

Family Planning Training and Research Grants

Grants for family planning personnel training are used to train staff and to improve the utilization and career development of paraprofessionals.[19] Staff are trained through five national training programs for Coordination and Strategic Initiatives; Management and Systems Improvement; Family Planning Service Delivery; Quality Assurance, Quality Improvement and Evaluation; and a National Clinical Training Center.[20] Family planning service delivery improvement research grants are used for studies to enhance effectiveness and efficiency of the service delivery system.[21]

More information on the Title X program can be found at http://www.hhs.gov/opa/title-x-family-planning/.

Funding

The FY2015 Consolidated and Further Continuing Appropriations Act (P.L. 113-235) provides $286.479 million for Title X, the same as the FY2014 enacted level.[22] The President's FY2016

(...continued)

Factors Associated with Use, 1995–2010, Guttmacher Institute, New York, 2013, p. 1, http://www.guttmacher.org/pubs/sources-of-care-2013.pdf.

[15] Fowler et al., *Family Planning Annual Report: 2013 National Summary*, pp. 21, 23.

[16] Ibid., p. 7.

[17] 42 C.F.R. §59.7(c).

[18] Fowler et al., *Family Planning Annual Report: 2013 National Summary*, p. 7. A searchable directory of Title X providers is at HHS, OPA, *Title X Grantees List*, http://www.hhs.gov/opa/title-x-family-planning/initiatives-and-resources/title-x-grantees-list/.

[19] *CFDA,* Program number 93.260.

[20] HHS, OPA, *National Training Centers*, http://www.hhs.gov/opa/title-x-family-planning/training/national-training-centers/.

[21] A list of research grant projects is at HHS, OPA, *Research*, http://www.hhs.gov/opa/title-x-family-planning/research-and-data/research/.

[22] P.L. 113-235, Division G, Title II; P.L. 113-76, Division H, Title II. Per P.L. 113-76, Division H, Title II §206, the Administration in FY2014 had limited authority to transfer funds among HHS accounts. After transfers, FY2014 Title X funding was $285.760 million, according to HHS, HRSA, *Operating Plan for FY2014*, http://www.hrsa.gov/about/budget/operatingplan2014.pdf.

budget proposes to increase Title X funding by 5% to $300.000 million. **Table 1** shows Title X appropriations amounts since FY1971, when the program was created. **Figure 1** shows Title X appropriations amounts since FY1978.

FY2016 Budget Request

The President's FY2016 budget, submitted February 2, 2015, requests $300.000 million for Title X, 5% higher than the FY2015 enacted level.[23] The budget would continue previous years' requirements that Title X funds not be spent on abortions, all pregnancy counseling be nondirective, and funds not be spent on promoting or opposing any legislative proposal or candidate for public office.[24]

According to the HRSA *Justification*, the proposed FY2016 funding level would support family planning services for 4.7 million clients. The program's FY2016 goals include preventing 1,400 cases of infertility through *Chlamydia* screening and preventing 894,000 unintended pregnancies.[25] The FY2016 target for cost per client served is $301.14, with the goal of maintaining the cost per client below the medical care inflation rate.[26]

OPA also plans to use FY2016 funds to train and support Title X clinics as more clients become eligible for health insurance under the Patient Protection and Affordable Care Act (ACA). The program encourages clinics to increase their number of contracts with insurance plans and to recover more costs through reimbursements and billing third-party payers. OPA expects that clinics' additional investment in third-party billing, along with improved electronic health records adoption, will increase revenue and allow the Title X program to serve more clients.[27]

FY2015 Funding

As mentioned previously, P.L. 113-235 provides $286.479 million for Title X, the same as the FY2014 enacted level.[28] The FY2015 act continues previous years' requirements that Title X funds not be spent on abortions, all pregnancy counseling be nondirective, and funds not be spent on "any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office." Grantees continue to be required to certify that they encourage "family participation" when minors decide to seek family planning services and that they counsel minors on how to resist attempted coercion into sexual activity. The law also clarifies that family planning providers are

[23] HHS, HRSA, *Fiscal Year 2016, Justification of Estimates for Appropriations Committees*, p.404.

[24] Ibid., p. 25.

[25] Outcome measures for the Title X program are described in "Enclosure II: Department of Health and Human Services' Evaluations of Title X Family Planning Program Outcomes," in U.S. Government Accountability Office (GAO), *Health Care Funding: Federal Obligations to and Expenditures by Selected Entities Involved in Health-Related Activities, 2010–2012*, GAO-15-270R, March 20, 2015, pp. 16-18, http://www.gao.gov/products/GAO-15-270R.

[26] HHS, HRSA, *Fiscal Year 2016, Justification of Estimates for Appropriations Committees*, pp. 408-411.

[27] Ibid., pp. 407-409.

[28] P.L. 113-235, Division G, Title II; P.L. 113-76, Division H, Title II. Per P.L. 113-76, Division H, Title II §206, the Administration in FY2014 had limited authority to transfer funds among HHS accounts. After transfers, FY2014 Title X funding was $285.760 million, according to HHS, HRSA, *Operating Plan for FY2014*, http://www.hrsa.gov/about/budget/operatingplan2014.pdf.

not exempt from state notification and reporting laws on child abuse, child molestation, sexual abuse, rape, or incest.[29]

FY2015 appropriations are subject to a clause, known as the Weldon Amendment, stating that "None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions."[30] Some have argued that the Weldon Amendment conflicts with regulations that require Title X family planning services projects to give pregnant women the opportunity to receive information, counseling, and referral upon request for several options, including "pregnancy termination."[31] In the February 23, 2011, *Federal Register*, HHS stated of potential conflicts, "The approach of a case by case investigation and, if necessary, enforcement will best enable the Department to deal with any perceived conflicts within concrete situations."[32] In the explanatory statement accompanying P.L. 113-235, Congress directed the HHS Secretary to respond "expeditiously" to complaints about Weldon Amendment violations.[33]

History of Funding

Table 1 shows Title X appropriations amounts since FY1971, when the program was created. **Figure 1** shows Title X appropriations amounts since FY1978, in current dollars (not adjusted for inflation) and constant FY2014 dollars (adjusted for medical care inflation).

[29] P.L. 113-235, Division G, Title II, §209 and §210.

