



CHRIS KAPENGA

WISCONSIN STATE SENATOR

Testimony on Senate Bill 237

Senate Committee on Health and Human Services

September 22, 2015

First, I would like to thank Chairman Vukmir and the members of the committee for holding a hearing on Senate Bill 237. Additionally, I would like to thank Representative Jacque for his leadership on this issue with Assembly Bill 310.

The Title X Family Planning program was enacted in 1970 as Title X of the Public Health Service Act. Title X intended to provide funding to grantees that demonstrate the ability to serve low-income individuals, men and women alike, who might not otherwise have access to healthcare services related to family planning and healthy families. Currently, Wisconsin has one Title X grantee, Planned Parenthood, which has received \$10.5 million in Title X funding over the last three years alone.

The intent of Title X funding is to promote public health and improve medical access for low-income individuals. When these funds are being used to actively terminate human life, it is in direct conflict with its intent. This bill rectifies that abuse and ensures the funds will be used to prolong, not end, life.

Under Senate Bill 237, the Department of Health Services (DHS) would apply for grant funds under Title X of the federal Public Health Service Act and would distribute funds received first to public entities, including state, county, local health departments, health clinics and then the Wisconsin Well Woman Program. If there are remaining funds, DHS will then distribute funds to certain nonpublic entities. Senate Bill 237 does not end direct access to basic health services for low-income individuals, but simply redirects Title X funds to entities with a proven track record.

Many Wisconsinites have access to great healthcare services here in Wisconsin. If Title X funding is part of this equation, it should be administered and distributed by the Wisconsin Department of Health Services.

I ask you to consider the recommendation of Senate Bill 237 for a vote in front of the full Senate. Thank you again, Chairman Vukmir and members of the committee, for taking the time to hold this public hearing. I look forward to working with you on the passage of this legislation.



ANDRÉ JACQUE

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TO: Members of the Senate Committee on Health and Human Services
FROM: Representative André Jacque
DATE: September 22, 2015
RE: Senate Bill 237

Chairwoman Vukmir and Senate Health and Human Services Committee members:

Thank you for the opportunity to also testify before you today in support of Senate Bill 237.

I am pleased to author this legislation with Sen. Kapenga in order to redirect and prioritize the federal Title X funding allocated to the state of Wisconsin toward purposes that best serve the needs of Wisconsin citizens, rather than those of a narrow special interest which has been receiving those dollars uncontested.

Presently, Planned Parenthood –our state and the nation’s largest abortion provider, which thrives off of siphoning taxpayer dollars- is the *only* direct recipient of Wisconsin’s Title X funding, which amounts to more than 3.5 million dollars annually. This funding is supposed to be used for a broad array of public health activities in Wisconsin, including breast and cervical cancer screening, screening for high blood pressure, anemia and diabetes, screening for sexually transmitted diseases, HIV and AIDS, infertility services, health education, pregnancy testing, contraceptive services, pelvic exams, and referrals for other health and social services. There are no matching funding requirements, other than that Title X dollars cannot provide 100% of a recipient’s funding, and funding is not distributed base on the number of services provided or clients served.

The majority of recipients of Title X dollars nationally are public entities, and several states have taken action to ensure that none of the Title X dollars they receive go to Planned Parenthood or other abortion providers. SB 237 requires that the State of Wisconsin apply for the Title X funds that are allocated for Wisconsin, and would place in state law the requirement that any Title X dollars the state would receive could not be distributed directly or indirectly to Planned Parenthood, any other abortion provider, or their affiliates. This bill would add up to \$3.538 Million annually in federal funding for cervical and breast cancer screening and for a variety of communicable disease services and public health programs overseen by county and local health departments.

While giving our state Department of Health Services flexibility in preparing a comprehensive and competitive application, this legislation will direct funding first to state, county and local health departments and health clinics as well as partnerships like the Wisconsin Well Woman Program, and any remaining funds to hospitals or federally qualified healthcare centers (FQHCs) that provide comprehensive primary and preventative care. Local health departments will also be given the ability to subgrant the funds to providers that do not perform abortions.

SB 237 does not, and cannot guarantee that the federal government will award Wisconsin with all, or even any of the funding which should be available to it. It cannot and does not prohibit Planned Parenthood from continuing to apply for or directly receiving funding from the federal government. It does, however, require that Wisconsin apply for and compete for that funding on an ongoing basis, and that any funds received will be dedicated to a broader healthcare network and Wisconsin's –not Planned Parenthood's- priorities.

Several other states have also diverted Title X dollars from Planned Parenthood and abortion providers, and their actions have been upheld, including the State of Kansas' victory last year in the 10th Federal Court of Appeals.

I have attached written testimony in support of Senate Bill 237 and its companion legislation received from the County Executives of Manitowoc County (a former Democrat State Representative) and Waukesha County, as well as the Chippewa County Board Chairman. As noted by Manitowoc County Executive Ziegelbauer, I received a resolution earlier this year from the Manitowoc County Board with nearly unanimous support requesting additional funding to support communicable disease control, which SB 237 would assist the state in providing. Some of you may no doubt have received similar resolutions from your own counties. It is also pointed out in Waukesha County Executive Paul Farrow's letter that Wisconsin is one of only three states in the entire country which identify Planned Parenthood as the sole Title X grantee for the state, and that thirty-two states do not use Planned Parenthood as a grantee.

Thank you for your consideration, and we will be happy to answer any questions.



To: Members of the State Senate Committee on Health and Human Services
From: Wisconsin Coalition Against Sexual Assault
Subject: Opposition to AB 310 / SB 237 and AB 311 / SB 238
Date: September 22, 2015

The Wisconsin Coalition Against Sexual Assault (WCASA) respectfully submits this written testimony, urging you to join us in opposing AB 310 / SB 237 and AB 311 / SB 238.

WCASA is a statewide membership agency comprised of organizations and individuals working to end sexual violence in Wisconsin. Among these are the 51 sexual assault service provider agencies throughout the state that offer support, advocacy and information to survivors of sexual assault and their families.

Sexual assault is about domination and control over another person's body and decision-making. Consequently, it is important to offer survivors of sexual assault opportunities to regain that control by empowering them to make their own decisions and ensuring they have many options, especially for their healthcare.

However, AB 310 / SB 237 and AB 311 / SB 238 could greatly limit sexual assault survivors' options for healthcare. This would further restrict survivors' control to make their own decisions about their care, negatively affecting their overall health and well-being.

AB 310 / SB 237 would prohibit Planned Parenthood of Wisconsin from receiving federal Title X funding. This funding supports comprehensive family planning and related preventive healthcare services. For 35 years, Planned Parenthood has been the direct Title X grantee in Wisconsin.

AB 311 / SB 23 would only allow family planning and sexually transmitted infection (STI) health centers to receive an exceptionally low reimbursement rate for the prescription drugs that they dispense. This rate could significantly undermine these centers' operating budgets.

Taken together, these bills could cause many of these health centers to close. More than 50,000ⁱ people — many of them low income — throughout the state rely on these health centers for access to prevention and treatment of STIs, comprehensive family planning, and related preventive healthcare services.

This is unnecessary and unacceptable. Wisconsin can and must do better to ensure survivors of sexual assault have all of the choices for care and all of the opportunities for empowerment that they need and deserve. WCASA stands firm in opposing this legislation.

Thank you for your consideration. If you have any questions, please contact Dominic W. Holt, WCASA public policy and communications coordinator, at 608-257-1516 ext. 113 or dominich@wcasa.org.

ⁱ Fowler et al. Family Planning Annual Report: 2012 National Summary (Research Triangle Park, NC: RTI International, November 2013, <http://www.hhs.gov/opa/pdfs/fpar-national-summary-2012.pdf>) cited in Title X in Wisconsin: Improving Public Health and Saving Taxpayer Dollars (National Family Planning and Reproductive Health Association, April 2014, <http://www.nationalfamilyplanning.org/document.doc?id=602>)



TO: Members of the Senate Health and Human Services Committee
FROM: Lisa Davidson, Director of Government Relations and Advocacy
CC: Senator Chris Kapenga, Stephanie Harrison, Tony Langenohl
DATE: September 22, 2015
SUBJECT: Senate Bill 237

For 50 years, Wisconsin's FQHCs, (Health Centers) have provided comprehensive primary health care, dental services and behavioral health care for adults and children. Health centers are:

- Private or public not-for-profit organizations
- Located in or serve a high-need community
- Governed by a community board comprised of a majority of health center patients who represent the population served
- Responsible for meeting performance and accountability requirements and publicly reporting clinical and financial data

WPHCA and its members appreciate the legislature's recognition of the role that FQHCs play in providing comprehensive, community-oriented, patient-centered primary and preventive health care services.

Our chief concern with this proposal is that it will disrupt access to care, without adequate transition planning, and during a time of significant change for the FQHCs. We are sharing our concerns with the intention of naming the potential impact of this legislation and creating more realistic expectations of the FQHCs.

We request the Legislature consider our concerns as this bill moves forward.

1. Contextual factors:

- FQHC input on this change was not solicited and we learned that they were expected to be the delivery system of the future at the Assembly Health Committee hearing on September 2, 2015.
- The Wisconsin Well Woman Program has recently undergone significant changes resulting in a much smaller provider network. Lessons learned from this transition should be factored in to this discussion. Early efforts to streamline and simplify the WWP network took nearly 2 years, much longer than initially planned. In addition, the contractual terms made it difficult for many of the FQHCs to participate. Thus, the provider network for these preventive services is already less robust.
- As directed by the 2015-17 Biennial Budget, FQHCs are in the midst of a change in their reimbursement methodology by July 2016, and with this, their operating and business models. The fiscal impact of these changes are not known on an FQHC-by-FQHC basis. Asking FQHCs to expand capacity to serve these additional populations is doubly difficult given the ambiguity about the business model that will be needed for ongoing viability and sustainability.

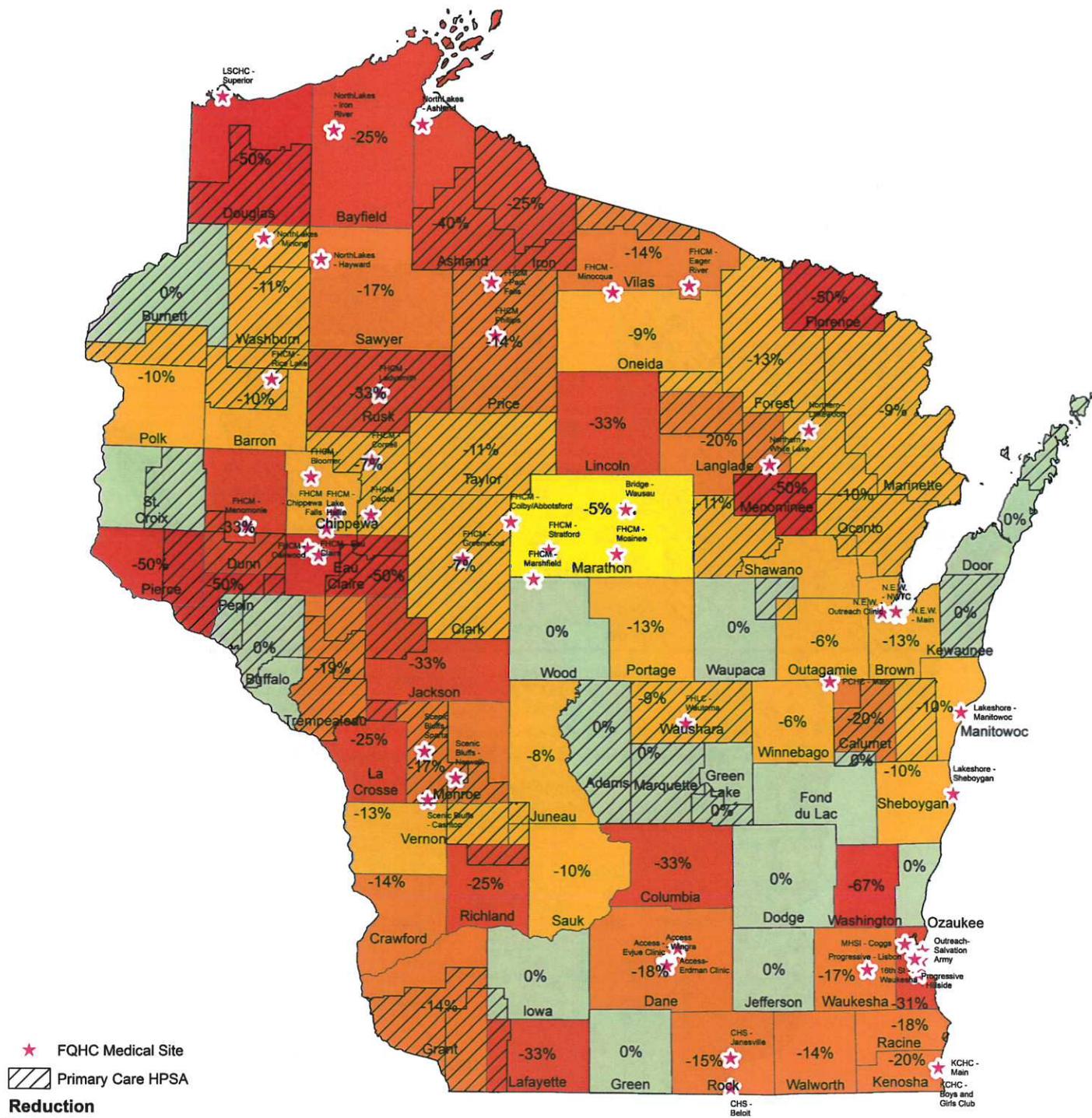


2. Delivery system challenges:

- FQHCs currently serve just under 300,000 patients statewide. When combined with Senate Bill 238, it is estimated that between 60,000 and 100,000 people will be needing new points of care. We are unable to estimate what would be required to make this successful and avoid disruptions in care.
- In markets where both FQHCs and family planning clinics exist, women often use family planning services for annual cancer screenings and birth control, and use FQHC services for broader health care services. In these markets, FQHCs will be challenged by losing a provider partner without the corresponding physical or provider capacity, and in some cases, expertise, to assume care of these women without systematic planning and preparation and/or additional space.
- In many markets, FQHCs do not have service delivery points in areas where family planning clinics will be closing. In these communities, the delivery system challenges will be even greater, with patients needing to identify alternative providers who will accept an influx of patients on Medicaid or a sliding fee discount – or patients needing to travel sizable distances to receive that care at an FQHC.

