Excluding Planned Parenthood has been Terrible for Texas Women

AND TEXAS STILL WANTS MEDICAID TO PAY FOR ITS BAD IDEA

Summary

The stakes are high as Texas, once again, asks for permission to use federal Medicaid funds for a family planning program that excludes Planned Parenthood – this time asking the Trump administration. This paper reviews what we have learned over the last four-and-a-half years since Texas took the ill-advised step of removing its largest family planning provider, Planned Parenthood, from the Women’s Health Program.

Overwhelming evidence shows that women in Texas lost access to critical health care services after Planned Parenthood was excluded. Texas’ efforts to boost provider enrollment after removing Planned Parenthood resulted in thousands of additional providers technically signed up for the program, but failed to address the network capacity issues created by the state’s actions. It is time to reverse course. Given the Texas track record, it should be clear to the federal government and other states wanting to avoid Texas’ missteps that excluding efficient and trusted family planning providers, like Planned Parenthood, from women’s health programs runs directly counter to the goal of expanding access to family planning services and causes unnecessary harm to women, their families, and the state.

Ensuring all Texans have access to family planning services so they can plan the timing and size of their families is critical to building equal economic and social opportunity. In addition, family planning helps women avoid unplanned pregnancy and prepare for healthy pregnancies, improving the well-being of both women and their babies.

Texas has a large and growing unmet need for affordable family planning services, but has made ill-advised and politically motivated decisions that limit access to critical services. The results have been harmful.
to Texas women and families. Texas’ most recent step could set a dangerous national precedent, so it’s critical that we explore the history and implications of this policy decision.

On June 30, 2017, the state formally asked the federal Medicaid program to pay for an existing, state-funded family planning program called Healthy Texas Women, even though the program excludes Planned Parenthood. Planned Parenthood is an essential part of the fabric of the family planning safety net in Texas, relied on by low-income and uninsured Texans to provide birth control, cancer screenings, and other preventive health care. Texas forfeited the same federal Medicaid funding it now seeks at the end of 2012 when, in an earlier version of the program, the state banned all providers that “affiliate with entities that perform or promote elective abortions.” This move, which conflicted with federal law, was explicitly aimed at removing Planned Parenthood from the program. Outcomes from this policy change have been extensively studied over the last four-and-a-half years. Overwhelming evidence shows that, after Planned Parenthood was removed from the program, women in Texas lost access to critical health care services.

As Texas asks again for permission to use federal Medicaid funds for a program that excludes Planned Parenthood – this time asking the Trump administration – the stakes are high. If the federal government approves Texas’ request, it will be a dangerous and unprecedented departure from long-standing federal protections that ensure Medicaid clients can access family planning services from the provider of their choice. While the damage from excluding Planned Parenthood from state family planning programs in Texas is already done, if federal Medicaid funds are made available for programs with politically motivated provider exclusions, it will be easier for other states to follow Texas’ misguided path without fiscal consequences, if they fail to learn from our mistakes.

The first stated goal of Texas’ proposed family planning waiver is to “increase access to women’s health and family planning services to avert unintended pregnancies, positively affect the outcome of future pregnancies, and positively impact the health and well-being of women and their families.” The easiest way to achieve this worthy goal would be for Texas to ensure that all large, efficient, and trusted providers like Planned Parenthood are full program participants. If either Texas or federal Medicaid administrators are serious about expanding access to family planning services in Texas, they will realize that excluding Planned Parenthood runs directly counter to that goal, causing unnecessary harm to women, their families, and our state.

Women’s Health Program History

The Women’s Health Program (WHP), launched on January 1, 2007, provided essential well-woman services including Pap smears, breast exams, and birth control to low-income women. WHP was what’s known as a Medicaid 1115 family planning waiver program. Through an 1115 waiver, the federal Centers for Medicare and Medicaid Services (CMS) can grant permission to states to opt out of certain Medicaid laws, if doing so helps create new, innovative demonstration projects that are “likely to assist in promoting the objectives” of the Medicaid program.1

Through the waiver process, Texas received federal approval to provide contraceptives and related services to women who would otherwise not have been eligible for the Medicaid program (i.e., under pre-Affordable Care Act law). Texas also received substantial federal funding through the waiver – for every one dollar Texas spent on the program, the federal government kicked in nine more.