[30] P.L. 113-235, Division G, Title V, §506(d). The Weldon Amendment was originally adopted as part of the FY2005 Labor-HHS-Education appropriations law, and has been attached to each subsequent Labor-HHS-Education appropriations law: P.L. 108-447, Division F, §508(d), 118 Stat. 3163 (FY2005); P.L. 109-149, §508(d), 119 Stat. 2879 (FY2006). Under P.L. 110-5, §2, 121 Stat. 8, FY2007 appropriations were subject to the same conditions as during FY2006. P.L. 110-161, Division G, §508(d), 121 Stat. 1844 (FY2008). P.L. 111-8, Division F, §508(d), 123 Stat. 803 (FY2009). P.L. 111-117, Division D, §508(d), 123 Stat. 3280 (FY2010). Under P.L. 112-10, Division B, §§1101 and 1104, FY2011 appropriations were subject to the same conditions as during FY2010. P.L. 112-74, Division F, §507(d), 125 Stat. 111 (FY2012). Under P.L. 113-6 §§1101 and 1105, FY2013 appropriations are subject to the same conditions as during FY2012 under P.L. 112-74. P.L. 113-76, Division H, Title V, §507(d), 128 Stat. 409 (FY2014).

[31] 42 C.F.R. §59.5(a)(5). Examples of this argument appear in "Weldon Amendment," *Congressional Record*, daily edition, vol. 151, no. 51 (April 25, 2005), p. S4222; and "Federal Refusal Clause," *Congressional Record*, daily edition, vol. 151, no. 52 (April 26, 2005), p. S425. The National Family Planning and Reproductive Health Association (NFPRHA), many of whose members provide Title X services, filed a lawsuit challenging the Weldon Amendment in the U.S. District Court for the District of Columbia. The court found that "While Weldon may not provide the level of guidance that NFPRHA or its members would prefer, may create a conflict with pre-existing agency regulations, and may impose conditions that NFPRHA members find unacceptable, none of these reasons provides a sufficient basis for the court to invalidate an act of Congress in its entirety." Upon appeal, the U.S. Court of Appeals for the District of Columbia Circuit found that the plaintiff lacked the standing to challenge the Weldon Amendment. *See National Family Planning and Reproductive Health Association, Inc., v. Alberto Gonzales, et al*., 468 F.3d 826 (D.C. Cir. 2006), and 391 F. Supp. 2d 200, 209 (D.D.C. 2005).

[32] HHS, "Regulation for the Enforcement of Federal Health Care Provider Conscience Protection Laws," 76 *Federal Register* 9973, February 23, 2011.

[33] "Explanatory Statement Submitted by Mr. Rogers of Kentucky, Chairman of the House Committee on Appropriations Regarding Amendment to the Senate Amendment on H.R. 83, Consolidated and Further Continuing Appropriations Act, 2015," House of Representatives, *Congressional Record*, vol. 160, no. 151 Book II (December 11, 2014), pp. H9838-H9839.

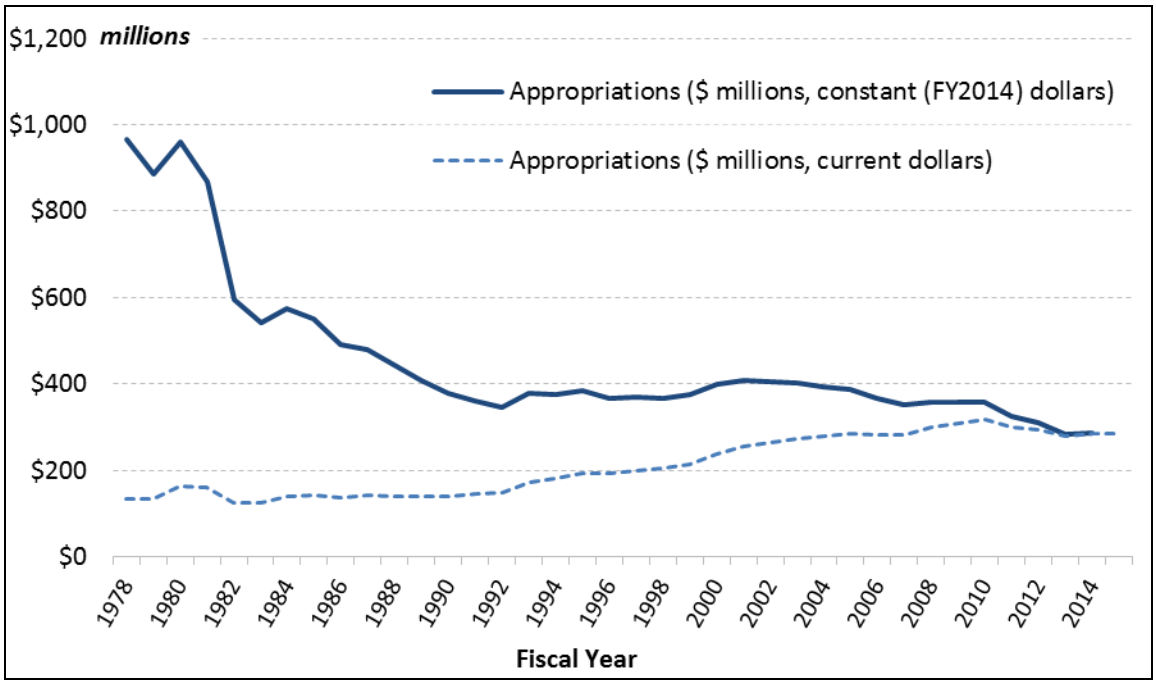
Table 1. Title X Family Planning Program Appropriations, FY1971-FY2015

(in millions, current dollars, not adjusted for inflation)

FY	Appropriation	FY	Appropriation	FY	Appropriation
1971	$6.0	1986	$136.4	2001	$253.9
1972	$61.8	1987	$142.5	2002	$265.0
1973	$100.6	1988	$139.7	2003	$273.4
1974	$100.6	1989	$138.3	2004	$278.3
1975	$100.6	1990	$139.1	2005	$286.0
1976	$100.6	1991	$144.3	2006	$282.9
1977	$113.0	1992	$149.6	2007	$283.1
1978	$135.0	1993	$173.4	2008	$300.0
1979	$135.0	1994	$180.9	2009	$307.5
1980	$162.0	1995	$193.3	2010	$317.5
1981	$161.7	1996	$192.6	2011	$299.4
1982	$124.2	1997	$198.5	2012	$293.9
1983	$124.1	1998	$203.5	2013	$278.3
1984	$140.0	1999	$215.0	2014	$286.5
1985	$142.5	2000	$238.9	2015	$286.5