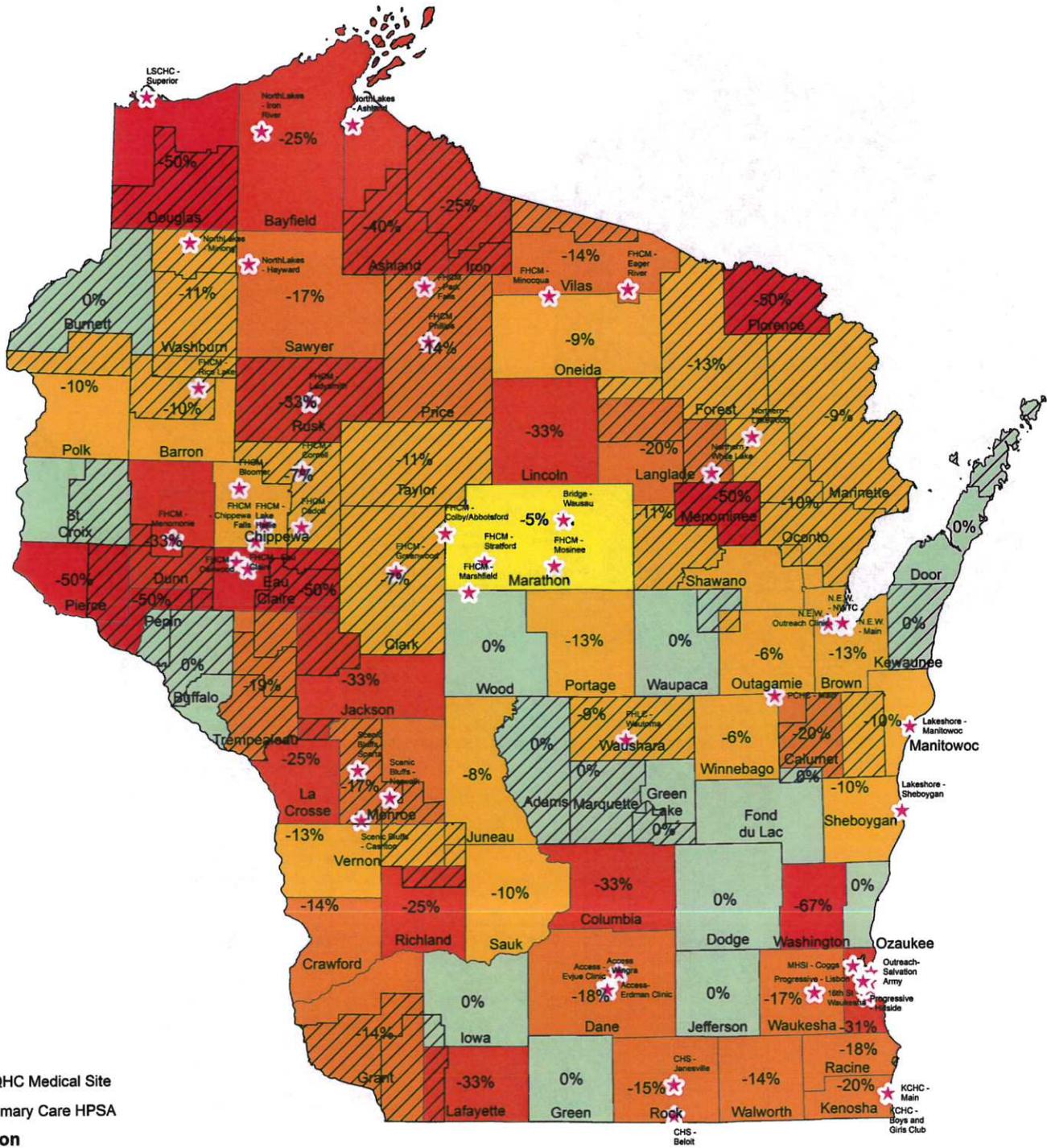
As a valued partner, we want the legislature to be aware of these concerns and the potential unintended consequences (gaps in access, higher Medicaid costs, and added volatility to the FQHC business model).

Potential Decrease in Women's Health Access Points Given Family Planning Assembly Bills (% Decrease)



% Decrease is an estimate given
 the number of current total access points:
 T10 Family Planning Clinics as well as other
 Family Planning Clinics, Well Women Providers (T5),
 Local Health Departments, FQHCs, Tribal Clinics,
 and Rural Health Clinics MINUS
 Clinics that would close due to
 loss of T10 funding and 340B funding

Potential Decrease in Women's Health Access Points Given Family Planning Assembly Bills (% Decrease)





THE AMERICAN CONGRESS
OF OBSTETRICIANS
AND GYNECOLOGISTS
WISCONSIN SECTION

September 22, 2015

Senate Committee on Health and Human Services
Hearing SB 237, SB 238

Senator Vukmir and Committee members,

On behalf of the Wisconsin Section of the American Congress of Obstetricians and Gynecologists (ACOG) and our patients, we respectfully submit this testimony in strong opposition to SB 237 and 238. OB-GYNs are guided by a professional and ethical commitment to protecting women's access to health care, and these bills do just the opposite.

Planned Parenthood offers basic preventive services that are fundamental to women's health and well-being. One in five women in the U.S. has visited a Planned Parenthood health center at least once in her life; more than five million women, men, and adolescents receive sexual and reproductive health care, education, information, and outreach each year worldwide. Planned Parenthood's preventive services do not just include family planning. Each year, its centers provide nearly 400,000 Pap tests, 500,000 breast exams, and 4.5 million tests and treatments for sexually transmitted infections, including 70,000 HIV tests. In many cases, these services are nothing less than lifesaving.

For many women, Planned Parenthood and other Title X clinics are the only source for essential health care. Proposals like SB 237 and 238 to undermine Planned Parenthood and exclude it from public health programs will severely limit women's access to these critical services. At a time when we should be focused on improving the health of ALL people, it is frustrating to witness ongoing attempts to cut off access to life-saving preventive care to the most vulnerable.

The State of Wisconsin does not have the infrastructure to care for the underserved and underinsured patients without Planned Parenthood. There is a shortage of primary care physicians. Many clinics limit the number of Medicaid patients and do not accept patients with no insurance or undocumented aliens. Community health centers do not have the appropriate staff, equipment and expertise to absorb these patients, nor do they have a "sliding scale". Many practicing OB/GYNs or Family Practitioners refer patients or their partners to Planned Parenthood for care when their clinic cannot accept them.

The supporters of SB237 may argue that it will block public funding for abortion. This rhetoric is bewildering, given that the Title X program was established to support programs that prevent unintended pregnancy and reduce the number of abortions-and in fact explicitly restricts any of its funding from going to abortion services. In 2013 publicly funded family planning programs in Wisconsin

helped to PREVENT 21,200 unintended pregnancies and thus PREVENT an estimated 7,200 abortions in Wisconsin.¹ Blocking Planned Parenthood from receiving these funds would almost certainly lead to an increase in unintended pregnancies-and it would follow, an increase in abortions.

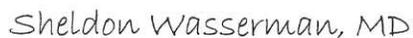
SB 238 limits the public health drug pricing under the federal 340B program. There are 18 Title X clinics in WI with 9 of them Planned Parenthood and 9 of them non-Planned Parenthood. The 340B pricing proposal is for all WI family planning clinics - not just Planned Parenthood. No clinic can afford the cost of providing drugs to patients without covering costs for counseling patients, stocking, tracking and dispensing meds by licensed professionals.

If the proponents of these bills were genuinely committed to women's health, they would be working to expand access to preventive services like those Planned Parenthood and other family planning and STI clinics provide. Instead, they continue to restrict the ability of Wisconsin OB-GYNs to provide our patients with care and the ability of our state's most vulnerable women to access health services. Wisconsin has an unacceptably high prematurity rate, infant mortality rate and a rising maternal mortality rate. The best way to reduce these costly public health problems is to provide education, prenatal care and reliable contraception-especially long acting reversibly contraception (LARC). We need all of these clinics and more. According to the Guttmacher Institute, "by averting unintended pregnancies and other negative reproductive health outcomes, publicly funded family planning services provided by safety-net centers in Wisconsin helped save the federal and state governments \$171.5 million in 2010."²

Therefore, we strongly oppose any efforts to defund or restrict the services Planned Parenthood provides and urge you to vote against SB237 and 238. Thank you for the opportunity to submit testimony.



Kathy D. Hartke, MD
Chair, WI Section ACOG



Sheldon Wasserman, MD
Vice Chair, WI Section ACOG

¹ Frost JJ, Frohwirth L and Zolna MR, *Contraceptive Needs and Services, 2013 Update*, New York Guttmacher Institute, 2015. <http://guttmacher.org/pubs/win/contraceptive-needs-2013pdf>

² Kost K, *Unintended Pregnancy Rates at the State Level Estimates for 2010 and Trends Since 2002* New York: Guttmacher Institute, 2015. <http://www.guttmacher.org/pubs/StateUP08.pdf>



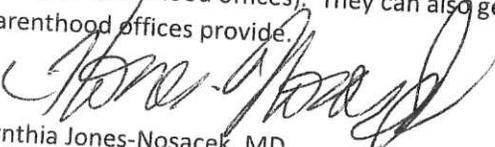
AB310/SB 237 Support

We, the members of the Milwaukee Guild of the Catholic Medical Association, support AB 310/SB 237 which would prevent Title X funding to any recipient who provides or refers for abortion or has an affiliate that does so.

Abortion is not healthcare. Funds given to an organization that provides and/or refers for an abortion free up money that then can be applied to abortion services.

While Planned Parenthood states that abortion constitutes only 3% of its services, they can make that claim only by unbundling what they provide to each client. In fact, Planned Parenthood's idea of prenatal care is where 19 out of every 20 pregnant women who come to them are sold abortions.

Even if poor women were unable to go to Planned Parenthood, they will still be able to receive such healthcare as pap smears at 162 federally qualified health care centers in this state (as opposed to 22 Planned Parenthood offices). They can also get mammograms there which none of the Planned Parenthood offices provide.


Cynthia Jones-Nosacek, MD

President, Milwaukee Guild of the Catholic Medical Association



WISCONSIN CATHOLIC MEDICAL GUILDS

Upholding the Principles of the Catholic Faith in the Science and Practice of Medicine

September 22, 2015

To: Members, Senate Committee on Health and Human Services
FROM: Robin Goldsmith, MD, President, Wisconsin Catholic Medical Guilds
RE: Support for Senate Bill 237 & Senate Bill 238

The Wisconsin Catholic Medical Guilds strongly support Senate Bill 237 and Senate Bill 238 which, together, would defund Planned Parenthood of Wisconsin, the state's largest abortion provider, of 7.5 million taxpayer dollars.

Senate Bill 237 would prevent Title X family planning funding of any entity that provides or refers for abortion or has an affiliate that does so. Abortion is not healthcare. Funds given to an organization that provides and/or refers for an abortion free up moneys that can then be applied to abortion services. While Planned Parenthood states that abortion constitutes only 3% of its services, they can make that claim only by unbundling what they provide to each client. In fact, 19 out of every 20 pregnant women who come to Planned Parenthood are sold abortions.

Even if women were unable to go to Planned Parenthood of Wisconsin (PPWI), they will still be able to receive such healthcare as pap smears at 162 federally qualified health care centers in this state (as opposed to 22 Planned Parenthood offices). They can also get mammograms there which none of the Planned Parenthood offices provide.

Senate Bill 238 would reimburse Title XIX (Medicaid) family planning providers, including PPWI, at the actual cost they pay for birth control drugs under the federal 340B Drug Discount Program. To continue to allow these providers to bill Medicaid at many times what they actually pay for birth control drugs is a gross waste of taxpayer dollars. This legislation will free up scarce Medicaid resources which provide healthcare for the neediest among us. To be sure, the Guilds oppose public funding of birth control and we support any measure to reduce such funding.

Thank you for your attention to this critical legislation.

Wisconsin Collaborative

9-21-15

Who we are:

We are providers that receive:

Wisconsin Women's Health Block Grant (Title V Maternal and Child Health funds).

These are federal dollars that pass through the state, then the state administers the Title V program.

- 23 community-based providers receive funds under this grant, 7 are private providers and 16 are public health agencies.
- Collectively, this program serves 18,000 patients.
- In 2011, Governor Walker's first budget eliminated PPWI from this program. PPWI lost its funding in 9 WI counties- in 8 of those counties; PPWI was the only women's health provider. As a result, PPWI has closed 5 of those sites and no new providers have taken over in those communities, including Fond du Lac, Beaver Dam, Shawano, Johnson Creek and Chippewa Falls.