Texas received federal approval to run the Women’s Health Program through December 31, 2011. At legislative direction, when the Texas Health and Human Services Commission (HHSC) applied to renew the waiver for future years in October 2011, it indicated the program moving forward would exclude providers that “affiliate with entities that perform or promote elective abortions.”2 (The Women’s Health Program only covered preventive care and never covered abortion care.) The “affiliate rule” change, which bars providers not based on their qualifications to provide medical care but on whether they “affiliate” with providers that perform abortion, was aimed explicitly at removing Planned Parenthood from the program.
CMS denied Texas’ request, concluding that blocking access to certain health care providers based on reasons unrelated to the providers’ qualifications to deliver family planning services would circumvent long-standing federal law protections ensuring Medicaid clients the right to freely choose their family planning providers, and was inconsistent with the goals of the Medicaid program.³ Texas then chose to forfeit federal funding and instead converted WHP into a fully state-funded program that did not include Planned Parenthood. Ultimately, CMS maintained federal funding for the waiver program through December 31, 2012, giving Texas time to transition to the new Texas Women’s Health Program.

In 2014, the Sunset Advisory Commission recommended that HHSC consolidate the Texas Women’s Health Program with another state-funded program that provided family planning services. HHSC launched the new program, Healthy Texas Women, on July 1, 2016.

**Bad Idea Makes a Comeback**

During the 2017 legislative session, lawmakers expressed interest in converting the Healthy Texas Women program back into an 1115 family planning waiver program, a move that would shift the bulk of costs in the program from the state budget to the federal budget. The 2018-19 state budget passed by the Texas Legislature in May 2017 contains a directive for HHSC to apply for an 1115 waiver and an expectation that, once approved, the waiver will replace $90 million of state General Revenue (GR) dollars with federal Medicaid funding.⁴

On May 12, 2017, HHSC posted a draft 1115 family planning waiver application for HTW, starting a federally required 30-day state comment period.⁵ HHSC formally submitted a final waiver application on June 30, 2017, and CMS is accepting public comment on Texas’ waiver request through August 4, 2017. In its application, HHSC essentially seeks permission to refinance the state-funded program with federal Medicaid funds with no changes to the program. Texas is now seeking the same federal funding it previously forfeited for a new program that

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**Timeline**

**Women’s Health Program** (Jan 2007 – Dec 2012)

*Medicaid 1115 waiver program, includes participation by Planned Parenthood*

- **Jan 2007** – Women’s Health Program (WHP) launches
- **Oct 2011** – Texas submits renewal application with affiliate ban excluding Planned Parenthood
- **Dec 2011** – CMS denies renewal, offers 3-month extension
- **Mar 2012** – Texas announces intention to convert WHP to a state-funded program
- **Mar 2012** – New WHP “affiliate rule” takes effect, excluding Planned Parenthood
- **Dec 2012** – Last month Planned Parenthood is reimbursed under the program

**Texas Women’s Health Program** (Jan 2013 – Jun 2016)

*Fully GR-funded program that excludes Planned Parenthood*

- **Jan 2013** – TWHP launches
- **2014** – Sunset Commission recommends consolidation of TWHP with EPHC to create new Healthy Texas Women program

**Healthy Texas Women** (Jul 2016 – Aug 2018)

- **Jul 2016** – HTW launches
- **May 2017**
  - Texas budget instructs HHSC to seek federal funds for HTW
- **Jun 2017** – HHSC formally submits its request for federal funds for HTW to CMS, which excludes Planned Parenthood
- **Aug 2017** – End of federal public comment period for HTW request

**Healthy Texas Women waiver program** (to start Sep 2018)

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continues to exclude Planned Parenthood. In other words, Texas is asking the same question it asked to CMS in 2011—can the state ignore federal protections ensuring Medicaid clients the right to choose their providers while using federal funding—but hoping that it will get a different answer from the Trump administration.