Source: FY1971-FY2005: Department of Health and Human Services, Office of Population Affairs, *Title X Funding History*, http://www.hhs.gov/opa/title-x-family-planning/title-x-policies/title-x-funding-history/; FY2006: Senate Appropriations Committee, S.Rept. 109-287, p. 325; FY2007: *Consolidated Appropriations Act, 2008 Committee Print of the House Committee on Appropriations on* H.R. 2764/*P.L. 110-161*, p. 1793, http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564; FY2008-FY2009: "Explanatory Statement Submitted by Mr. Obey, Chairman of the House Committee on Appropriations, Regarding H.R. 1105, Omnibus Appropriations Act, 2009," *Congressional Record*, daily edition, vol. 155, no. 31 (February 23, 2009), p. H2378. FY2010: P.L. 111-117, 123 Stat. 3239. FY2011: P.L. 112-10, §1810 and §1119. FY2012: HHS, HRSA, *Fiscal Year 2013 Justification of Estimates for Appropriations Committees*, p. 347. FY2013: HHS, HRSA, *Sequestration Operating Plan for FY2013,* http://www.hrsa.gov/about/budget/operatingplan2013.pdf. FY2014: P.L. 113-76, Division H, Title II. FY2015: P.L. 113-235, Division G, Title II.

Figure 1. Title X Family Planning Program Appropriations, FY1978-FY2015



Sources: Current dollars: See **Table 1**. Constant (FY2014) dollars: Calculated by CRS using a fiscal year inflation adjustment based on monthly data for the Consumer Price Index All - Urban Consumers for Medical Care published by the Bureau of Labor Statistics, http://data.bls.gov/timeseries/CUUR0000SAM/.

Institute of Medicine Evaluation

At the request of OPA's Office of Family Planning, the Institute of Medicine (IOM) of the National Academy of Sciences independently evaluated the Title X program and made recommendations in *A Review of the HHS Family Planning Program: Mission, Management, and Measurement of Results* (2009).[34]

IOM found that family planning—"helping people have children when they want to and avoid conception when they do not—is a critical social and public health goal," and that the "federal government has a responsibility to support the attainment of this goal." IOM noted, for example, that family planning can prevent unintended and high-risk pregnancies, thereby reducing fetal, infant, and maternal mortality and morbidity. IOM also stated that the appropriate use of contraception can reduce abortion rates and cited "ample evidence that family planning services are cost-effective."[35] IOM made specific recommendations to increase program funding and to improve program management, administration, and evaluation.

[34] Institute of Medicine (IOM), Committee on a Comprehensive Review of the HHS Office of Family Planning Title X Program, *A Review of the HHS Family Planning Program: Mission, Management, and Measurement of Results*, ed. Adrienne Stith Butler and Ellen Wright Clayton (Washington, DC: The National Academies Press, 2009), http://www.nap.edu/catalog.php?record_id=12585.

[35] Ibid., pp. 4, 70. See also Jennifer J. Frost, Adam Sonfield, and Mia Zolna, et al., "Return on Investment: A Fuller Assessment of the Benefits and Cost Savings of the US Publicly Funded Family Planning Program," *Milbank Quarterly*, vol. 92, no. 4 (December 2014), pp. 696-749.

Among IOM's recommendations was that OPA's Office of Family Planning "review and update the Program Guidelines to ensure that they are evidence-based." IOM noted, for example, that the guidelines required female Title X clients, including adolescents, to have pelvic and breast examinations within six months of their initial visit, though "relevant abnormalities are rarely found in adolescents." At the time of the IOM report, Title X Program Guidelines had not been updated since 2001.[36]

In response to the IOM recommendations, OPA released new program guidelines in April 2014.[37] The new guidelines draw on systematic literature reviews and existing recommendations from organizations, such as the Centers for Disease Control and Prevention, the U.S. Preventive Services Task Force, the American Congress of Obstetricians and Gynecologists, the American Academy of Pediatrics, the American Society for Reproductive Medicine, and the American Urological Association. For example, the new guidelines state that pelvic exams and clinical breast exams are "not needed routinely to provide contraception safely to a healthy client" (though they may be recommended for some cases, such as inserting an intrauterine device, fitting a diaphragm, cancer screening for non-adolescents, assessing gestational age after a positive pregnancy test, if the client has certain STD symptoms, as part of infertility care, or to address other non-contraceptive health needs). OPA states that the new guidelines have "a foundation of empirical evidence and information supporting clinical practice."[38] Also in response to the IOM report, HHS contracted with IOM to convene a Standing Committee to advise the Title X program on issues raised by the 2009 report, as well as other emerging family planning issues.[39]

The Patient Protection and Affordable Care Act and Title X

The Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended) has numerous provisions that may impact Title X clinics. Notably, ACA increases access to health insurance.[40] (In 2013, 63% of Title X clients were uninsured.)[41] Federal ACA regulations and guidance also require most health plans and health insurers to cover contraceptive services without cost-sharing.

[36] IOM, *A Review of the HHS Family Planning Program: Mission, Management, and Measurement of Results*, pp. 13, 15, 240; the 2001 guidelines are reprinted in Appendix D.

[37] HHS, OPA, *Program Guidelines*, http://www.hhs.gov/opa/program-guidelines/. The new guidelines are comprised of two documents: HHS, OPA, *Program Requirements for Title X Funded Family Planning Projects*, April 2014; and Loretta Gavin, Susan Moskosky, and Marion Carter, et al., "Providing Quality Family Planning Services: Recommendations of CDC and the U.S. Office of Population Affairs," *Morbidity and Mortality Weekly Report*, vol. 63, no. RR-4 (April 25, 2014), pp. 1-29.

[38] HHS, HRSA, *Fiscal Year 2016 Justification of Estimates for Appropriations Committees*, p. 408.

[39] IOM, Standing Committee on Family Planning, http://www.iom.edu/Activities/Women/FamilyPlanning.aspx.

[40] The Congressional Budget Office (CBO) and Joint Committee on Taxation (JCT) estimate that 17 million more nonelderly people will have health insurance in 2015 than would have had it without the ACA. They also project that 23 million more will be insured in 2016, 24 million more will be insured each year from 2017 through 2019, and 25 million more will be insured each year from 2020 through 2025 than would have been the case without the ACA. CBO, *Insurance Coverage Provisions of the Affordable Care Act—CBO's March 2015 Baseline,* March 9, 2015, Table 2, http://www.cbo.gov/publication/43900.

[41] Fowler et al., *Family Planning Annual Report: 2013 National Summary*, pp. 21, 23.