The benefits of the WI Collaborative are:

Calculated benefits and cost savings based on 18,000 patients/ year

# of unintended pregnancies prevented	4,500
# of unplanned births prevented	2,230
# of abortions prevented	1,540
# of miscarriages following unintended pregnancies prevented	730
# of unplanned births after short (<18 months) interpregnancy intervals prevented	580
# of unplanned preterm/low-birth-weight births prevented	300
Maternal and birth-related gross costs saved from contraceptive services provided	\$29,632,200

Miscarriage and ectopic pregnancy gross costs saved	-\$901,050
Averted abortions gross costs saved	-\$1,280
Total family planning costs	-\$3,740,710

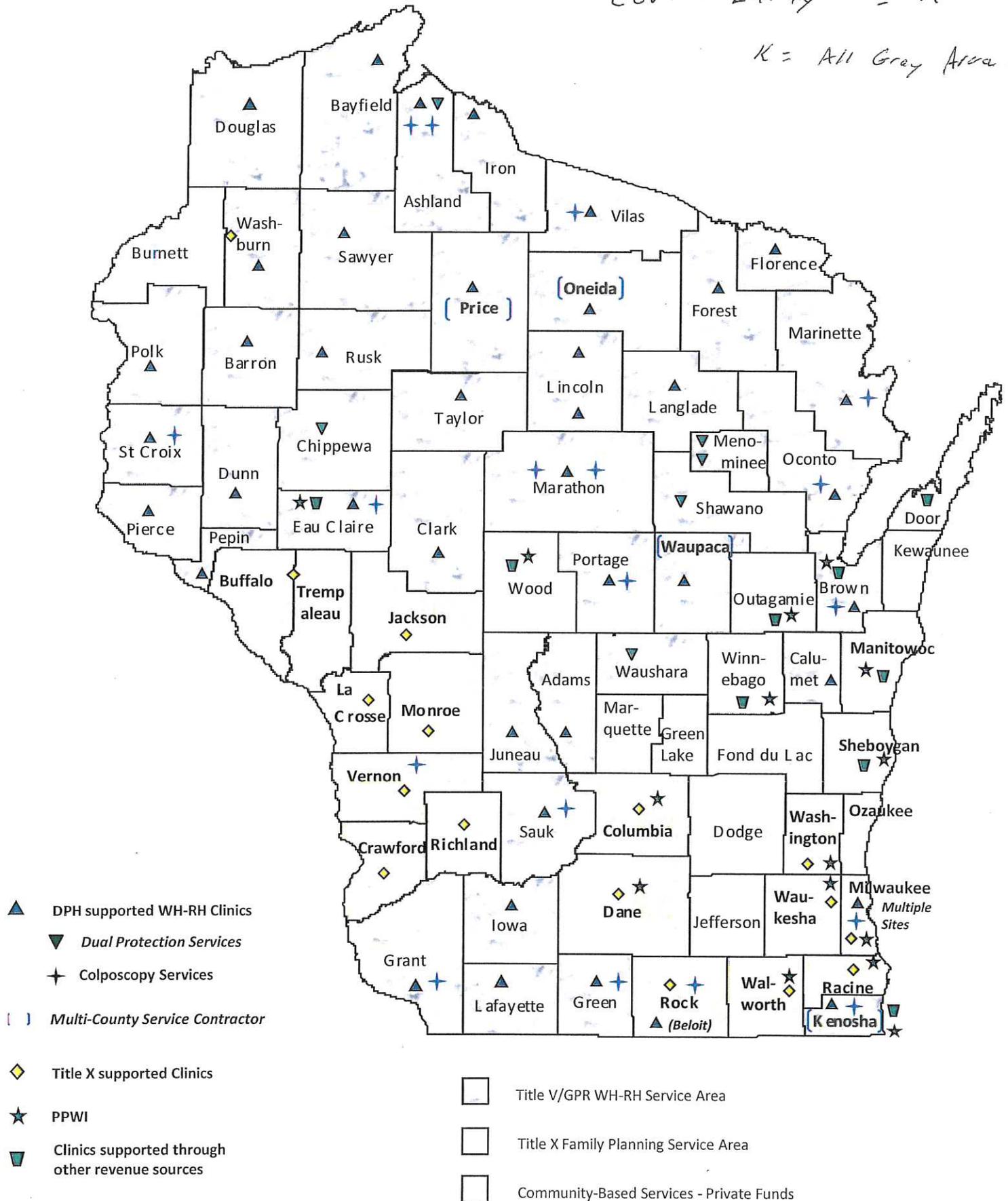
Total net savings **\$26,793,820**

Source:00 Health Benefits and Cost Savings of Publicly Funded Family Planning , <http://www.guttmacher.org/broader-benefits/index.html>

Women's Health-Reproductive Health Services 2015

"Covered Entity" = K

K = All Grey Area



TO: Senate Committee on Health and Human Services
FROM: Sara Finger, Executive Director, Wisconsin Alliance for Women's Health
RE: Testimony In Opposition to SB 238 – Changing the Prescription Drug Reimbursement Rate for Family Planning Clinics and in Opposition to SB 237 – Altering the Title X Funding Grant Process in Wisconsin
Date: September 22, 2015

Chairwoman Vukmir and members of the Senate Committee on Health and Human Services, thank you for the opportunity to share my testimony in opposition to SB 237 and SB 238 – two bills which would both undermine access to family planning and other important preventive health services across the state of Wisconsin.

SB 238 is problematic because it singles out family planning and sexually transmitted infection (STI) clinics for inadequate prescription drug reimbursement rates. The Wisconsin Alliance for Women's Health (WAWH) believes that SB 237 would have significant, adverse effects on the thousands of low-income women who rely on nonprofit and public health clinics for access to critical family planning services and treatment of STI's. Singling out such clinics for a lower reimbursement rates while exempting other entities—such as private pharmacies and hospitals—from this proposed reimbursement method makes absolutely no public policy sense at all. Many of these clinics are providing invaluable, cost-effective care to underserved and vulnerable populations.

SB 238 does not provide any state funding mechanism for these clinics to make up for the revenue that would be lost if the bill is passed into law. Given the already tight budgets under which most local governments are currently operating, it is highly unlikely that many local governments will be in a position to backfill any of the budget shortfalls that will result from this bill. This approach is particularly troubling because the need for publicly-funded family planning services in Wisconsin is currently being unmet, despite the tremendous efforts of safety net health centers in Wisconsin. The numbers are striking: 336,050 women in Wisconsin needed publicly-funded family planning services and only 26 percent of such women accessed care at safety-net health centers¹.

It is also worth remembering what these safety-net providers actually do for our communities: prevent unintended pregnancies (thus reducing the number of abortions in Wisconsin), prevent and treat STI's, and provide preventive cancer screenings. Undermining these clinics and their mission will harm the lower-income women and men who rely on their services and our communities at large, as these vital preventive services both promote public health and prevent far more expensive medical treatments.

SB 237 is also problematic. This legislation is nothing more than a politicized attempt to take federal Title X family planning funds away for Planned Parenthood of Wisconsin by requiring the Department of Health Services to apply for Title X funds using criteria that would eliminate Planned Parenthood from eligibility for the program. No evidence has been presented that would indicate shifting Title X money away from Planned Parenthood toward DHS would better achieve the goals of the Title X program, which is to assist people with family planning, improve birth outcomes and improve overall health for women and infants.

By almost all measurements, Title X funds as currently administered in Wisconsin are helping to achieve these goals. According to the Guttmacher Institute, contraceptive services provided at Title X-supported health centers in Wisconsin helped prevent 9,900 unintended pregnancies, which would likely have resulted in about 4,900 unplanned births and 3,400 abortions. In addition, the family planning services provided at safety-net centers in Wisconsin saved the federal and state governments \$171,542,000 in 2010².

¹ <https://www.guttmacher.org/statecenter/family-planning/WI.html#6>

² <http://www.guttmacher.org/datacenter/profiles/WI.jsp>

Like previous political attacks on family planning services, SB 237 is devoid of any language to ensure that there is sufficient network adequacy in the areas of the state that might see reduced access to care should the bill become law. The consequences of such politicized approaches to women's health care cannot be overstated. For instance, when the Governor's 2011 state budget eliminated Planned Parenthood clinics from eligibility for Title V Maternal and Child Health Block Grants, Planned Parenthood was forced to close 5 sites, all in counties where they were the only women's health provider. To this day, no other providers have filled this gap created in Fond du Lac, Beaver Dam, Shawano, Johnson Creek and Chippewa Falls.

To further illustrate other consequences not addressed by this bill, consider the cost of the average Medicaid-reimbursed birth, which in 2012 was \$12,613³. In 2013, publicly funded family planning services prevented 10,500 unplanned births in Wisconsin⁴. If half of these births were paid for by Medicaid, that would amount to an additional \$66.2 million in Medicaid spending on unplanned births alone, much of which would have to be covered by the state. As mentioned earlier, there is no contingency plan in either piece of legislation to deal with the potential cost increases to the state Medicaid program for reducing access to these services in Wisconsin, which both SB 238 and SB 237 would almost certainly do.

As an organization devoted to promoting comprehensive women's health in Wisconsin, WAWH respectfully asks the members of this committee to oppose both SB 238 and SB 237. It is clear that both of these bills are motivated by politics, not genuine concerns about improving public health. The thousands of Wisconsin women and men who rely on these vital family planning and preventive health services would be best served if the Legislature took the time to actually focus on evidence-based policies aimed **increasing** access to such services instead of only engaging in politicized attacks on those organizations that are providing tremendously valuable health services to our communities.

³ <http://www.nationalfamilyplanning.org/document.doc?id=602>

⁴ <http://www.guttmacher.org/statecenter/family-planning/pdf/WI.pdf>

September 21, 2015

To: Members of Senate Committee on Health and Human Services
From: The Wisconsin Breast Cancer Coalition
RE: SB237 and SB238

Dear Committee Members:

The Wisconsin Breast Cancer Coalition has actively supported the Wisconsin Well Woman Program (WWWP) since its inception. One of our overarching priorities is to ensure that all women have access to quality breast screening and treatment. We have spent many years educating members of the legislature about the importance of this program and have been pleased that legislators' recognition of that importance has been reflected in the state's share towards the program in past budgets.

Our concern with SB237 is with the intent to re-allocate family planning funds to the Well Woman Program. To improve screening in low income women, Congress in 1990 passed the [Breast and Cervical Cancer Mortality Prevention Act](#), directing the CDC to create the National Breast and Cervical Cancer Early Detection Program. The NBCCEDP funds all 50 states to carry out the intent of the 1990 law. This is a 3:1 match. In Wisconsin, the NBCCEDP is known as the Wisconsin Well Woman Program. Here are the services the law provides for according to the CDC:

- Clinical breast examinations.
- Mammograms.
- Pap tests.
- Pelvic examinations.
- Human papillomavirus (HPV) tests.
- Diagnostic testing if results are abnormal.
- Referrals to treatment.

You may notice that family planning services are not included. Even if there is a way around that, please be aware that changes made to the WWWP in the last year have left the program in disarray. The number of coordinators for services has been reduced from 72 to a mere 14. Healthcare providers in the system have been reduced from over 1000 to around 450. A current survey we've been conducting of coordinators shows that many of them don't even have information from the state yet regarding which providers will provide which services. And with about half our information in, only 67 sites even provide mammograms.

The WWWP does not appear to have the capacity to handle current needs, much less adding family planning and the other Title X required services. Furthermore, the WWWP has strict age limitations (45-64) that would preclude most women who need family planning services from even qualifying.

Another concern would be the additional layers of accounting that coordinators would have to manage. Can Title X funds be co-mingled with WWWP funding from the CDC? How will coordinators separate their time spent on WWWP covered services and Title X covered services? This is not the appropriate program towards which Title X funds for family planning should be directed. Adding funding to a cancer screening program that has been structurally downsized to the degree that WWWP has makes no fiscal sense and will not benefit Wisconsin women.

Family planning clinics serve a vital access point for low income women in both urban and rural settings, who otherwise would not see a healthcare provider for preventive screenings. They provide clinical breast exams and an opportunity for women to speak to a provider about their risk factors for breast cancer. Family planning clinics can

refer women to the WWP for a mammogram, where we know they'll receive excellent follow up and be encouraged to keep on a schedule of screening that could improve their odds of finding a breast cancer early.

We ask that you reject both SB237 and SB238, which will essentially starve these clinics, as they certainly will not improve the health of Wisconsin women, but may actually harm them by removing further access points to a health care provider. Further reducing access to health care providers for low income women will almost certainly result in more women being diagnosed with later stage disease, which is more deadly and more costly to treat.

Thank you for the opportunity to share our concerns.

Respectfully,

Dawn Anderson
Executive Director
Wisconsin Breast Cancer Coalition



ProLife
LOVE. FOR LIFE. WI.

**Testimony / Senate Bill 237, Diverting Federal Title X Family Planning funds Away from Organizations that Perform or Refer for Abortions
Senate Committee on Health and Human Services
By Matt Sande, Director of Legislation, Pro-Life Wisconsin**

September 22, 2015

Good morning Chairwoman Vukmir and Committee members. My name is Matt Sande and I serve as director of legislation for Pro-Life Wisconsin. Thank you for this opportunity to express our strong support for Senate Bill 237, legislation that would redirect federal Title X family planning funds away from organizations that perform or refer for abortions. Currently, federal Title X family planning funds are granted directly to Planned Parenthood of Wisconsin (PPWI), as they are the sole applicant in Wisconsin. PPWI receives \$3.5 million annually from Title X, effectively subsidizing their abortion business.

Senate Bill 237 would require the Department of Health Services (DHS) to apply, on an annual basis, for family planning grant funds under Title X of the federal Public Health Service Act and to distribute funds received first to the Wisconsin Well-Woman Program and public entities, including state, county and local health departments and health clinics. If any moneys remain after those distributions, DHS may then distribute grant funds to nonpublic entities that are hospitals or federally qualified health centers that provide comprehensive primary and preventive care. Under the bill, a public entity that receives family planning and preventive health services grant funds may provide some or all of the funds to other public or private entities provided that the recipient of the funds does not provide abortion services, make referrals for abortion services, or have an affiliate that provides abortion services or makes referrals for abortion services. The state of Kansas enacted similar Title X legislation which, when challenged by Planned Parenthood of Kansas, was upheld by the Tenth Circuit, United States Court of Appeals, in March of 2014.

Senate Bill 237 respects the consciences of Wisconsin taxpayers who oppose the use of public funds to directly or indirectly subsidize abortion. All money is fungible. Family planning funds undeniably free up resources within receiving organizations, like PPWI, to engage in the surgical abortion business. Planned Parenthood of Wisconsin has deceived our children by fostering a false sense of security about "safe sex," and has profited greatly from selling abortions to teen girls whose birth control fails. And despite their protestations, it is an open question whether PPWI engages in the grisly trade of aborted fetal body parts. Abortion is not healthcare. Planned Parenthood of Wisconsin, a non-profit organization with a net worth of over \$10 million that profits from killing unborn babies and exploits women in distress, should not be considered a healthcare provider. Wisconsin cannot continue to throw money at organizations that perform or refer for abortions.

Planned Parenthood of Wisconsin is far from the only provider of primary and preventive women's health services. Administered by the DHS, the state and federally funded Well-Woman Program provides uninsured low-income women ages 45 through 64 with preventative health care services. Federal dollars

(over)

pay for mammograms, Pap tests, cervical cancer screenings and multiple sclerosis tests while state dollars are used for educational outreach and case management services. Additionally, low-income women can get pap smears, STD screenings, and breast cancer screenings at Federally Qualified Health Centers (FQHCs) at 162 locations across Wisconsin, as compared to 22 PPWI clinics. For every Planned Parenthood clinic in Wisconsin, there are 7 FQHCs.