### Harm to Women after Planned Parenthood Excluded

Texas has now run its ill-advised experiment to exclude organizations “affiliated” with abortion providers from participating in the Medicaid Women’s Health Program, and its successor programs, the Texas Women’s Health Program and Healthy Texas Women, for four-and-a-half years. Outcomes have been extensively studied over that period. Several different measures and studies, including the state’s own data, show that provider capacity has declined as have the number of women getting services and the quality of those services. In other words, it is clear that the state’s decision to remove Planned Parenthood from the Women’s Health Program has harmed access to health care and resulted in worse health outcomes.

#### Network Capacity Dropped Even as the Number of Providers Technically Enrolled Grew

When Texas removed Planned Parenthood from the Women’s Health Program, it was the state’s largest

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Period of time Texas took to fully remove Planned Parenthood: Texas submitted waiver application to remove Planned Parenthood in Oct 2011 and final program reimbursements to Planned Parenthood were in Dec 2012.
women’s health provider, serving more than 40 percent of clients in WHP. In fact, the state’s own provider capacity study showed that in Fiscal Year 2012, the 51 participating Planned Parenthood clinics served more WHP clients than all of the other 1,948 nearby providers (located within a 30-mile radius of a Planned Parenthood) combined.\textsuperscript{6} Texas made the rosy prediction that former Planned Parenthood clients would be able to readily find alternate providers, but actual experience has shown this is not the case, despite concerted state efforts to boost the capacity of its provider network without Planned Parenthood.

HHSC data published in March 2017 show a significant decline from FY 2011 to FY 2015 in program participation by high-volume providers.\textsuperscript{7} The average number of clients receiving services per provider fell from 150 clients per provider during FY 2011 to 103 clients per provider during FY 2015. Over the same period the state added many providers to the program who serve relatively few clients, increasing the unique number of certified providers from 1,328 in FY 2011 to 4,603 in FY 2015.\textsuperscript{8} However, the state’s efforts to sign up providers failed to address capacity issues, as evidenced by a sharp drop in the number of clients served, the percentage of enrolled women who get health care services, and the number of clients who received contraception, even as the number of providers technically certified climbed. HHSC added 3,695 providers to the Women’s Health Program and successor programs between FY 2010 and FY 2016, yet over the same period, 36,375 fewer women received health care services – for each nominal provider added to the program, 10 women lost health care services (see Figure 2).

### Concurrent Changes to Other Texas Family Planning Programs

Excluding Planned Parenthood from WHP was one of several ill-advised policy changes Texas made from 2011-12. In 2011, the Texas Legislature also took aim at a separate women’s health program called Family Planning, housed at the Department of State Health Services (DSHS). In an effort to defund Planned Parenthood through that program, the Legislature introduced a hierarchy for receiving funding and placed dedicated family planning clinics, including Planned Parenthood, in the bottom tier. The Legislature simultaneously slashed funding to the program – cutting DSHS Family Planning funding by two-thirds.

Taken together with excluding Planned Parenthood from WHP, these policy changes left the Texas family planning safety net in tatters. Eighty-two clinics closed or eliminated family planning services (only one-third were Planned Parenthood clinics), dramatically fewer women received care, access to the most effective forms of contraception was reduced, and costs to Medicaid increased.\textsuperscript{1,2}

The state wisely reversed course on the deep funding cuts to DSHS Family Planning. The 2013 Legislature restored state funding cut from DSHS Family Planning through a newly created parallel program, the Expanded Primary Healthcare Program (EPHC). By FY 2016, access had improved in these two programs, though together they still did not serve as many clients served as in FY 2010, before the cuts.\textsuperscript{3} The state did not, however, reverse course on its unwise decision to exclude Planned Parenthood from the Texas Women’s Health Program.

It is noteworthy that funding was not cut to WHP (or later programs) even when it was gutted for DSHS Family Planning. In other words, worsening outcomes in WHP are not due to direct finding cuts. Rather, the sharp reduction in access to care and negative family planning outcomes in WHP and successor programs stem from both excluding the program’s largest provider, Planned Parenthood, and the weakened capacity of safety net family planning providers more generally following the 2011 funding cuts to DSHS Family Planning.