ACA has several provisions that may increase health insurance coverage in the populations served by Title X. These provisions could help free up funds that Title X clinics have historically spent on serving the uninsured. For example,

- States can expand Medicaid eligibility to include most nonelderly, nonpregnant individuals with income at or below 133% of FPL, effectively 138% FPL with the 5% income disregard.[42] (In 2013, 70% of Title X clients had incomes under 101% of FPL; another 21% had incomes between 101% and 150% of FPL.)[43]
- ACA gives states the option, through a Medicaid state plan amendment, of providing targeted Medicaid family planning services and supplies to certain individuals who would otherwise be ineligible for Medicaid.[44]
- ACA requires most private health plans that offer dependent coverage for children to continue to make such coverage available for young adult children under the age of 26.[45] (In 2013, 47% of Title X clients were younger than 25 years old; another 22% were aged 25 to 29.)[46]
- ACA provides certain individuals and small businesses with access to private health plans through new health insurance exchanges and subsidizes the premium costs for certain individuals. To ensure access for low-income individuals, exchange plans are required to have a sufficient number and geographic distribution of "essential community providers," which include Title X projects.[47]

[42] P.L. 111-148, §2001 as modified by §10201; P.L. 111-152, §1004 and §1201. This provision is summarized in CRS Report R43564, *The ACA Medicaid Expansion*, by Alison Mitchell. Medicaid is jointly financed by federal and state governments. All state Medicaid programs are mandated to include family planning services and supplies in their benefit packages, with no cost-sharing. In states that choose to expand Medicaid eligibility, the federal government will pay 100% of Medicaid expenditures for those in the new eligibility group in 2014 through 2016, including family planning expenditures, gradually declining to 90% in 2020 and thereafter. For all other Medicaid enrollees, the federal government pays 90% of Medicaid family planning expenditures.

[43] Fowler et al., *Family Planning Annual Report: 2013 National Summary*, pp. 22.

[44] P.L. 111-148, §2303. This provision was effective upon enactment. Prior to ACA, states could provide these Medicaid family planning expansions only by obtaining special waivers. This provision is summarized in CRS Report R41210, *Medicaid and the State Children's Health Insurance Program (CHIP) Provisions in ACA: Summary and Timeline*, by Evelyne P. Baumrucker et al. As of May 1, 2015, 13 states have had state plan amendments approved under this new authority. Guttmacher Institute, *State Policies in Brief as of May 1, 2015: Medicaid Family Planning Eligibility Expansion*, http://www.guttmacher.org/statecenter/spibs/spib_SMFPE.pdf. Federal guidance is provided in Cindy Mann, director, Center for Medicaid, CHIP and Survey & Certification, *State Medicaid Directors Letter #10-013, Family Planning Services Option and New Benefit Rules for Benchmark Plans,* July 2, 2010, http://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD10013.pdf, and *State Medicaid Directors Letter #14-003*, *Family Planning and Family Planning Related Services Clarification*, April 16, 2014, http://www.medicaid.gov/Federal-Policy-Guidance/downloads/SMD-14-003.pdf.

[45] P.L. 111-148, §1001, as amended by P.L. 111-152, §2301. This dependent coverage provision is effective for plan years beginning on or after September 23, 2010. The provision is summarized in CRS Report R42069, *Private Health Insurance Market Reforms in the Affordable Care Act (ACA).*

[46] Fowler et al., *Family Planning Annual Report: 2013 National Summary*, pp. 10-11.

[47] 45 C.F.R. §156.235. U.S. Centers for Medicare & Medicaid Services (CMS), Center for Consumer Information and Insurance Oversight (CCIIO), *2015 Letter to Issuers in the Federally-facilitated Marketplaces,* March 14, 2014, p. 22, http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2015-final-issuer-letter-3-14-2014.pdf. CMS, CCIIO, *Final 2016 Letter to Issuers in the Federally-facilitated Marketplaces*, February 20, 2015, p. 28, http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2016_Letter_to_Issuers_2_20_2015.pdf.

- Beginning in 2014, ACA's individual mandate provision requires most individuals to have health insurance or pay a penalty.[48]

OPA has established FY2015 Program Priorities to guide the project plans of family planning services grantees. In response to ACA, one of these priorities is demonstrating Title X clinics' ability to bill Medicaid and private health insurance. Project plans should have "evidence of contracts with insurance and systems for third party billing as well as the ability to facilitate the enrollment of clients into insurance and Medicaid optimally onsite; and to report on numbers assisted and enrolled."[49]

According to the FY2016 HRSA *Justification,* the Administration expects that Title X clinics will increase revenue, in part by raising the proportion of clients who have health insurance and by billing third parties.[50] Title X clinics also provide enrollment assistance to clients eligible for Medicaid or exchange plans under ACA.[51] OPA awarded one-year grants in FY2014 to help Title X clinics enroll uninsured clients in health coverage.[52]

Title X supporters state that, although clinics funded by Title X could see increased revenues from Medicaid and private insurance, the Title X program is still necessary:

> In addition to medical care, Title X supports activities that are not reimbursable under Medicaid and commercial insurance plans… Title X has made a major contribution to the training of clinicians; that need remains today… Title X helps to support staff salaries, not just for clinicians but for front-desk staff, educators and finance and administrative staff. Title X provides for individual patient education as well as community-level outreach and public education about family planning and women's health issues. Title X also helps to support the infrastructure necessary to keep the doors open—subsidizing rent, utilities and infrastructure needs like health information technology.[53]

Some advocates note that even with ACA's health coverage expansions, family planning services will still be sought by uninsured persons and dependents who, for confidentiality reasons, might not wish to bill reproductive health services to their parent's or spouse's health insurance.[54]

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[48] P.L. 111-148, §1501 and §10106, as amended by P.L. 111-152, §1002. This provision is summarized in CRS Report R41331, *Individual Mandate Under ACA*, by Annie L. Mach.

[49] HHS, OPA, *Announcement of Anticipated Availability of Funds for Family Planning Services Grants*, p. 9, http://www.hhs.gov/opa/pdfs/opa-fy2015-1.pdf.

[50] HHS, HRSA, *Fiscal Year 2016 Justification of Estimates for Appropriations Committees*, p. 409.

[51] "Connecting Clients to Coverage," in Adam Sonfield, Kinsey Hasstedt, and Rachel Benson Gold, *Moving Forward: Family Planning in the Era of Health Reform*, Guttmacher Institute, March 2014, pp. 34-35, http://www.guttmacher.org/pubs/family-planning-and-health-reform.pdf.