Pro-Life Wisconsin does not oppose public funding for basic health care services for low-income women, such as breast and cervical cancer exams, STD screenings, pap smears, mammograms, etc. We don't necessarily oppose the provision of birth control drugs for medicinal purposes. Pro-Life Wisconsin does oppose confidential family planning services that include sterilizations, contraceptives, IUDs, and the provision of chemically abortifacient drugs, such as the morning-after pill and the patch, to adults and minor children. But our bottom line is that no public funds, whatever their purpose, should ever go to Planned Parenthood and other organizations that perform or refer for abortions. Planned Parenthood can pay for these services themselves – not with the taxpayers' money.

Polls consistently demonstrate that Americans are opposed to taxpayer funding of abortions. Pro-Life Wisconsin urges the Wisconsin Legislature and Governor Walker to keep moving down the long road toward totally defunding Planned Parenthood of Wisconsin of all taxpayer dollars. The 2011-2013 state biennial budget began the journey by prohibiting state and federal Title V Maternal and Child Health funds from going to organizations or their affiliates that perform or refer for abortions, redirecting them to public entities. Senate Bill 237 is another big step in the right direction. We urge legislators to starve the abortion giant by cutting off all state and federal public funding streams to Planned Parenthood of Wisconsin.

Thank you for your consideration, and I am happy to answer any questions committee members may have for me.



Profit. No Matter What.

**Alliance Defending Freedom's Annual Report on Publicly Available Audits of
Planned Parenthood Affiliates and State Family Planning Programs**

July 23, 2014

Preface

On October 26, 2011, Alliance Defending Freedom¹ submitted its original report, *Summary of State Audits of Planned Parenthood Affiliated Providers Showing Waste, Abuse, and Potential Fraud*, to the Oversight and Investigations Subcommittee of the U.S. House of Representatives Energy and Commerce Committee. On February 7, 2012, the updated and supplemented initial report was released to the public, and on April 10, 2013, Alliance Defending Freedom published its second annual report, *Planned Parenthood's Waste, Abuse, and Potential Fraud: Alliance Defending Freedom's 2013 Report on Federal and State Audits of Planned Parenthood Affiliates and State Family Planning Programs*.

This third annual report documents Alliance Defending Freedom's research in identifying waste, abuse, and potential fraud of American taxpayer dollars by Planned Parenthood Federation of America (PPFA), its sixty-eight separately incorporated affiliates, and other abortion and family planning facilities, particularly with respect to federal and state Title XIX-Medicaid reimbursements. Updates in this 2014 edition include new Planned Parenthood audits in California, Louisiana, Maine, Washington State, and Wisconsin; new federal audits of state family planning programs in California, Iowa, Missouri, Nebraska, and Oklahoma; another unsealed False Claims Act lawsuit against Planned Parenthood; and more complete information on Planned Parenthood and other abortion and family planning facilities' other financial malfeasance.

Alliance Defending Freedom's research strongly suggests that Planned Parenthood and its affiliates are engaged in a pattern of practices designed to maximize their bottom-line revenues through billings to complex, well-funded federal and state programs that are understaffed and rely on the integrity of the provider for program compliance.²

¹ Alliance Defending Freedom is an alliance-building legal ministry advocating for religious liberty, the sanctity of life, and marriage and family.

² Over the last ten years (FY 2004 - FY2013), Planned Parenthood affiliates received over \$4 billion in taxpayer dollars. According to their own annual reports, Planned Parenthood has received government funding in the following amounts from 2002-2013:

A large and growing number of federal and state audits have documented that improper practices by Planned Parenthood and state family planning agencies have already resulted in losses to the American taxpayer of more than \$115 million, as a minimum, in Title XIX-Medicaid and other healthcare funding programs. This figure is supported by a recent U.S. Government Accountability Office (GAO) report

FY 2002: \$240.9 million	FY 2006: \$305.3 million	FY 2010: \$487.4 million
FY 2003: \$254.4 million	FY 2007: \$336.7 million	FY 2011: \$538.5 million
FY 2004: \$265.2 million	FY 2008: \$349.6 million	FY 2012: \$542.4 million
FY 2005: \$272.7 million	FY 2009: \$363.2 million	FY 2013: \$540.6 million

FY 2013 is the first year since FY 2002 that Planned Parenthood's self-reported government funding has decreased.

However, the U.S. Government Accountability Office (GAO), counting only a fraction of direct federal funding from self-reported expenditures, calculated Planned Parenthood's government funding and expenditures from 2002-2009 as \$657.1 million, with International Planned Parenthood Federation receiving \$3.9 million. *See* U.S. GOVERNMENT ACCOUNTABILITY OFFICE, FEDERAL FUNDS: FISCAL YEARS 2002-2009 OBLIGATIONS, DISBURSEMENTS, AND EXPENDITURES FOR SELECTED ORGANIZATIONS INVOLVED IN HEALTH-RELATED ACTIVITIES (GAO-10-533R) (2010), at Table 7, *available at* <http://www.gao.gov/new.items/d10533r.pdf>; *see also id.* at Tables 10, 16, 18. For the same time period, Planned Parenthood's annual reports report total government funding of \$2.388 billion – leaving only a fraction of Planned Parenthood's funding audited by GAO, the federal government's "watchdog."

Moreover, in FY 2012 alone, Planned Parenthood spent millions of dollars to elect politicians who support abortion and who defend and shield Planned Parenthood from any serious audit or investigation or other congressional oversight – including \$12 million for President Barack Obama's reelection alone. *See, e.g.,* Alicia Mundy, *Planned Parenthood PAC Aims Radio Ad for Obama*, WALL ST. J. (Oct. 31, 2012), *available at* <http://blogs.wsj.com/washwire/2012/10/31/planned-parenthood-pac-aims-radio-ad-for-obama/>.

Through the fourth quarter of 2013, Planned Parenthood's campaign contributions top \$30 million (\$30,129,374, not including contributions under \$200 or "accounting measures and more exotic contribution types"). INFLUENCE EXPLORER, PLANNED PARENTHOOD, [HTTP://INFLUENCEEXPLORER.COM/ORGANIZATION/PLANNED-PARENTHOOD/A3BF2B2A33A84534A706A2D04C52DE95](http://INFLUENCEEXPLORER.COM/ORGANIZATION/PLANNED-PARENTHOOD/A3BF2B2A33A84534A706A2D04C52DE95). Also through the fourth quarter of 2013, Planned Parenthood has spent over \$11 million on lobbying efforts (\$11,025,514). *Id.* For other general information on political influence, *see also, e.g.,* INFLUENCE EXPLORER, ADVISORY COMMITTEE DATA FOR PLANNED PARENTHOOD, <http://data.influenceexplorer.com/faca/#YWZmaWxpYXRpb249UGxhbm5lZCUyQlBhcmVudGhvb2Q=> (noting that four Planned Parenthood employees have sat on U.S. Department of Health and Human Services committees).

For the 2014 elections, Planned Parenthood has already announced plans to spend \$3 million in Texas alone, on races such as Sens. Wendy Davis for governor and Leticia Van de Putte for lieutenant governor. *See* Peggy Fikac & David Saleh Rauf, *Planned Parenthood Aiming to Spend \$3 Million on Texas Elections in 2014*, HOUSTON CHRONICLE (July 19, 2014), *available at* <http://www.houstonchronicle.com/news/politics/texas/article/Planned-Parenthood-aiming-to-spend-3-million-on-5633359.php>.

estimating that \$14.4 billion of federal Medicaid expenditures for fiscal year 2013 were improper payments.³ Yet it is troubling that all the audits conducted to date have been relatively superficial; thus far none has examined more than a small subsection of a provider's billings. Thus, the total amount of waste is likely many times the documented \$115 million. Clinics that provide Title XIX-Medicaid and other subsidized family planning services must be held accountable for their expenditure of taxpayer dollars through comprehensive audits of their entire clinic networks and by congressional oversight. American tax dollars should be used responsibly and for the common good.

More and more members of Congress are taking notice of Planned Parenthood's abuse of taxpayer dollars. A February 21, 2013, letter from Representative Diane Black (R-TN) and Representative Pete Olson (R-TX) and signed by seventy other Members of Congress was directed to the Comptroller General of the United States requesting that the U.S. Government Accountability Office (GAO) conduct a comprehensive audit of the receipt and use of federal taxpayer dollars - more than \$540 million in FY 2013 - by Planned Parenthood Federation of America and its related entities. On August 5, 2013, Members of Congress announced that GAO had accepted the request and had opened an investigation into Planned Parenthood, the Guttmacher Institute, and other prominent family planning organizations.

This recent congressional request follows the September 15, 2011, request by U.S. Representative Cliff Stearns, then Chairman of the Oversight and Investigations Subcommittee of the United States House of Representatives Energy and Commerce Committee, to PPFA President Cecile Richards for documents relating to "institutional practices and policies [of PPFA and its affiliates] . . . and its handling of federal funding," and particularly as regards its compliance with federal

³ U.S. GOVERNMENT ACCOUNTABILITY OFFICE, MEDICAID PROGRAM INTEGRITY: INCREASED OVERSIGHT NEEDED TO ENSURE INTEGRITY OF GROWING MANAGED CARE EXPENDITURES (GAO-14-341) (2014), at 2 (citing a figure calculated by the Centers for Medicare & Medicaid Services (CMS), the federal agency within the Department of Health and Human Services (HHS) that oversees Medicaid).

restrictions on the funding of abortion.⁴ The subcommittee demanded that Planned Parenthood produce its documents relating to audits, abortion funding, and sexual abuse reporting policies.

In response to this investigation, seven former Planned Parenthood employees, including clinic directors and an “abortion doctor,” wrote to the U.S. House Energy and Commerce Committee supporting the investigation, “not only . . . with respect to the use of tax dollars but also . . . to serve the best interest of women”⁵ In addition to attesting to their knowledge of Planned Parenthood’s use of abortion as a method of family planning, biased abortion counseling, and failure to report statutory rape, coerced abortion, and human trafficking, these seven former Planned Parenthood employees stated that “PPFA failed to properly account for and maintain separation between government funds prohibited from use for elective abortions and [other, unrestricted] funds”⁶ Further, “PPFA failed to engage in appropriate financial controls and billing practices to ensure compliance with applicable state and federal laws.” The former employees expressed concern that the “American people . . . are underwriting the growth of Planned Parenthood and its potent outreach to the young and the poor,” even as the organization acted and “operated as a law unto itself . . . exempt[] from the normal standards of accountability”

Coupled with this report, the recent letter from seventy-two Members of Congress and GAO investigation, the Oversight and Investigation letter and

⁴ Letter from Cliff Stearns, Chairman, U.S. House of Representatives Energy and Commerce Committee Subcommittee on Oversight and Investigations, to Cecile Richards, President, Planned Parenthood Federation of America (Sept. 15, 2011) (on file with Alliance Defending Freedom and available at <http://www.scribd.com/doc/66564569/Stearns-Planned-Parenthood>).

⁵ Letter from Catherine Adair et al., former employees of Planned Parenthood affiliates, to Fred Upton, Chairman, U.S. House of Representatives Energy and Commerce Committee, & Henry Waxman, Ranking Member, U.S. House of Representatives Energy and Commerce Committee (Dec. 7, 2011) (on file with Alliance Defending Freedom and available at http://www.sba-list.org/sites/default/files/content/shared/12.7.11_former_employees_of_planned_parenthood_letter_to_congress_0.pdf).

⁶ This form of waste, abuse, and potential fraud was also documented in the HHS-OIG audit of Tapestry Health Systems, Inc., described below in the Audits of Other Nonprofit Abortion and Family Planning Facilities section.

investigation, and the former employees' letter calling for a "check and balance" on Planned Parenthood, highlight the need for meaningful Congressional oversight in order to have any hope of achieving transparency, integrity, and accountability in all federal family planning programs, including Title V, Title X, Title XIX, and Title XX programs, and particularly for Planned Parenthood, which receives more than half a billion dollars of these funds each year, to be held accountable for the federal taxpayer dollars it expends.

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EXECUTIVE SUMMARY

This report outlines Alliance Defending Freedom's research in identifying waste, abuse, and potential fraud by Planned Parenthood affiliates and other abortion providers, particularly with respect to federal and state Title XIX-Medicaid reimbursements.

The weight of evidence indicates that waste by Planned Parenthood affiliates may be widespread, and suggests that such policies may be the result of, at a minimum, a policy of benign neglect over billing practices organization-wide by Planned Parenthood Federation of America's headquarters in New York City.

The publicly available audits summarized herein, as well as confidential sources who have inside knowledge of Planned Parenthood's operations, strongly suggest that Planned Parenthood affiliates systematically take advantage of "overbilling" opportunities to maximize revenues in complex, well-funded federal and state programs that are understaffed and rely on the integrity of the provider for program compliance.⁷

⁷ The lack of oversight of these state-run healthcare programs is supported by GAO's September 2011 report to congressional committees, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, DRUG PRICING: MANUFACTURER DISCOUNTS IN THE 340B PROGRAM OFFER BENEFITS, BUT FEDERAL OVERSIGHT NEEDS IMPROVEMENT (GAO-11-836) (2011)). This report concluded that the Health Resources and Services Administration (HRSA, within the Department of Health and Human Services, HHS) oversight of the 340B drug program was inadequate and that, "[t]o ensure appropriate use of the 340B program, GAO recommend[ed] that HRSA take steps to strengthen oversight regarding program participation and compliance with program requirements." HRSA agreed with GAO's recommendations that HRSA strengthen its compliance enforcement and not rely solely on self-policing by covered entities.

Nonetheless, Planned Parenthood Federation of America and dozens of its affiliates objected strenuously to a proposed Center for Medicare and Medicaid Services rule that would limit the number of entities that could purchase pharmaceuticals at reduced prices to 340B entities and intermediate care and nursing facilities. Planned Parenthood advocated for 340B-ineligible "safety net providers" to receive nominal pricing, as well, stating that many of its own clinics were not 340B-eligible and would be forced to close if asked to pay list price for pharmaceuticals. *See, e.g.*, Letter from Jacqueline K. Payne, Director of Government Relations, to Leslie V. Norwalk, Acting Administrator, Centers for Medicare and Medicaid Services (Feb. 20, 2007) (as a comment Medicaid Prescription Drugs Average Manufacture Price, 71 Fed. Reg. 77174 (Dec. 22, 2006)) (on file with Alliance Defending Freedom).