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It has always been the case in the Women’s Health Program and successor programs that a relatively small number of high-volume, safety-net providers deliver the bulk of the services, while many “enrolled” providers serve no women at all and others serve just one or two a year. In FY 2010, 62 percent of WHP participating providers served 10 or fewer clients. Given this well-known dynamic, the raw number of providers enrolled is an essentially meaningless number and the growth over time in unique providers signed-up in no way reflects the capacity of the provider network—yet HHSC relies on these metrics in the draft waiver application and elsewhere and does not provide an alternate, more meaningful way to evaluate network capacity.

Fewer Women Received Health Care, Including Contraception

According to HHSC data, the number of women enrolled in the Women’s Health Program/Texas Women’s Health Program/Healthy Texas Women declined by 26 percent from FY 2011 to FY 2016, from 127,536 to 94,851 women. Program enrollment started increasing at the end of FY

![Figure 2](image-url)

**With More Providers, Why Are Fewer Women Getting Services?**

*Adding Thousands of Low-Volume Providers Did Not Reverse Dramatic Declines in Access to Health Care*

Source: HHSC, HHS Women’s Health Update, April 2017 and Final Report of the Former Texas Women’s Health Program: Fiscal Year 2015 Savings and Performance, March 2017. Data for WHP/TWHP/HTW. Clients served data for FY 2016 combines the unduplicated client served for the Texas Women’s Health Program, which ended in June 2016, and HTW, which started in July 2016. Period of time Texas took to fully remove Planned Parenthood: Texas submitted waiver application to remove Planned Parenthood in Oct 2011 and final program reimbursements to Planned Parenthood were in Dec 2012.
2016 when HHSC implemented an automatic transition into the program for women losing coverage in Medicaid for Pregnant Women 60 days after they give birth. HHSC automatically enrolls about 4,000 clients a month from Medicaid for Pregnant Women. Moving forward, it will be important to look at indicators other than just program enrollment to understand how the program is working and whether clients are accessing health care services.

After Planned Parenthood was excluded, the decline in access to services was even more severe than the enrollment drop. The number of women getting health care services in the program declined 39 percent, from 115,226 in FY 2011 to 70,336 in FY 2016. This dynamic – access to services dropping even faster than enrollment – points to serious issues with provider capacity. In FY 2011, 90 percent of all women enrolled in the Medicaid Women’s Health Program accessed health care services. By FY 2016, only 74 percent of women enrolled in the Texas Women’s Health Program/Healthy Texas Women received health care services (see Figure 1). In other words, by FY 2016, one in four women technically enrolled in the Texas Women’s Health Program/Healthy Texas Women was never seen by a health care provider for covered family planning services.

The number of women specifically accessing contraceptives (as opposed to other covered services) also dropped sharply, from 97,163 in FY 2011 to 57,696 in FY 2015, a drop of 41 percent. This sharp drop cannot be explained by overall declining enrollment and declining services in the program. During the same time clients accessing contraceptives fell by 41 percent, clients accessing any health care service in the program dropped by only 29 percent. Looked at another way, in FY 2011, 76 percent of women enrolled in WHP received contraceptives, and in FY 2015, only 56 percent of TWHP clients did.

It is troubling that even among the declining share of clients who accessed any health care services, fewer still received a contraceptive method. The primary goal of WHP/TWHP was to help women avoid unintended pregnancy, and the very limited benefits covered in the program were centered around a family planning exam and contraception. Data showing declining contraceptive access within a family planning program raise questions about how the program’s changing provider network has affected the ability of patients to access and adhere to their preferred contraceptive method.

As HHSC notes in its report, some of the decrease in access to contraceptives in any one year can be explained by an uptick (5.4 percent increase from FY 2011 to FY 2015) in women choosing long-acting reversible contraception (LARC) methods, which remain effective for three or more years. While true, the estimated number of program clients who have received LARC since FY 2011 is not high enough to fully explain why 39,500 fewer enrollees received contraception between FY 2011 and FY 2015.