[52] HHS, OPA, *FY14 Announcement of Availability of Funds to Enroll Family Planning Clients into Health Insurance Programs,* April 3, 2014, http://www.grants.gov/web/grants/view-opportunity.html?oppId=253413.

[53] Clare Coleman and Kirtly Parker Jones, "Title X: A Proud Past, An Uncertain Future," *Contraception*, vol. 84 (September 2011), pp. 209-211, http://www.arhp.org/publications-and-resources/contraception-journal/september-2011. See also "The Ongoing Need for Title X," in Sonfield, Hasstedt, and Gold, *Moving Forward: Family Planning in the Era of Health Reform*, Guttmacher Institute, March 2014, pp. 29-30.

[54] CBO and JCT estimate that about 27 million people will be uninsured in 2025. CBO, *Insurance Coverage Provisions of the Affordable Care Act—CBO's March 2015 Baseline,* March 9, 2015, Table 2. Confidentiality issues are discussed in Rachel Benson Gold, "Unintended Consequences: How Insurance Processes Inadvertently Abrogate Patient Confidentiality," *Guttmacher Policy Review*, vol. 12, no. 4 (Fall 2009), pp. 12-16, http://www.guttmacher.org/pubs/gpr/12/4/gpr120412.html; and Adam Sonfield, Kinsey Hasstedt, and Rachel Benson Gold, *Moving Forward: Family Planning in the Era of Health Reform*, Guttmacher Institute, March 2014, p. 16.

Advocates maintain that even with the ACA, there will still be strong demand for safety net providers, such as many Title X clinics, that provide health care to underserved populations.[55]

ACA requires most private health plans to cover certain preventive services for women without cost-sharing.[56] HHS commissioned the Institute of Medicine to recommend preventive services to be included in this requirement.[57] Adopting the IOM recommendations, federal rules and guidelines require that most health plans cover, without cost-sharing, "All Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity," as prescribed.[58] Some have noted that this requirement, by removing up-front cost barriers, could result in more women switching to longer-acting contraceptive methods, such as hormonal implants and intrauterine devices.[59] OPA has identified "Patient access to a broad range of contraceptive options, including long acting reversible contraceptives (LARC)" as one of the key Title X issues in FY2015.[60] HHS has also added Title X clients' rate of LARC use to the list of outcome measures for assessing program performance.[61]

ACA may also impact Title X clinics in other ways. For example, because ACA increased the rebate percentage drug makers pay on drugs purchased for Medicaid beneficiaries, Title X clinics likely will receive larger discounts on drugs obtained through the 340B drug discount program.[62]

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[55] Marion Carter, Kathleen Desilets, and Lorrie Gavin, et al., "Trends in Uninsured Clients Visiting Health Centers Funded by the Title X Family Planning Program—Massachusetts, 2005–2012," *Morbidity and Mortality Weekly Report*, vol. 63, no. 3 (January 24, 2014), pp. 59-62, http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6303a3.htm. In 2006, Massachusetts passed its health reform law; subsequently the state's uninsurance rate decreased, to 3% in 2011. The authors found that "Title X program data from 2005–2012 indicate that client volume remained high throughout the period," though the percentage of the state's Title X clients who were uninsured declined from 59% in 2005 to 36% in 2012.

[56] P.L. 111-148, §1101. This requirement does not apply to grandfathered plans. Grandfathered plans are those that existed on March 23, 2010, and have not made certain specified changes (for example, to benefits and cost-sharing).

[57] IOM, *Clinical Preventive Services for Women: Closing the Gaps* (Washington, DC: The National Academies Press, 2011), http://www.nap.edu/catalog.php?record_id=13181.

[58] The requirement is effective for plan years beginning on or after August 1, 2012, with some exceptions and accommodations for religious objections. Condoms and vasectomies are not included. HHS, HRSA, *Women's Preventive Services: Required Health Plan Coverage Guidelines*, http://www.hrsa.gov/womensguidelines/. HHS, Centers for Medicare & Medicaid Services, Center for Consumer Information & Insurance Oversight, *Fact Sheet: Women's Preventive Services Coverage, Non-Profit Religious Organizations, and Closely-Held For-Profit Entities*, http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/womens-preven-02012013.html. CRS Report IF10169, *The Affordable Care Act's Contraceptive Coverage Requirement: History of Regulations for Religious Objections.*

[59] Michelle Andrews, "Insurance Coverage Might Steer Women To Costlier—But More Effective—Birth Control," *Kaiser Health News*, February 20, 2012, http://www.kaiserhealthnews.org/Features/Insuring-Your-Health/2012/contraceptives-coverage-022112.aspx. Kelly Cleland, Jeffrey F. Peipert, and Carolyn Westhoff et al., "Family Planning as a Cost-Saving Preventive Health Service," *The New England Journal of Medicine*, vol. 364 (May 5, 2011), p. e37. Among teens seeking contraceptive services at Title X clinics, 7.1% used long-acting reversible contraception in 2013, compared with 0.4% in 2005. Lisa Romero, Karen Pazol, and Lee Warner, et al., "Vital Signs: Trends in Use of Long-Acting Reversible Contraception Among Teens Aged 15–19 Years Seeking Contraceptive Services—United States, 2005-2013," *Morbidity and Mortality Weekly Report*, vol. 64 (April 10, 2015), pp. 363-369.

[60] HHS, OPA, *Announcement of Anticipated Availability of Funds for Family Planning Services Grants*, p. 10, http://www.hhs.gov/opa/pdfs/opa-fy2015-1.pdf.

[61] In FY2013, 8.8% of female clients used LARC as their primary contraception method; the FY2016 target is 9.9%. HHS, HRSA, *Fiscal Year 2016 Justification of Estimates for Appropriations Committees*, p. 410.

[62] P.L. 111-148, §2501. Title X clinics are among the entities eligible to receive discounts on certain drugs' prices under §340B of the Public Health Service Act. The maximum prices that drug manufacturers can charge 340B entities are calculated using the Medicaid rebate formula. The ACA provision is summarized in CRS Report R41210, *Medicaid* (continued...)