There are forty-four known external audits or other reviews of Planned Parenthood affiliates' financial data and practices: two in California, one in Connecticut, one in Illinois, two in Louisiana, one in Maine, seven in New York State, one in Texas, three in Washington State, and twenty-six in Wisconsin. Nearly all of the audits have found overbilling, and all are summarized below.

These forty-four audits found numerous improper practices resulting in significant Title XIX-Medicaid overpayments of over \$8 million to Planned Parenthood affiliates for family planning and reproductive health services claims. In combination with the \$4.3 million settlement in the *Reynolds* False Claims Act lawsuit, auditors and investigators have specifically identified **Planned Parenthood affiliates as the source of at least \$12.6 million in waste, abuse, and potentially fraudulent overbilling** of taxpayers. Former Planned Parenthood employees and others allege many millions more.

Furthermore, **fifty-one federal audits of state family planning programs by HHS-OIG found over \$107 million in overbilling.** The federal audits detailed "unbundling" billing schemes related to pre-abortion examinations, counseling visits, and other services performed in conjunction with an abortion; and improper billing for the abortions themselves.⁸ In New York alone during one four-year audit

The audit further determined that between thirteen and nineteen of the twenty-nine covered entities audited were actually generating revenue through the 340B program, rather than merely covering the costs of the drugs as planned.

⁸ One federal audit (Review of Clinic and Practitioner Claims Billed as Family Planning Services Under the New York State Medicaid Program, A-02-07-01037, Nov. 2008) noted that 27 of the 119 claims in the sample were abortion procedures, and one provider was responsible for 25 of them. Based on the procedure codes used, the auditors believed that this provider billed for at least 3,900 abortions during the audit claim, but only reviewed the 25 claims in the sample. Some were associated with no order at all; some orders had expired or had been signed only by a Registered Nurse (RN), without countersignature by a clinician. This practice is often associated with HOPE (Hormones with Optional Pelvic Exam) visits.

Another federal audit (Review of Abortion-Related Laboratory Claims Billed as Family Planning Under the New York State Medicaid Program, A-02-05-01009, July 2007) found that 98 out of the 100 sample claims, of a universe of 633,968 abortion-related claims, were improper. One laboratory provider, which specialized in examining abortion-related specimens, had submitted ninety-five of the ninety-eight improper claims. Forty-two involved abortion-related laboratory tests for which no federal funding is available, e.g.,

period, it appeared that *hundreds of thousands* of abortion-related claims were billed unlawfully to Medicaid.

Two of these federal audits specifically identified Planned Parenthood – and only Planned Parenthood – as the problem in state family planning program overbilling.

Seven of the federal HHS-OIG audits were of New York State and found federal overpayments in excess of \$32 million⁹ to the New York State Medicaid family planning program. These audits likely led to the seven state audits of New York Planned Parenthood affiliates; thirteen months after the federal audit of New York State that identified “especially Planned Parenthoods” as incorrectly claiming services as family planning,¹⁰ New York State released its first known audit report of

tests performed on the aborted fetus and tests performed before the abortion to assess the risk to the patient, such as complete blood counts, electrolytes, and blood typing. The remaining fifty-six improper claims related to abortion-related laboratory tests that are allowable at the applicable federal medical assistance percentage rate, but not at the enhanced ninety-percent federal financial participation (FFP) rate, e.g., pap smears, urinalysis, and tests for pregnancy and sexually transmitted diseases.

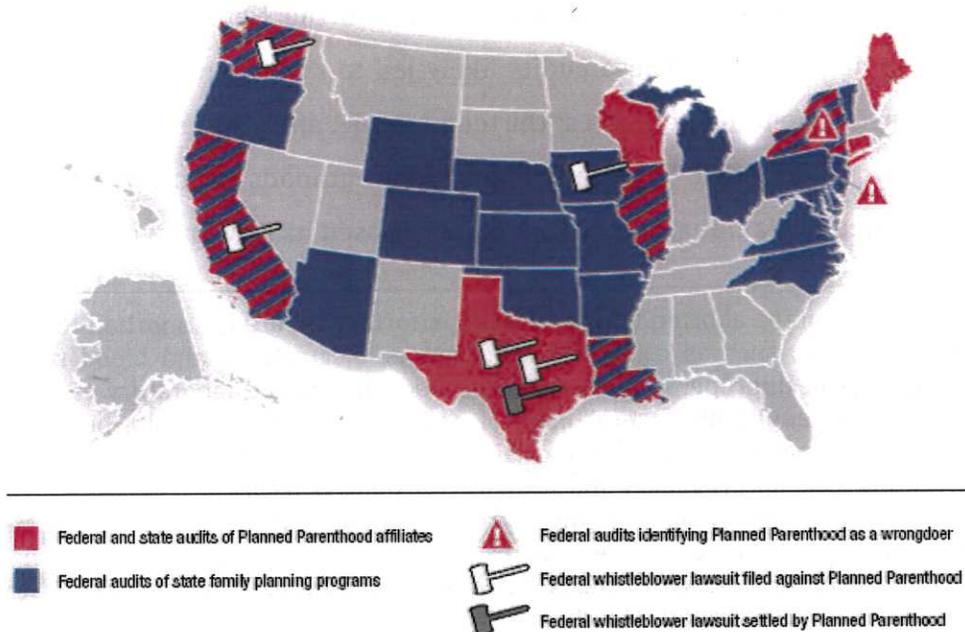
FFP is the federal portion of the shared federal-state contributions to the Medicaid program; the precise share is determined by the federal medical assistance percentage (FMAP). *See generally* Title XIX of the Social Security Act. In New York, the FMAP was 50% from January 1, 2000, through March 31, 2003, and 52.95% from April 1, 2003, through December 31, 2003. However, Social Security Act § 1903(a)(5) and 42 C.F.R. §§ 433.10, 433.15 provide for an enhanced 90% FFP for family planning services, which are defined in the Centers for Medicare & Medicaid Services (CMS) State Medicaid Manual. While a state may determine the specific services and supplies to be covered as Medicaid family planning services, such procedures and items must adhere to certain CMS guidelines. CMS State Medicaid Manual § 4270 also provides that an abortion may not be claimed as a family planning service. Further, based on the Supplemental Appropriations and Recession Act of 1981, P.L. No. 97-12 and 42 C.F.R. § 441.203, federal funds may only be used for an abortion in cases where the life of the mother is endangered. Therefore, many laboratory services related to an abortion are ineligible for federal funding. However, FFP is available at the applicable FMAP for the costs of certain services associated with the provision of a non-federally funded abortion if the same services would have been provided to a pregnant woman not seeking an abortion, CMS State Medicaid Manual § 4432, but these services will not be reimbursable at the enhanced ninety-percent rate, CMS Financial Management Review Guide Number 20, Family Planning Services, Medicaid State Operations Letter 91-9.

⁹ The true amount may be \$35,381,352 or even higher, as HHS-OIG set aside certain amounts in question for further review, and as the scope of the audits was limited.

¹⁰ Other audits may single out Planned Parenthood affiliates, as well, without referring to them by name. For example, in the November 2008 New York State audit A-02-07-01037, HHS-OIG found that New York improperly received enhanced ninety-percent federal

a Planned Parenthood affiliate.¹¹ In defense to a 2009 audit's findings of gross overbilling, one Planned Parenthood affiliate objected to the draft audit report, claiming that it was "unfair" for the State to request repayment or documentation "four to five years after the fact."¹²

COMBINED MAP OF FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS,
-AND- FEDERAL AND STATE AUDITS OF PLANNED PARENTHOOD AFFILIATES



reimbursement for 102 out of 119 sample claims. Of these, 96 were for services unrelated to family planning, and 33 were for services for which no reimbursement was available - including 27 abortion procedures, and 4 services performed in conjunction with an abortion. HHS-OIG found that one provider was responsible for twenty-five of the twenty-seven abortion claims; this provider billed at least 3,900 abortion claims during the audit period.

¹¹ It is logical to presume that New York State, after being audited and charged over \$32 million, would attempt to recover this loss from the Planned Parenthood family planning clinics that would have been a primary source of the overpayments. One of the 2008 federal audits of New York State (Review of Federal Medicaid Claims Made for Beneficiaries in the Family Planning Benefit Program in New York State, A-02-07-01001, May 2008) specifically noted Planned Parenthood (and only Planned Parenthood) as a major offender in incorrectly claiming services as family planning: "[M]any provider officials (especially Planned Parenthoods) stated that they billed most of their claims to Medicaid as related to 'family planning.'"

¹² Family Planning Chargeback to Managed Care Network Providers, 09-1415, June 10, 2009.

The scope of each audit detailed or listed herein was very limited, examining only a fraction of the types of claims and only for a limited window of time, which varied by audit. Yet nearly every known audit of Planned Parenthood affiliates has found overbilling. Thus, in order to understand the scope of what monies may be regained through audits of Planned Parenthood and other family planning / abortion clinics and of state family planning programs, it is useful to calculate the average amount of overbilling by year found in the audits conducted to date. Of the forty-four audits of Planned Parenthood, the audited dates are known for thirty-nine audits. Of these audits, as much as \$5,213,645.92 was overbilled in one audited year in a single audit; the average overbilled amount per audited year in a single audit was \$95,329.44. Of the fifty-one audits of state family planning programs, the audited dates are known for fifty audits. Of these audits, as much as \$4,410,900.70 was overbilled in one audited year; the average overbilled amount per audited year in a single audit was \$701,305.28. And more audits of Planned Parenthood and of state family planning programs are forthcoming, as well.¹³

¹³ See, e.g., documents responsive to an open records request, on file with Alliance Defending Freedom; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF INSPECTOR GENERAL, WORK PLAN FOR FISCAL YEAR 2014, at Part III Medicaid Reviews, *available at* <https://oig.hhs.gov/reports-and-publications/archives/workplan/2013/WP03-Mcaid.pdf>.

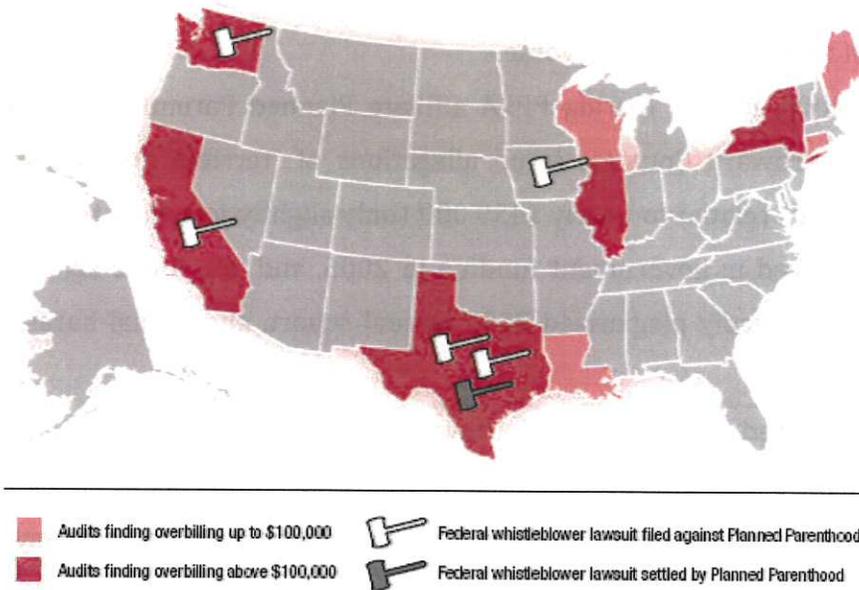
TYPES OF UNLAWFUL BILLING IDENTIFIED IN AUDITS

1. Billing and being reimbursed by Title XIX agencies for medications and/or services provided in connection with an abortion procedure in violation of the Hyde Amendment (a process known as “unbundling”);
2. Dispensing prescription drugs, including oral contraceptives, without an authorizing order by a physician or other approved healthcare practitioner;
3. Dispensing prescription drugs, including oral contraceptives, to patients who have moved or have not been seen by the clinic for more than a year;
4. Billing in excess of actual acquisition cost or other statutorily approved cost for contraceptive barrier products, oral contraceptives, and emergency contraceptive-Plan B (i.e., § 340B drugs) products;
5. Billing for services that were not medically necessary;
6. Billing for services that were not actually rendered;
7. Duplicate billing for examinations and products, including billing included products and services as fee for service;
8. Incorrectly coding and billing services;
9. Inadequate record-keeping, including lacking documentation to support the service billed and paid and not signing medical entries; and
10. Failing to pay the bills for which an affiliate had already been reimbursed with taxpayer funds.

AUDITS OF PLANNED PARENTHOOD AFFILIATES

There are forty-four known external audits or other reviews of Planned Parenthood affiliates' financial data and practices in nine states: two in California, one in Connecticut, one in Illinois, two in Louisiana, one in Maine, seven in New York State, one in Texas, three in Washington State, and twenty-six in Wisconsin. Each audit is very limited in scope in terms of location, time frame, and type of service examined; yet nearly every known government audit of Planned Parenthood affiliates has found overbilling.

FEDERAL AND STATE AUDITS OF PLANNED PARENTHOOD AFFILIATES



In total, these audits have uncovered at least \$8,367,505.96 in waste, abuse, and potential fraud:

- California (2 audits of 2 affiliates): \$5,213,645.92¹⁴
- Connecticut: \$18,791
- Illinois: \$387,000
- Louisiana: (2 audits of 1 affiliate): \$6,147.18

¹⁴ The total may well be more, as the audit results are only known for one of the two audits.

- Maine: \$33,294.83
- New York (7 audits of 4 affiliates): \$1,615,083.25
- Texas: \$409,675.10 - \$529,707.97
- Washington (3 audits of 2 or 3 affiliates¹⁵): \$640,595.88
- Wisconsin (26 audits of 1 affiliate): \$43,272.80

The audited dates are known for thirty-nine audits. Of these audits, as much as \$5,213,645.92 was overbilled in one audited year in a single audit; the average overbilled amount per audited year in a single, limited audit was \$95,329.44.

Planned Parenthood has sixty-eight affiliates,¹⁶ and fourteen affiliates, or approximately twenty-one percent, have been audited. But others have been accused of financial fraud and worse.