Program Changes Have Been Bad for Women’s Health

Such dramatic reductions in access to services inevitably led to poorer outcomes. After Texas excluded Planned Parenthood from its family planning programs including the Women’s Health Program, Texas has experienced a reduction in the provision of highly effective methods of contraception, interruptions in contraceptive continuation, and increased rates of Medicaid births. Research has shown that counties which lost Planned Parenthood services saw a reduction in the utilization of highly effective contraceptive methods as well as injectable contraception. LARC utilization was reduced by 35 percent and injectable contraception by 31 percent. Continuation of injectable contraception by clients using that method decreased from 60 percent to 38 percent in counties that previously had participating Planned Parenthoods clinics. Researchers also found that the birth rate shot up among former Planned Parenthood clients who relied on injectable contraceptives. Between 2011 and 2014, the number of births from this population, paid for through Medicaid, increased by 27 percent.

Women Face Added Barriers to Care

Finding alternate providers is not as easy as it sounds. Midland, Texas provides a case study of the barriers faced by former Planned Parenthood clients. The Planned Parenthood in Midland closed in 2013. Other local comprehensive clinics that wanted to pick up the slack expressed doubt about their capacity to do so. Planned
Parenthood transferred 2,000 active patient records to the local federally qualified health center, but more than three years later, the center reports that fewer than 200 former Planned Parenthood patients have been seen.15

Women must find providers who offer services near them; have available, timely appointments; stock, prescribe, or administer their desired contraceptive method; and charge fees they can afford. Researchers interviewed women who lost services at Planned Parenthood in Houston and Midland and found that many had difficulties finding a new provider, had to go to multiple appointments before getting a contraceptive method, were charged more for services, and ended up on less-effective contraceptive methods.16

Conclusion

The state’s request for a new 1115 Medicaid family planning waiver to fund Healthy Texas Women provides a good opportunity to review the program and ensure it is equipped to best serve Texas women and advance the goals of the Medicaid program. There is no question that WHP successor programs have been less successful at providing access to family planning services than the original Women’s Health Program was, with Planned Parenthood as it largest provider. Texas’ efforts to boost provider enrollment resulted in thousands of providers technically signed up for the program, but failed to address the network capacity issues created when Planned Parenthood was excluded. Given the well-documented harm to women’s access to health care caused by Texas’ ill-advised experiment, it is clearly time to reverse course. If either Texas or CMS is serious about expanding access to family planning services in Texas, they will realize that excluding Planned Parenthood runs directly counter to that goal, causing unnecessary harm to women, their families, and our state.

ENDNOTES

1 Section 1115, Social Security Act
2 Human Resources Code section 32.024(c-1)
3 Letter from Cindy Mann, Director of the CMS Center for Medicaid and CHIP Services, to Billy Millwee, Texas HHSC Associate Commissioner for Medicaid and CHIP, December 12, 2011. Federal “freedom of choice” protections for people enrolled in Medicaid are in Section 1902(a)(23)(A) of the Social Security Act. Relevant parts of this section: (a) A State plan for medical assistance must (23) provide that . . . (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required . . . who undertakes to provide him such services, . . .
5 CPPP’s comments to HHSC on the Healthy Texas Women draft 1115 family planning waiver application are available at https://forbettertexass.org/images/CPPP_comments_on_HTW_draft_waiver_application.pdf
8 Texas Health and Human Services, HHS Women’s Health Update, April 2017, Slide 23, http://d11ahlh6ldz25.cloudfront.net/20170508/c5/6d/0e/8c/2d1a4edc29f4acecabbb2863/HHSC_Presentation_April_2017_1.pdf
11 Texas Health and Human Services, HHS Women’s Health Update, April 2017, Slide 5, http://d11ahlh6ldz25.cloudfront.net/20170508/c5/6d/0e/8c/2d1a4edc29f4acecabbb2863/HHSC_Presentation_April_2017_1.pdf
13 HHSC’s data provides LARC client counts for only FY 2011 (6,264 clients getting LARC) and FY 2015 (6,581 clients getting LARC). The number of women getting LARC in the intervening years would need to be taken into account to determine if the total number of clients established on LARC, and therefore not needing other contraceptives for some number of years, could account for the total drop in contraceptive clients of 39,467 women from FY 2011 to FY 2015. To be conservative, we assumed that 6,581 clients accessed LARC in each of FY 2012, 2013 and 2014—the same number as received LARC in 2015. Taken together, we estimate that 26,000 program clients accessed LARC from FY 2011-14, which cannot fully explain the drop of 39,467 women accessing contraceptives in the program by FY 2015.

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