ACA also increased funding for teen pregnancy prevention efforts, expanded healthcare workforce programs, and increased funding for community health centers (many of which are Title X providers).[63] HHS contracted with IOM to convene a Standing Committee to advise the Title X program. Among other topics, the IOM Standing Committee was tasked with examining the roles of family planning, reproductive health, and Title X in health reform.[64] OPA also awarded FY2014 research funding to "conduct data analysis and related research and evaluation on the impact of the Affordable Care Act on Title X funded family planning centers."[65] For Title X grantees and clinics, the Title X Family Planning National Training Centers have compiled resources and provided training on how ACA may affect Title X.[66]

Abortion and Title X

The law prohibits the use of Title X funds in programs where abortion is a method of family planning.[67] On July 3, 2000, OPA released a final rule with respect to abortion services in family planning projects.[68] The rule updated and revised regulations that had been in effect since 1988.[69] The major revision revoked the "gag rule," which restricted family planning grantees from providing abortion-related information. The regulation at 42 C.F.R. §59.5 had required, and continues to require, that abortion not be provided as a method of family planning. The July 3, 2000, rule amended the section to add the requirement that a project must give pregnant women the opportunity to receive information and counseling on each of the following options: prenatal care and delivery; infant care, foster care, or adoption; and pregnancy termination. If the woman requests such information and counseling, the project must give "neutral, factual information and nondirective counseling on each of the options, and referral upon request, except with respect to

(...continued)

and the State Children's Health Insurance Program (CHIP) Provisions in ACA: Summary and Timeline, by Evelyne P. Baumrucker et al. The 340B program website is http://www.hrsa.gov/opa.

[63] These and other ACA provisions that could potentially impact Title X clinics are summarized in CRS Report R41278, *Public Health, Workforce, Quality, and Related Provisions in ACA: Summary and Timeline*, coordinated by C. Stephen Redhead and Elayne J. Heisler, and CRS Report R41210, *Medicaid and the State Children's Health Insurance Program (CHIP) Provisions in ACA: Summary and Timeline*, by Evelyne P. Baumrucker et al.

[64] IOM, *Standing Committee on Family Planning*, http://www.iom.edu/Activities/Women/FamilyPlanning.aspx. HHS, HRSA, *Fiscal Year 2013 Justification of Estimates for Appropriations Committees*, p. 351, http://www.hrsa.gov/about/budget/budgetjustification2013.pdf.

[65] HHS, OPA, *FY14 Announcement of Availability of Funds for Family Planning Affordable Care Act (ACA) Impact Analysis Research Cooperative Agreements*, March 7, 2014, http://www.grants.gov/web/grants/view-opportunity.html?oppId=252304.

[66] National Family Planning Training Centers, *Webinar Recording: Affordable Care Act and the Future of Title X,* November 2013, http://www.fpntc.org/training-and-resources/webinar-recording-affordable-care-act-and-the-future-of-title-x; National Family Planning Training Centers, *Affordable Care Act,* http://fpntc.org/topics/affordable-care-act.

[67] 42 U.S.C. §300a-6. In addition, language in annual Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations bills have also prohibited the use of Title X funds for abortions (In FY2015, this provision appeared in P.L. 113-235, Division G, Title II). For background on abortion funding restrictions in general, see CRS Report RL33467, *Abortion: Judicial History and Legislative Response*, by Jon O. Shimabukuro.

[68] HHS, OPA, "Standards of Compliance for Abortion-Related Services in Family Planning Services Projects," 65 *Federal Register* 41270–41280, July 3, 2000; and HHS, OPA, "Provision of Abortion-Related Services in Family Planning Services Projects, " 65 *Federal Register* 41281-41282, July 3, 2000.

[69] 42 C.F.R. Part 59, "Grants for family planning services."

any option(s) about which the pregnant woman indicates she does not wish to receive such information and counseling."[70]

According to OPA, family planning projects that receive Title X funds are closely monitored to ensure that federal funds are used appropriately and that funds are not used for prohibited activities such as abortion. The prohibition on abortion does not apply to all the activities of a Title X grantee, but only to activities that are part of the Title X project. The grantee's abortion activities must be "separate and distinct" from the Title X project activities.[71] Safeguards to maintain this separation include (1) careful review of grant applications to ensure that the applicant understands the requirements and has the capacity to comply with all requirements; (2) independent financial audits to examine whether there is a system to account for program-funded activities and non-allowable program activities; (3) yearly comprehensive reviews of the grantees' financial status and budget report; and (4) periodic and comprehensive program reviews and site visits by OPA regional offices.[72]

It is unclear exactly how many Title X clinics also provide abortions through their non-Title X activities. In 2004, following appropriations conference report directions, HHS surveyed its Title X grantees on whether their clinic sites also provided abortions with non-federal funds.[73] Grantees were informed that responses were voluntary and "without consequence, or threat of consequence, to non-responsiveness." The survey did not request any identifying information. HHS mailed surveys to 86 grantees and received 46 responses. Of these, 9 indicated that at least one of their clinic sites (17 clinic sites in all) also provided abortions with non-federal funds, and 34 indicated that none of their clinic sites provided abortions with non-federal funds; 3 responses had no numerical data or said the information was unknown.

Title X supporters argue that family planning reduces unintended pregnancies, thereby reducing abortion.[74] HHS estimates that Title X family planning services helped avert 870,000 unintended pregnancies in 2013.[75] The Guttmacher Institute estimates that clinics receiving Title X funds helped avert 363,000 abortions in 2012.[76]

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[70] On December 19, 2008, HHS published a provider conscience rule which, according to HHS at the time, was "inconsistent" with the requirement that Title X grantees provide clients with abortion referrals upon request (73 *Federal Register* 78087). The rule was later rescinded in 2011 (76 *Federal Register* 9968).

[71] 65 *Federal Register* 41281-41282, July 3, 2000.

[72] Email from Barbara Clark, HHS, Office of the Assistant Secretary for Legislation, August 24, 2006. See also *OPA Program Instruction Series, OPA 11-01: Title X Grantee Compliance with Grant Requirements and Applicable Federal and State Law, including State Reporting Laws*, Letter from Marilyn J. Keefe, Deputy Assistant Secretary for Population Affairs, to Regional Health Administrators, Regions I-X; Title X Grantees, March 1, 2011, http://www.hhs.gov/opa/pdfs/opa-11-01-program-instruction-re-compliance.pdf.

[73] HHS, *Report to Congress Regarding the Number of Family Planning Sites Funded Under Title X of the Public Health Service Act That Also Provide Abortions with Non-Federal Funds*, 2004. HHS was directed to conduct the survey by FY2004 appropriations conference report H.Rept. 108-401, pp. 800-801.

[74] Examples of this argument can be found in Rachel Benson Gold, Adam Sonfield, and Cory L. Richards, et al., *Next Steps for America's Family Planning Program: Leveraging the Potential of Medicaid and Title X in an Evolving Health Care System*, Guttmacher Institute, New York, 2009, pp. 16-17, http://www.guttmacher.org/pubs/NextSteps.pdf, and in U.S. Congress, Senate Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, *Threat to Title X and Other Women's Health Services*, 104th Cong., 1st sess., August 10, 1995, S.Hrg. 104-416 (Washington: GPO, 1996), pp. 16-21.