In 2008, former Florida PPFA affiliate Planned Parenthood of South Palm Beach and Broward Counties faced allegations of “terrible mismanagement and possibly fraud” related to nearly \$450,000 (only slightly less than the \$500,000 the affiliate received in government funding in 2005, and about one-sixth of the total budget), an allegedly plagiarized 2006 annual report, and sexual harassment by a former CEO.¹⁷

At Planned Parenthood of Southwest Michigan (PPSWMI), a May 2010 audit revealed bank statements accumulated for up to six months before being reconciled, and personal expenses such as household bills being paid as company expenses. PPSWMI Director of Finance Rene Davis was responsible for these problems and personally took about \$5,000 from company funds – not her first offense – but was promoted to Chief Operating Officer.¹⁸

¹⁵ The number of affiliates is unknown because Alliance Defending Freedom has not yet been able to obtain the final report of an audit referenced in government documentation, and thus does not know which affiliate(s) the audit covered.

¹⁶ See PLANNED PARENTHOOD LOCAL & STATE OFFICES, <http://www.plannedparenthood.org/about-us/local-state-offices/>. This number is down from the seventy-one affiliates as of the most recent Alliance Defending Freedom audit report.

¹⁷ See *Planned Parenthood Cuts Ties with 5 Clinics*, MIAMI HERALD (July 2, 2008).

¹⁸ See Steven Ertelt, *Michigan Planned Parenthood Exec Stole 5K from Abortion Biz*, LIFENEWS.COM, Dec. 22, 2010, <http://www.lifenews.com/2010/12/22/state-5763/>.

In Louisiana, the local Planned Parenthood affiliate conducted a self-audit in which they determined that one of their nurses had been writing and issuing prescriptions without proper authority due to not having the proper collaborative agreement paperwork filed, and voluntarily paid the Louisiana Department of Health and Hospitals \$33,739.13 in November 2013.¹⁹

In Texas and Vermont, Planned Parenthood affiliates have been hit with fines for campaign finance violations. In Texas, the Texas Ethics Commission fined Planned Parenthood of North Texas Action Fund Political Committee's campaign treasurer \$3,000 for failing to report or making mistakes in reporting tens of thousands of dollars it spent to support Wendy Davis and other candidates in 2008. The action fund accepted the fine without protest.²⁰ In Vermont, Planned Parenthood of Northern New England Action Fund agreed to pay a \$30,000 fine to the Vermont Office of the Attorney General for failing to comply with political committee reporting requirements relating to \$119,437 it spent in the 2010 gubernatorial election. It had failed to register its Action Fund as a political action committee and file contribution reports, as well as accepting contributions bigger than the \$2,000 limit per donor.²¹

Planned Parenthood affiliates have also been fined or settled in cases involving wrongful death / medical malpractice,²² failure to report child sexual abuse and rape,²³ and regulatory violations.²⁴

¹⁹ Documentation on file with Alliance Defending Freedom. Alliance Defending Freedom is working to obtain full audit records.

²⁰ See Mark Lisher, *Planned Parenthood of North Texas PAC Fined \$3,000 for Campaign Finance Violations*, TEXAS WATCHDOG, Aug. 26, 2010, <http://www.texaswatchdog.org/2010/08/planned-parenthood-of-north-texas-fined-3000-for-campaign/1282834605.column>.

²¹ See, e.g., WCAX News, *Planned Parenthood PAC to Pay Fine for Vt. Campaign Finance Violations*, WCAX.COM, Nov. 21, 2013, <http://www.wcax.com/story/24011171/planned-parenthood-pac-to-pay-fine-for-vt-campaign-finance-violations>; Steven Ertelt, *Planned Parenthood Abortion Biz Pays \$30,000 Fine for Violating Campaign Finance Laws*, LIFENEWS.COM, Nov. 19, 2013, <http://www.lifenews.com/2013/11/19/planned-parenthood-abortion-biz-pays-30000-fine-for-violating-campaign-finance-laws/>.

²² For example, Planned Parenthood settled a wrongful death lawsuit in the case of one 2012 death for \$2 million. See Steven Ertelt, *Planned Parenthood Must Pay \$2 Million Settlement After Killing Woman in Abortion*, LIFENEWS.COM, Feb. 7, 2014,

Over the last ten years (Planned Parenthood fiscal years 2004-2013), the average annual government funding received by Planned Parenthood and its affiliates has been \$400,160,000. If the service-limited audits conducted thus far were expanded and replicated in all Planned Parenthood affiliates, the overbillings due the government fisc would likely be in the millions or even higher.

California Audits

Two audits have been conducted of Planned Parenthood affiliates in California; the scope and results are known for one.

<http://www.lifenews.com/2014/02/07/planned-parenthood-pays-2-million-settlement-after-killing-black-teen-in-abortion/>.

²³ See, e.g., *Roe v. Planned Parenthood of Southwest Ohio Region*. (in which a Planned Parenthood affiliate settled a case involving their abortion on and coverup of a 14-year-old girl impregnated by her 22-year-old soccer coach); Brett Harvey, *Ohio Cases Put Molesters and Planned Parenthood on Notice*, TOWNHALL.COM, Oct. 5, 2012, http://townhall.com/columnists/brettharvey/2012/10/05/ohio_cases_put_molesters_and_planned_parenthood_on_notice/page/full.

²⁴ For example, Planned Parenthood of Delaware, Inc. (PPDE), was fined \$3,060 for violations including employee exposure to contaminated needles. An abortionist formerly employed there, Timothy Liveright, was fined \$1,500 by the Delaware Board of Medical Licensure and Discipline for misconduct including sexual harassment and failure to keep proper records. Other allegations against PPDE by "radically pro-abortion" former PPDE nurses include failure even to wipe off bloody tables between patients, over-sedation, perforation during abortion, not wearing gloves or other protective gear, failure to obtain consent for procedures, and incorrect labwork. They report that Liveright slapped a patient, placed patients on "operating tables still wet with the blood from the previous patient," refused to wear sterilized gloves during procedures, sang "hymns about sin to girls during the painful dilation phase of an abortion," played "Peek-A-Boo" with patients, "rushed abortions," allowed "sedated patients to wander down [the street] dazed and confused," and once left sedated patients in the middle of an abortion procedure waiting for hours in order to handle a mechanical issue with his private airplane. See, e.g., John Jalsevac, *Planned Parenthood Clinic Investigated After Multiple Botched Abortions, STD Scare*, LIFESITENEWS, Apr. 18, 2013, <http://www.lifesitenews.com/news/planned-parenthood-clinic-investigated-after-multiple-botched-abortions-std>; Dave Andrusko, *Former Planned Parenthood Abortionist Reprimanded and Fined for Behavior at Wilmington Abortion Clinic*, NATIONAL RIGHT TO LIFE NEWS TODAY, Jan. 8, 2014, <http://www.nationalrighttolifenews.org/news/2014/01/former-planned-parenthood-abortionist-reprimanded-and-fined-for-behavior-at-wilmington-abortion-clinic/>; see also Steven Ertelt, *Planned Parenthood Abortion Practitioner Loses Medical License*, LIFENEWS.COM, July 28, 2011, <http://www.lifenews.com/2011/07/28/planned-parenthood-abortion-practitioner-loses-medical-license/>.

California Audit I – San Diego and Riverside Counties, 2004

A 2004 State of California audit of Planned Parenthood of San Diego and Riverside Counties (PPSDRC) revealed payment in excess of cost for contraceptive barrier products, oral contraceptives, and Plan B products, totaling \$5,213,645.92.

The California Health and Human Services Agency, Department of Health Services conducted the audit of paid claims from July 1, 2002, to June 30, 2003 for Codes X1500 (contraceptive barrier products) and X7706 (oral contraceptives), and February 2, 2003, to May 30, 2004 for Code X7722 (Plan B products).

The audit found that during the audit review period, PPSDRC did not comply with the published billing requirements. It found a total payment in excess of cost during the audit period of \$5,213,645.92:

Billing Code	Code Description	Amount Paid	Provider's Cost	Payments in Excess of Cost
X1500	contraceptive barrier products	\$35,117.30	\$12,318.71	\$22,798.59
X7706	oral contraceptives	\$5,030,347.00	\$859,569.10	\$4,170,777.90
X7722	Plan B products	\$1,119,351.53	\$99,282.10	\$1,020,069.43
Total		\$6,184,815.83	\$971,169.91	\$5,213,645.92

In the case of oral contraceptives and Plan B products, Planned Parenthood Affiliates of California (PPAC) claimed that it had a longstanding relationship with manufacturers that allowed them to purchase these products at deeply discounted rates, i.e., "nominal prices." By then billing Medi-Cal at a "usual and customary rate," which is higher than what PPAC had paid for the Plan B product, but somewhat lower than the normal retail price for the product, PPAC defended its improper practices by deeming that PPAC was "sharing the profits" of the "nominal price" arrangements with the State of California. No such "nominal pricing" arrangement existed with respect to condoms. The health department rejected this justification and required repayment of amounts billed over acquisition cost.

California Audit II – Golden Gate, 2010

The Internal Revenue Service's criminal division audited the former PPFA affiliate Planned Parenthood Golden Gate (PPGG) in 2010, finding, at a minimum,

“inaccurate information.”²⁵ This audit was reportedly instigated by a former employee who lodged a complaint about an improper relationship between PPGG and its political arm, and also about PPGG’s financial practices.

For the tax year ending June 30, 2009, for example, PPGG filed three separate sets of numbers with the IRS, showing losses between \$1.9 and \$2.8 million. In a 2004 accreditation review of PPGG by PPFA, PPGG failed five of PPFA’s nine indicators of financial health. And in 2010, the California Attorney General’s office charitable trusts division warned PPGG Action Fund, PPGG’s political advocacy and public policy arm, for not having filed copies of its tax documents with that office for at least ten years.²⁶

Thirty PPGG medical personnel additionally sent a “letter of concern” to PPGG and PPFA management, detailing numerous problems including “misappropriation and mismanagement” of funds.²⁷

Connecticut Audit

The U.S. HHS-OIG conducted an audit²⁸ of Planned Parenthood of Connecticut Inc. & Subsidiar., finding \$18,791 of overbilling.

Illinois Audit

As the result of an audit²⁹ conducted by the Illinois Department of Healthcare and Family Services’s Inspector General, Planned Parenthood of Illinois (PPIL) and its medical director, Caroline Hoke, agreed to repay the state \$367,000 to settle

²⁵ Alliance Defending Freedom is working to obtain full audit records. *See also* Katharine Mieszkowski, *IRS Looking into Planned Parenthood Golden Gate After Complaint*, THE BAY CITIZEN, Sept. 2, 2010, available at <https://www.baycitizen.org/news/health/irs-looking-planned-parenthood-after/>.

²⁶ *See, e.g.*, Katharine Mieszkowski, *Internal Concerns About Fiscal Health and Tax Documents Suggest Long-Term Disarray*, THE BAY CITIZEN, Aug. 12, 2010, available at <https://www.baycitizen.org/news/health/financial-docs-raise-questions-about/>.

²⁷ *See id.*

²⁸ A-01-99-59104, released Aug. 1999. *See* U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF INSPECTOR GENERAL, SEMIANNUAL REPORT OCTOBER 1, 1999 – MARCH 31, 2000 (2000), at D-8, available at <https://oig.hhs.gov/publications/docs/semiannual/2000/00semi.pdf>. Alliance Defending Freedom is working to obtain full audit records.

²⁹ This audit, case number 1074160, was conducted of the period January 1, 2006, to December 31, 2007.

findings of overbilling Medicaid and failure to document services allegedly provided, primarily contraceptives.³⁰ Separately, Planned Parenthood's Westside Clinic agreed to pay the state \$20,000 for its portion of the overbilling. Hoke had been banned from reimbursement by and threatened with termination from the Medicaid program since May 2010, when these overbillings were uncovered.³¹

Specifically, this audit found 641 missing records, 31 instances of billing for non-covered services, and 10 instances of billing for services actually performed by someone else, as well as improper procedure codes.

During the fiscal year ending June 30, 2011 (the most recent fiscal year for which data is available), PPIL received approximately half its \$25 million revenue from Medicaid. In 2009, Hoke received over \$3 million from Medicaid – the second-highest amount of 30,000 physicians – but in 2011 received nothing. However, the other PPIL providers have seen their reimbursements grow accordingly – in fiscal year 2009, fifty-two other PPIL providers received \$2.8 million in reimbursements, but in 2011, a total of sixty-two providers received \$7 million.³²

Louisiana Audits

Two known government audits of Planned Parenthood have been completed in Louisiana.

³⁰ See Andrew L. Wang, *Planned Parenthood Settles with Illinois on Medicaid Payments*, MODERN HEALTHCARE, Sept. 6, 2012, <http://www.modernhealthcare.com/article/20120906/INFO/309069993>; Andrew L. Wang, *Medicaid Probes Planned Parenthood Fees*, CRAIN'S CHICAGO BUSINESS, July 9, 2012, <http://www.chicagobusiness.com/article/20120707/ISSUE01/307079977/medicaid-probes-planned-parenthood-fees>.

³¹ See Andrew L. Wang, *Planned Parenthood Settles with Illinois on Medicaid Payments*, MODERN HEALTHCARE, Sept. 6, 2012, <http://www.modernhealthcare.com/article/20120906/INFO/309069993>.

³² See Andrew L. Wang, *Medicaid Probes Planned Parenthood Fees*, CRAIN'S CHICAGO BUSINESS, July 9, 2012, <http://www.chicagobusiness.com/article/20120707/ISSUE01/307079977/medicaid-probes-planned-parenthood-fees>.

Louisiana Audit I

As the result of an audit conducted by the Louisiana Department of Health and Hospitals (DHH), one Planned Parenthood clinic repaid \$6,147.18 to DHH to settle findings of improper billings.³³

Louisiana Audit II – 2014

In response to Louisiana Senate Concurrent Resolution No. 57 and House Resolution No. 105, 2013 Regular Session, Louisiana's Legislative Auditor reviewed Planned Parenthood Gulf Coast's billings during calendar year 2012. In a report issued February 19, 2014, the Legislative Auditor found that overall, they could find no evidence that PPGC's billings were not allowable, and that they had no evidence of PPGC pressuring clients into abortion.³⁴

Maine Audit

As the result of an audit conducted by the Maine Department of Health and Human Services of Planned Parenthood of Northern New England (PPNNE), PPNNE agreed to repay the state \$33,294.83 to settle findings of Levonorgestrel IUDs billed for nearly double their actual acquisition cost under one particular procedure code.³⁵

New York Audits

The seven New York State audits of New York Planned Parenthood affiliates were likely conducted due to seven federal audits of New York Medicaid family

³³ Specifically, the clinic had billed clinic services under the laboratory Medicaid provider code and vice versa. Alliance Defending Freedom is working to obtain full audit records.