[75] HHS, HRSA, *Fiscal Year 2016 Justification of Estimates for Appropriations Committees*, p. 406.

[76] Jennifer J. Frost, Mia R. Zolna, and Lori Frohwirth, *Contraceptive needs and services, 2012 Update*, Guttmacher Institute, New York, NY, 2014, p. 21, http://www.guttmacher.org/pubs/win/contraceptive-needs-2012.pdf.

On the other hand, Title X critics argue that federal funds should be withheld from any organization that performs or promotes abortions, such as the Planned Parenthood Federation of America. These critics argue that federal funding for non-abortion activities frees up Planned Parenthood's other resources for its abortion activities.[77] Some critics also argue that if a family planning program is operated by an organization that also performs abortions, the implicit assumption and the message to clients is that abortion is a method of family planning.[78]

Teenage Pregnancy and Title X

In 2013, 18% of Title X clients were aged 19 or younger.[79] Critics argue that by funding Title X, the federal government is implicitly sanctioning nonmarital sexual activity among teens. These critics argue that a reduced teenage pregnancy rate could be achieved if family planning programs emphasized efforts to convince teens to delay sexual activity, rather than efforts to decrease the percentage of sexually active teens who become pregnant.[80] (See CRS Report RS20301, *Teenage Pregnancy Prevention: Statistics and Programs*.)

The program's supporters, on the other hand, argue that the Title X program should be expanded to serve more people in order to reduce the rate of unintended pregnancies. According to HHS, in 2013, Title X family planning services helped avert an estimated 160,000 unintended teen pregnancies.[81] Supporters of expanding family planning services argue that the United States has a higher teen pregnancy rate than some countries (such as Sweden) where a similar percentage of teens are sexually active, in part because U.S. teens use contraception less consistently. Some also argue that recent trends in U.S. teen birth rates can be explained in part by changes in teen contraceptive use.[82]

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[77] Examples of this argument can be found in House debate, *Congressional Record*, daily edition, vol. 154, no. 112 (July 9, 2008), pp. H6320-H6326. 327,653 abortion procedures were performed by Planned Parenthood affiliates in 2013, comprising 3% of Planned Parenthood services that year, according to the Planned Parenthood Federation of America, *Planned Parenthood 2013-2014 Annual Report,* 2014, pp. 14-15, http://www.plannedparenthood.org/about-us/annual-report.

[78] An example of these arguments can be found in U.S. Congress, Senate Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, *Threat to Title X and Other Women's Health Services*, pp. 22-35.

[79] Fowler et al., *Family Planning Annual Report: 2013 National Summary,* p. 9.

[80] An example of these arguments can be found in U.S. Congress, Senate Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, *Threat to Title X and Other Women's Health Services*, pp. 22-35.

[81] HHS, HRSA, *Fiscal Year 2016 Justification of Estimates for Appropriations Committees*, p. 406. See also the discussion of publicly funded family planning services in "Programs to Reduce Unintended Pregnancy," in The Institute of Medicine, *The Best Intentions: Unintended Pregnancy and the Well-Being of Children and Families* (Washington: National Academy Press, 1995), p. 220, http://www.nap.edu/catalog.php?record_id=4903.

[82] An example of these arguments can be found in U.S. Congress, Senate Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, *Threat to Title X and Other Women's Health Services*, pp. 16-21. See also Jacqueline E. Darroch, et al., "Differences in Teenage Pregnancy Rates Among Five Developed Countries: The Roles of Sexual Activity and Contraceptive Use," *Family Planning Perspectives*, vol. 33, no. 6 (November/December 2001), pp. 244-251; John S. Santelli and Andrea J. Melnikas, "Teen Fertility in Transition: Recent and Historic Trends in the United States," *Annual Review of Public Health*, vol. 31 (2010), pp. 371-383; and Heather D. Boonstra, "What Is Behind the Declines in Teen Pregnancy Rates?" *Guttmacher Policy Review,* vol. 17, no. 3 (Summer 2014), pp. 15-21.

Confidentiality for Minors and Title X

By law, Title X providers are required to "encourage" family participation when minors seek family planning services.[83] However, confidentiality is required for personal information about Title X services provided to individuals, including adolescents.[84] OPA instructs grantees on confidentiality for minors:

> It continues to be the case that Title X projects may not require written consent of parents or guardians for the provision of services to minors. Nor can any Title X project staff notify a parent or guardian before or after a minor has requested and/or received Title X family planning services.[85]

The April 2014 Title X guidelines state,

> Providers of family planning services should offer confidential services to adolescents and observe all relevant state laws and any legal obligations, such as notification or reporting of child abuse, child molestation, sexual abuse, rape, or incest, as well as human trafficking. Confidentiality is critical for adolescents and can greatly influence their willingness to access and use services. As a result, multiple professional medical associations have emphasized the importance of providing confidential services to adolescents.
>
> Providers should encourage and promote communication between the adolescent and his or her parent(s) or guardian(s) about sexual and reproductive health. Adolescents who come to the service site alone should be encouraged to talk to their parents or guardians. Educational materials and programs can be provided to parents or guardians that help them talk about sex and share their values with their child. When both parent or guardian and child have agreed, joint discussions can address family values and expectations about dating, relationships, and sexual behavior.[86]

Although minors are to receive confidential services, Title X providers are not exempt from state notification and reporting laws on child abuse, child molestation, sexual abuse, rape, or incest.[87]

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[83] 42 U.S.C. 300(a) states that Title X grantees shall encourage family participation "to the extent practical." P.L. 113-76, Division H, §209 requires Title X grantees to certify that they encourage family participation in minors' decisions to seek family planning services.

[84] 42 C.F.R. §59.11. Also, several court cases have interpreted Title X statute as supporting confidentiality for minors; see Glenn A. Guarino, "Provision of family planning services under Title X of Public Health Service Act (42 U.S.C.A. §300-300a-8) and implementing regulations," *American Law Reports Federal*, 1985, 71 A.L.R. Fed. 961.

[85] HHS, OPA, *Clarification regarding "Program Requirements for Title X Family Planning Projects": Confidential Services to Adolescents*, OPA Program Policy Notice 2014-1, June 5, 2014, http://www.hhs.gov/opa/pdfs/ppn2014-01-001.pdf.