³⁴ Audit report on file with Alliance Defending Freedom. However, Louisiana sources report that Planned Parenthood is not currently performing abortions in Louisiana, making allegations of abortion referrals more difficult to track.

³⁵ See Letter from Herbert F. Downs, Director of Audit, Maine Department of Health and Human Services, to Michael Barewicz, Associate Vice President, Planned Parenthood of Northern New England (June 21, 2012) (on file with Alliance Defending Freedom). The original audit finding was \$90,169.27 in overbillings. Letter from Michael Bishop, Auditor II, Program Integrity, Financial Services – Audit, Maine Department of Health and Human Services, to Michael Barewicz, Associate Vice President, Planned Parenthood of Northern New England (Dec. 14, 2010) (on file with Alliance Defending Freedom). Alliance Defending Freedom is working to obtain full records on the audit process.

planning program claims. The first known New York State audit of New York Planned Parenthood affiliates was released thirteen months after a federal audit identified “especially Planned Parenthoods” as incorrectly claiming services as family planning, as detailed in the Federal Audits of State Family Planning Programs and Other Organizations section below.

In sum, the seven New York State audits of New York Planned Parenthood affiliates uncovered overpayments of at least \$1,615,083.25.

New York Audit I – New York City, January 2009

A January 2009 audit³⁶ of Planned Parenthood of New York City, Inc. (PPNYC) / Margaret Sanger Center resulted in PPNYC electing to repay the amount of \$207,809.00.

New York Audit II - Hudson Peconic, June 2009

A June 2009 audit³⁷ of Medicaid payments for family planning and reproductive health services paid to Planned Parenthood Hudson Peconic, Inc. (PPHP) on behalf of Medicaid beneficiaries while they were enrolled in Community Choice Health Plan and Health Insurance Plan of New York found significant overpayments for family planning and reproductive health services claims, resulting in an overpayment of \$15,723.91, inclusive of interest.

The New York State Office of the Medicaid Inspector General (OMIG) conducted this audit to ensure that PPHP was in compliance with 18 NYCRR § 515.2, which addresses unacceptable practices under the medical assistance program, and § 540.6, which addresses recovery of third-party reimbursement and repayment to the medical assistance program.

OMIG found overpayments of \$12,173.63 for family planning and reproductive health services claims during the audit period; as a result, § 515.2 and

³⁶ Audit # 08-3045. Alliance Defending Freedom is working to obtain full audit records.

³⁷ The audit (Family Planning Chargeback to Managed Care Network Providers, 09-1415, June 10, 2009) was conducted of the period Jan. 1, 2004, through Dec. 31, 2004.

§ 540.6 requirements were violated. Inclusive of \$3,550.28 in interest, 18 NYCRR § 518.4, the repayments total \$15,723.91.

In PPHP's April 23, 2009, response to OMIG's March 23, 2009, draft report, it indicated (1) that PPHP considered it unfair to request repayment or documentation "four to five years after the fact"; (2) that it considered the Electronic Medicaid Eligibility Verification System (EMEVS) to be inaccurate for verifying that clients are enrolled in a managed care plan; and (3) an expression of doubt as to why Medicaid would pay the fee for service claim if the client was a managed care member. OMIG responded to each of these concerns.

New York Audit III – New York City, June 2009

A June 2009 audit³⁸ of payments to PPNYC / Margaret Sanger Center for diagnostic and treatment center services paid by Medicaid found five improper practices, with sample overpayments of \$7,960.01 and total overpayments of at least \$1,254,603.00.

OMIG conducted this audit to ensure that (1) Medicaid reimbursable services were rendered for the dates billed; (2) appropriate rate or procedure codes were billed for the services rendered; (3) patient-related records contained the documentation required by the regulations; and (4) claims for payment were submitted in accordance with the DOH regulations and the Provider Manuals for Clinics.

During the audit period, \$11,818,856.30 was paid for services rendered to 21,413 patients. The review consisted of a random sample of 100 patients with Medicaid payments of \$53,977.99.

OMIG found five improper practices:

1. Missing documentation: In thirty-four instances pertaining to twenty patients, the services were not documented as required by 18 NYCRR §§ 504.3, 517.3, 540.7(a)(8), resulting in a sample overpayment of \$3,629.63.

³⁸ The audit (06-6696) was conducted of the period Jan. 1, 2004, through Dec. 31, 2005.

2. Inadequate documentation of HIV pre-test counseling visit: In thirty-three instances pertaining to twenty-seven patients, the justification for the service billed was incomplete in the record, and the case record form was not completed as required by 18 NYCRR § 504.3(a), 517.3, 540.7(a)(8); Department of Health Memorandum 93-26 – HIV Primary Care Provider Agreement – Attachment I, resulting in an overpayment of \$2,973.96.
3. Visit billed for managed care client within network: In nine instances pertaining to four patients, PPNYC billed Medicaid for services provided to patients enrolled in PPNYC's HMO network, contrary to 18 NYCRR § 360-7.2; MMIS Provider Manual for Clinics § 2.1.9, resulting in an overpayment of \$1,109.38. (MMIS is a computerized payment and information reporting system, that is used to process and pay Medicaid claims.)
4. Medical entry not signed: In one instance, the practitioner did not sign the entry in the medical record as required by 10 NYCRR § 751.7(f), resulting in an overpayment of \$164.02.
5. Incorrect rate code billed: In six instances pertaining to five patients, the incorrect rate code was billed, contrary to 18 NYCRR §§ 504.3(e), 504.3(h); MMIS Provider Manual for Clinics § 2.1.14, resulting in a higher reimbursement than indicated in the fee schedule for the proper rate code and an overpayment of \$83.02.

The total sample overpayment for this audit was \$7,960.01.

Using statistical sampling methodology to extrapolate from the sample findings to the universe of cases, 18 NYCRR § 519.18, the mean per unit point estimate of the amount overpaid was \$1,704,477.00, and the lower confidence limit, with a ninety-five percent confidence interval, was \$1,254,603.00.

New York Audit IV – New York City, December 2009

A December 2009 audit³⁹ of Medicaid payments for family planning and reproductive health services paid to PPNYC/Margaret Sanger Center on behalf of Medicaid beneficiaries while they were enrolled in VidaCare Inc. SNP found overpayments, inclusive of interest, of \$886.26.

The audit found that PPNYC had improperly billed Medicaid \$719.55 for family planning and reproductive health services that were rendered to VidaCare enrollees; as a result, 18 NYCRR § 515.2 and § 540.6 requirements were violated. OMIG then calculated \$166.71 in interest, resulting in \$886.26 in required restitution.

PPNYC was invited to respond to the draft report but did not do so within thirty days.

New York Audits V-VII – February/May 2010

Three February/May 2010 audits⁴⁰ of Planned Parenthood affiliates in New York found six categories of overbilling, resulting in a total overpayment of \$136,061.08, inclusive of interest.

The Prenatal Care Assistance Program (PCAP) is a comprehensive prenatal care program that offers complete pregnancy care and other services to women. Facilities that enter into a contract with DOH to become a PCAP provider agree to provide these services, directly or indirectly, to pregnant women who are eligible for Medicaid and are reimbursed via all-inclusive, enhanced PCAP rates established by DOH. The provider agrees to establish procedures, internally and externally, to ensure that ancillary services such as lab and ultrasound procedures related to prenatal care are not billed directly to Medicaid.

³⁹ The audit (Family Planning Chargeback to Managed Care Network Providers, 09-4845, Dec. 16, 2009) was conducted of the period Jan. 1, 2005, through Dec. 31, 2005.

⁴⁰ The audits of PPHP (Prenatal Care Assistance Program, 2009Z33-136W, May 27, 2010), Planned Parenthood of Nassau County, Inc. (PPNC) (Prenatal Care Assistance Program, 2009Z33-083W, May 27, 2010), and Planned Parenthood of South Central New York, Inc. (PPSCNY) (Prenatal Care Assistance Program, 2009Z33-0480, Feb. 24, 2010) were conducted of the period Jan. 1, 2006, through Dec. 31, 2008.

OMIG reviewed PPHP billings for PCAP patients to ensure that (1) clinic services were billed appropriately and in accordance with DOH rules and regulations, and provider billing guidelines; and (2) other Medicaid-enrolled providers who performed PCAP-covered services did not bill Medicaid.

The audits uncovered six improper practices:

	PPHP	PPNC	PPSCNY
Multiple initial prenatal care visits ⁴¹	\$0 ⁴²	\$0	\$0
Initial, follow-up, and postpartum services billed incorrectly after delivery ⁴³	\$162.96 ⁴⁴	\$0	\$24.30
Laboratory services billed fee for service that are included in the PCAP rate ⁴⁵	\$3,117.75 ⁴⁶	\$169.55	\$291.77
Ultrasound services and diagnostic procedure services billed fee for services that are included in the PCAP rate – facility billed ⁴⁷	\$25,802.60 ⁴⁸	\$0	\$4,272.09

⁴¹ Initial visits receive the highest PCAP clinic reimbursement, and only one initial visit may be billed per patient per pregnancy, PCAP Billing Guidelines Booklet, May 2005.

⁴² The audit found multiple PCAP recipients for whom more than one initial visit was billed, resulting in no overpayment. Alliance Defending Freedom is working to get further information to determine how billings for multiple initial visits would not result in overpayment.

⁴³ Only one postpartum visit may be billed; if additional visits are needed, claims should be submitted with the clinic's general medicine rate codes, PCAP Billing Guidelines Booklet, May 2005.

⁴⁴ The audit found PCAP initial and follow-up visits reduced to the lower postpartum visit rate or, in some instances with multiple postpartum visits, reduced to the general medicine clinic rate.

⁴⁵ The PCAP services are comprehensive and cover services provided both at the clinic and at other locations, 10 NYCRR 85.40(i)(1)(ii)(iii); Medicaid Provider Manual for Physicians, Policy Guidelines, Section II, Physician Services, PCAP Billing Guidelines Booklet, May 2005.

⁴⁶ PPHP billed laboratory services ordered during PCAP visits in addition to the PCAP clinic rates, resulting in duplicate payments.

⁴⁷ Ultrasounds, whether performed at a PCAP facility or not, should not be billed fee for service by facilities due to the comprehensive nature of PCAP, PCAP Billing Guidelines Booklet, May 2005; PCAP Medicaid Policy Guidelines Manual, January 2007; DOH Medicaid Update, September 2008, Vol. 24, No. 10.

⁴⁸ The audit identified obstetrical ultrasounds and diagnostic procedures performed within 30 days of a PCAP visit, excluding any procedures associated with visits to other facilities or non-obstetrical providers, resulting in duplicate billing.

Ultrasound services and diagnostic procedure services billed fee for services that are included in the PCAP rate – physician billed ⁴⁹	\$68,105.40 ⁵⁰	\$9,045.00	\$3,804.56
Vitamin and iron supplement services billed fee for service that are included in the PCAP rate ⁵¹	\$3,995.86	\$1,315.62	\$1,895.16
Total	\$112,490.31⁵²	\$12,031.29⁵³	\$11,539.48⁵⁴

Combined, the three audits found total overpayments of \$136,061.08.

Texas Audit

A 2009 audit⁵⁵ of the 501(c)(3) and Texas Department of State Health Services (DSHS) contractor Planned Parenthood Center of El Paso (PPCEP) revealed numerous instances of subcontractors remaining unpaid for services rendered, despite the fact that the amounts had been included in PPCEP's requests for DSHS reimbursement. The total amount of the outstanding billings was likely between \$409,675.10 and \$529,707.97.

Founded in 1937 and personally visited by Planned Parenthood founder Margaret Sanger, PPCEP closed its seven centers on June 30, 2009, for financial

⁴⁹ Ultrasounds, whether performed at a PCAP facility or not, should not be billed fee for service by physicians due to the comprehensive nature of PCAP, DOH Medicaid Update, September 2008, Vol. 24, No. 10; 18 NYCRR 518.3(a).

⁵⁰ Using the same procedures as with claims improperly filed by facilities, the audit identified obstetrical ultrasounds and diagnostic procedures that were billed in duplicate.

⁵¹ Vitamin and iron supplements as defined by drug therapeutic codes are included in the PCAP reimbursement and should not be billed fee for service, New York State Department of Health, PCAP Services Description, March 2003; the PCAP provider is responsible for providing these services.

⁵² The total base amount of overpayment is \$108,494.45. OMIG then calculated interest on this amount totaling \$3,995.86, 18 NYCRR §§ 518.4, 518.1(c). The total amount of overpayment and restitution is therefore \$112,490.31.

⁵³ The total amount of restitution due was \$10,530.17 without interest; after \$1,501.12 in interest was added, the total was \$12,031.29.

⁵⁴ The total amount of restitution due was \$10,287.88 without interest; after \$1,251.60 in interest was added, the total was \$11,539.48.

⁵⁵ The audit (Attestation – Agreed-Upon Procedures Report on Planned Parenthood Center of El Paso, 09-56-00001-SP-19 Aug. 31, 2009) was conducted July 20-24, 2009.

reasons,⁵⁶ and filed for bankruptcy. Due to published reports of this closure, DSHS became concerned about the availability of PPCEP resources and records, and DSHS General Counsel requested that the Texas Health and Human Services Commission (HHSC), OIG conduct an audit of PPCEP.

This summer 2009 audit was to determine if PPCEP was in compliance with its payments to subcontractors for services rendered. Its goals were to determine:

1. The validity of allegations that PPCEP's subcontractors had not been paid for services rendered;
2. Whether such amounts or payments were rendered pursuant to a contract executed between DSHS and PPCEP; and
3. Whether DSHS had reimbursed PPCEP for the amounts that were alleged by the subcontractor to be unpaid (this was to be tied to the DSHS contract number).
4. Finally, if subcontractors were determined to be unpaid for services rendered, then OIG was to test a random sample of the expenditures that comprised the unpaid billings in order to ensure that they were allowable and in compliance with federal and state regulations and contract requirements.