[86] Gavin et al., "Providing Quality Family Planning Services: Recommendations of CDC and the U.S. Office of Population Affairs," p. 13. For an overview of Title X efforts to encourage family participation, see RTI International, *An Assessment of Parent Involvement Strategies in Programs Serving Adolescents: Final Report*, 2007, http://www.hhs.gov/opa/pdfs/parent-involvement-final-report.pdf. The report found that parent involvement is associated with several positive outcomes, such as delayed sexual initiation and lower rates of pregnancy and sexually transmitted infections.

[87] P.L. 113-235, Division G, Title II, §210. *OPA Program Instruction Series, OPA 11-01: Title X Grantee Compliance with Grant Requirements and Applicable Federal and State Law, including State Reporting Laws*, Letter from Marilyn J. Keefe, Deputy Assistant Secretary for Population Affairs, to Regional Health Administrators, Regions I-X; Title X Grantees, March 1, 2011, http://www.hhs.gov/opa/pdfs/opa-11-01-program-instruction-re-compliance.pdf.

Some minors who use Title X clinics have dependent health coverage through a parent's private health insurance policy. However, for confidentiality reasons, they may not wish to bill family planning or STD services to their parent's health insurance. According to OPA, Title X clinics "commonly forgo billing" health insurers in order to maintain confidentiality.[88]

As for payment of services provided to minors, Title X regulations indicate that "unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources."[89] Program requirements instruct that "Eligibility for discounts for unemancipated minors who receive confidential services must be based on the income of the minor."[90]

Supporters of confidentiality argue that parental notification or parental consent requirements would lead some sexually active adolescents to delay or forgo family planning services, thereby increasing their risk of pregnancy or sexually transmitted diseases.[91]

Critics argue that confidentiality requirements can interfere with parents' right to know of and to guide their children's health care. Some critics also disagree with discounts for minors without regard to parents' income, because the Title X program was intended to serve "low-income families."[92]

Planned Parenthood and Title X

The Planned Parenthood Federation of America (PPFA) operates through a national office and 62 affiliates, which operate approximately 700 local health centers.[93] Affiliates participating in Title X can receive funds directly from HHS or indirectly from other Title X grantees, such as their state or local health departments.

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[88] Private health insurance policy holders often receive "explanations of benefits" that describe services charged to their insurance policy. Often policy holders may also view a history of claims made under their policies. These common health insurance practices may inadvertently breach the confidentiality of dependents who receive care through those policies. OPA has awarded research funding to study these practices' effects on Title X clinics' revenues. HHS, OPA, *FY14 Announcement of Availability of Funds for Family Planning Affordable Care Act (ACA) Impact Analysis Research Cooperative Agreements*, March 7, 2014, pp. 5-6, 10-11, https://www.grantsolutions.gov/gs/preaward/previewPublicAnnouncement.do?id=49223. See also Abigail English, Rachel Benson Gold, and Elizabeth Nash, et al., *Confidentiality for Individuals Insured as Dependents: A Review of State Laws and Policies*, Guttmacher Institute, July 2012, http://www.guttmacher.org/pubs/confidentiality-review.pdf.

[89] 42 C.F.R. §59.2.

[90] HHS, OPA, *Program Requirements for Title X Funded Family Planning Projects*, April 2014, p. 13.

[91] An example of this argument is in Rachel K. Jones, Alison Purcell, and Susheela Singh et al., "Adolescents' Reports of Parental Knowledge of Adolescents' Use of Sexual Health Services and Their Reactions to Mandated Parental Notification for Prescription Contraception," *JAMA*, vol. 293, no. 3 (January 19, 2005), pp. 340-348. See also the staff quotations in RTI International, *An Assessment of Parent Involvement Strategies in Programs Serving Adolescents: Final Report*, 2007, pp. 5-10.

[92] Examples of these arguments appear in *Congressional Record*, daily edition, vol. 142 (July 11, 1996), pp. H7348-H 7349, and U.S. Congress, Senate Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, *Threat to Title X and Other Women's Health Services*, 104th Cong., 1st sess., August 10, 1995, S.Hrg. 104-416 (Washington: GPO, 1996), pp. 22-23. See also the discussion in RTI International, *An Assessment of Parent Involvement Strategies in Programs Serving Adolescents: Final Report*, 2007, pp. 5-9.

[93] Planned Parenthood Federation of America, *Planned Parenthood at a Glance*, http://www.plannedparenthood.org/about-us/who-we-are/planned-parenthood-at-a-glance.

In March 2015, the Government Accountability Office (GAO) released a report with data on the obligations, disbursements, and expenditures of federal funds for several nonprofit organizations, including PPFA and its affiliates.[94]

According to the GAO report, in FY2012, HHS reported obligating $18.67 million, and disbursing $19.08 million, to PPFA affiliates through the Title X program.[95] These figures reflected funds that HHS provided directly to these organizations. They did not include Title X funds that reached Planned Parenthood or its affiliates indirectly through subgrants or that passed through from state agencies or other organizations.

The GAO report also showed PPFA affiliates' expenditures of Title X funds. Most of these expenditures were identified through audit reports that PPFA affiliates submitted to comply with Office of Management and Budget (OMB) audit requirements.[96] Expenditures included federal funds provided directly or indirectly to these organizations. The most recent expenditure data were from FY2012, when Planned Parenthood and its affiliates reported spending $64.35 million from the Title X Family Planning Services program.[97]

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[94] U.S. Government Accountability Office (GAO), *Health Care Funding: Federal Obligations to and Expenditures by Selected Entities Involved in Health-Related Activities, 2010–2012*, GAO-15-270R, March 20, 2015, http://www.gao.gov/products/GAO-15-270R.

[95] According to GAO, the term obligation refers to "a definite commitment by a federal agency that creates a legal liability to make payments immediately or in the future," while the term disbursement refers to "amounts paid by federal agencies, in cash or cash equivalents, to satisfy government obligations." GAO, *Health Care Funding: Federal Obligations to and Expenditures by Selected Entities Involved in Health-Related Activities, 2010–2012*, pp. 30, 32..

[96] Organizations with annual expenditures of federal funds of $500,000 or more are required to have an audit. For several PPFA affiliates that did not meet the expenditure threshold for audits, GAO obtained data directly from the affiliates. GAO, *Health Care Funding: Federal Obligations to and Expenditures by Selected Entities Involved in Health-Related Activities, 2010–2012*, pp. 2, 39, 40.

[97] Tables 24 and 25, GAO, *Health Care Funding: Federal Obligations to and Expenditures by Selected Entities Involved in Health-Related Activities, 2010–2012*, pp 39, 40.