During the audit, OIG collected both PPCEP's subcontractor billings and PPCEP's own accounts payable balances for subcontractors.

OIG determined that PPCEP was not in compliance with the applicable DSHS contracts, since it had requested DSHS reimbursement for subcontractor billings it had never paid. Subcontractors identified the outstanding billings as totaling \$529,707.97; PPCEP's records indicated a total of \$409,675.10. However, neither amount was verifiable due to the incomplete condition of PPCEP's accounting records, and issues with patient confidentiality. Further, PPCEP had issued checks to subcontractors against the outstanding payable balances, as opposed to paying

⁵⁶ See *Financially Troubled Planned Parenthood of El Paso Closes Doors*, LIFESITENEWS.COM, July 1, 2009, <http://www.lifesitenews.com/news/financially-troubled-planned-parenthood-of-el-paso-closes-doors>.

specific subcontractor invoice numbers. PPCEP's own records listed most subcontractor billings as more than 90 days overdue. State sources were unsure if the overbilling would ever be repaid.

Washington State Audits

There are three known Washington State audits of Planned Parenthood affiliates. In sum, they uncovered overpayments of at least \$640,595.88, inclusive of interest.

Washington Audit I

In 2000 and 2001, an audit of a Planned Parenthood clinic uncovered "inflated billings"; a lengthy analysis and negotiation process resulted in an untenable and apparently illicit agreement.⁵⁷

Washington Audit II – Inland Northwest, 2007-2009

A 2007-2009 audit⁵⁸ of the Planned Parenthood of the Inland Northwest (PPINW) affiliate⁵⁹ found numerous instances of overbilling or other irregularities, resulting in an overpayment of \$629,142.88, inclusive of interest.

The audit began after Washington Department of Social and Health Services grew suspicious of the frequency of clinic visits by Medicaid patients.⁶⁰ It was conducted by the Medical Audit Unit, Office of Payment Review and Audit, within the Department of Social and Health Services (DSHS) to determine provider compliance with applicable federal, state, and departmental regulations⁶¹ relative to claims paid

⁵⁷ Email from Myra S. Davis, Medical Assistance Administration Rules and Publications, to Heidi Robbins Brown, Deputy Assistant Secretary, Medical Assistance Administration, Washington Department of Social and Health Services (Sept. 17, 2004, 11:56 PDT) (on file with Alliance Defending Freedom). No more is known about the audit at this time, but Alliance Defending Freedom is working to obtain full audit records.

⁵⁸ The audit (MA 07-13, July 20, 2009) was conducted May 8-10, 2007.

⁵⁹ Doing business as Planned Parenthood of Spokane.

⁶⁰ See John Stucke, *Audit: Planned Parenthood Overbilled Medicaid*, THE SPOKESMAN-REVIEW, Aug. 12, 2009, <http://www.spokesman.com/stories/2009/aug/12/audit-clinic-overbilled-medicaid/>.

⁶¹ Specifically, compliance with regulations stated in the Revised Code of Washington (RCW), Washington Administrative Code (WAC), the provider's Core Provider Agreement

from Mar. 15, 2004, to Feb. 26, 2007, for services provided under the Health & Recovery Services Administration (HRSA) programs.⁶² A total of 267,840 procedures, totaling \$7,697,613.86, met these criteria.

The audit conducted (1) probability sampling of 308 randomly selected procedures, totaling \$26,117.32, which were then extrapolated to the total number of procedures; (2) a claim-by-claim audit of the 25 procedures with the highest reimbursement, totaling \$11,728.50; and (3) an on-site documentation review. Thus, a total of 333 procedures were audited.

The audit found:

1. In seventeen instances, prescription drugs were dispensed without an authorizing order.⁶³ In ten audited instances, the dispenser did not have a current, valid authorizing order (prescription) to dispense and bill for the prescription drug on the date of service, for example, where the prescription was outdated. In seven audited instances, there was no valid authorizing order at all to dispense the prescription drug billed; for instance, in one case there was no documentation from the office visit of the medication being prescribed, and additionally, a licensed clinician had not signed the exam form.
2. In sixteen instances, documentation was missing or did not support the level of evaluation and management (E/M) service billed and paid by HRSA. There was one instance of incorrect coding, fourteen instances in which the visit was to pick up medication and there were no chart notes to substantiate that a face-to face office visit with a licensed clinical staff

with DSHS, the Schedule of Maximum Allowances, Billing Instructions, and Numbered Memoranda.

⁶² Procedures paid at \$0 and Medicare crossover claims were excluded.

⁶³ In some cases, oral contraceptives were dispensed to patients with no order at all; some orders had expired or had been signed only by a Registered Nurse (RN), without countersignature by a licensed clinician or medical doctor. This practice is often associated with HOPE (Hormonal Option without Pelvic Examination) visits. Typically, in a HOPE examination, a non-licensed staff person takes a patient's blood pressure and obtains a brief medical history and, in lieu of a physical examination by a licensed clinician or medical doctor, thereupon provides the patient with contraceptives.

member occurred, and one instance in which there was no chart note or other signed documentation to substantiate a billed pregnancy test visit.

3. In thirteen instances, PPINW billed HRSA for more than the acquisition cost of the contraceptive supply, i.e., condom, contrary to the fee schedule.
4. In one instance, PPINW billed for a pregnancy test that was not medically necessary. The patient had been receiving contraceptive “shot[s]” and was not due for another, and on her HOPE (Hormones with Optional Pelvic Exam) form had indicated that there was no need for a test; no other chart note or documentation supported the test.
5. In one instance, PPINW billed separately for a medication included in a bundled service for an abortion that was covered under a different contract with the provider and a different provider number, thus engaging in “unbundling” and billing for medication not covered by the Family Planning or Take Charge programs.
6. In two instances, the Registered Nurse (RN) wrote an oral contraceptive order for a new patient without countersignature by a clinician, contrary to the Department of Health Nursing Commission’s Telehealth/Telenursing guidelines for Registered Nurses that require a prior patient-practitioner relationship for such an order.
7. In those same two cases, the RN did not identify the order as following the standing order protocol, so it was unclear where the order originated. The order could have originated over the telephone or by fax.

Overpayments associated with the probability sample totaled \$1,743.59; extrapolated to the universe of 267,840 procedures, totaling \$7,697,613.86, the calculated overpayment was \$628,692.88. Overpayments associated with the claim-by-claim audit of the highest reimbursed twenty-five claims totaled \$450.00. The total overpayment was \$629,142.88.

PPINW was directed to comply with all federal, state, and departmental regulations, rules, and billing instructions provided under the Medical Assistance

program; continued violations could result in suspension or termination of their eligibility to receive services. Further, PPINW was instructed to repay \$629,142.88, plus interest. PPINW settled with the state for \$345,000.⁶⁴

Washington Audit III – Great Northwest

In May 2012, Planned Parenthood of the Great Northwest (PPGNW) reimbursed the Medicaid program \$11,453 as a result of a sample audit⁶⁵ conducted by the Washington Medicaid Fraud Control Unit (MCFU) as the result of complaints from concerned citizens alleging “questionable billing practices.” Additionally, one portion of the audit that related to a particular type of contraceptive billing was provided to the U.S. Attorney’s office for independent investigation.

Wisconsin Audits

In response to an open records request submitted by Alliance Defending Freedom and allies with Pro-Life Wisconsin, the State of Wisconsin released twenty-six audits it conducted of Planned Parenthood of Wisconsin from 2006-2012. In many cases Planned Parenthood of Wisconsin’s individual clinics were contacted separately, and these were considered different audits; such audits have been grouped in this report. In sum, these twenty-six audits uncovered total potential overpayments of at least \$43,272.80. All but the last audit were conducted and released under the administration of Wisconsin Governor Jim Doyle, a pro-choice Democrat.

⁶⁴ See Kevin Graman, *Spokane’s Planned Parenthood Fined by State*, THE SPOKESMAN-REVIEW, Oct. 29, 2010, <http://www.spokesman.com/stories/2010/oct/29/spokanes-planned-parenthood-fined-state/>.

⁶⁵ Audit # 09-04-08, of Yakima County. Alliance Defending Freedom is working to obtain full audit records.

Wisconsin Audits I-IV - August 2006

August 2006 audits⁶⁶ of payments to Planned Parenthood of Wisconsin clinics for physician office visits found that Planned Parenthood was billing for non-covered services, with total overpayments of \$1,990.16.

The Wisconsin Department of Health and Family Services conducted these audits to ensure that billed office visits were legitimately covered. CPT Guidelines provide that an Evaluation and Management Service may be billed along with a Preventive Medicine Service only if a significant, separately identifiable Evaluation and Management Service was provided by the same physician on the same date; an insignificant problem encountered in the process of the Preventive Medicine Service should not be reported. Planned Parenthood was billing for both such "visits."

The audits found a total overpayment of \$1,990.16:

- # 2006 37543 (Milwaukee - West Wisconsin Avenue): \$450.39
- # 2006 50088 (Kenosha): \$1,276.31
- # 2006 96759 (Milwaukee - North Jackson Street): \$135.18
- # 2006 98176 (Milwaukee - North Jackson Street): \$128.28

The audits recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, and that Medicaid seek repayment for undocumented claims.

Wisconsin Audit V - September 2006

A September 2006 audit⁶⁷ of payments to Planned Parenthood of Wisconsin found that Planned Parenthood was billing for duplicate and incorrect services, with overpayments of \$74.28.

⁶⁶ The audits of Planned Parenthood of Wisconsin clinics in Kenosha (2006 50088), Milwaukee - North Jackson Street (2006 96759 and 2006 98176), and Milwaukee - West Wisconsin Avenue (2006 37543) were conducted of the period Jan. 1, 2003, through Sep. 30, 2003.

⁶⁷ The audit (2006 05090) was conducted of the period Jan. 1, 2005, through Dec. 31, 2005.

The Wisconsin Department of Health and Family Services conducted this audit of providers that billed for services that were also performed and billed by another provider. Planned Parenthood was billing both for complete procedures, and then again separately for the professional or technical component of the same procedure, when only the professional or technical component should have been billed.

The audit recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, and that Medicaid seek repayment.

Wisconsin Audits VI-XIII - July 2007

July 2007 audits⁶⁸ of payments to Planned Parenthood of Wisconsin clinics for physician office visits found that Planned Parenthood was billing for non-covered services, with total potential overpayments of \$5,819.91.

The Wisconsin Department of Health and Family Services conducted these audits to ensure that billed office visits were legitimately covered. CPT Guidelines provide that an Evaluation and Management Service may be billed along with a Preventive Medicine Service only if a significant, separately identifiable Evaluation and Management Service was provided by the same physician on the same date; an insignificant problem encountered in the process of the Preventive Medicine Service should not be reported. Planned Parenthood was billing for both such "visits."

The audits found a total potential overpayment of \$5,819.91:

- # 2007 03883 (Appleton): \$368.51
- # 2007 27407 (Madison): \$467.02
- # 2007 29154 (Sheboygan): \$381.99
- # 2007 49325 (Waukesha): \$404.59
- # 2007 66774 (Milwaukee): \$2,533.46

⁶⁸ The audits of Planned Parenthood of Wisconsin clinics in Appleton (2007 03883), Chippewa Falls (2007 70591), Fond du Lac (2007 86622), Kenosha (2007 88039), Madison (2007 27407), Milwaukee (2007 66774), Sheboygan (2007 29154), and Waukesha (2007 49325), were conducted of the period Oct. 1, 2003, through Sep. 30, 2005.

- # 2007 70591 (Chippewa Falls): \$277.31
- # 2007 86622 (Fond du Lac): \$613.19
- # 2007 88039 (Kenosha): \$773.84

The Planned Parenthood clinics were invited to submit rebuttal documentation to demonstrate that the claims were legitimate, but the clinics in Madison, Milwaukee, and Waukesha, at least, did not do so within thirty days as required.

The audits recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, and that Medicaid seek repayment for undocumented claims.

Wisconsin Audit XIV - October 2010

An October 2010 audit⁶⁹ of payments to Planned Parenthood of Wisconsin found that Planned Parenthood was billing for duplicate services, with potential overpayments of at least \$1,864.42.

The Wisconsin Department of Health and Family Services noted that the quantities billed by Planned Parenthood were excessive relative to the standard usage, or the dollar amount billed was inconsistent with the quantity billed. All the claims related to contraceptive implants and patches.

The audit recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, that Planned Parenthood review and complete an attached report and include a copy of each physician clinic note, and that Medicaid seek repayment.

⁶⁹ The audit (2010 53629) was conducted of the period Jan. 1, 2009, through Dec. 31, 2009.

Wisconsin Audits XV-XXV - December 2010

December 2010 audits⁷⁰ of payments to Planned Parenthood of Wisconsin clinics found that Planned Parenthood was billing for duplicate services, with total potential overpayments of \$31,319.77.

The Wisconsin Department of Health and Family Services conducted these audits to identify claims billed by Planned Parenthood for the same code, to the same recipient. The audits found that Planned Parenthood was likely billing multiple times for each listed intrauterine contraception device (IUD).

The audits found a total potential overpayment of \$31,319.77:

- # 2010 15792 (Madison): \$800.00
- # 2010 38805 (Milwaukee - West Wisconsin Avenue): \$5,139.71
- # 2010 55068 (Kenosha): \$1,968.71
- # 2010 75330 (Beaver Dam): \$2,096.00
- # 2010 22240 (Racine): \$13,270.11
- # 2010 34897 (Green Bay): \$468.71
- # 2010 39809 (Waukesha): \$2,198.13
- # 2010 40664 (Shewano): \$700.00
- # 2010 46459 (Chippewa Falls): \$3,200.00
- # 2010 58443 (Fond du Lac): \$1,100.00
- # 2010 84963 (Milwaukee - South 7th Street): \$378.40

The Planned Parenthood clinics were invited to submit rebuttal documentation to demonstrate that the claims were legitimate, but the clinics in Beaver Dam, Chippewa Falls, Fond du Lac, Kenosha, Milwaukee - South 7th Street, Milwaukee - West Wisconsin Avenue, Racine, Shewano, and Waukesha, at least, did not do so within thirty days as required.

⁷⁰ The audits of Planned Parenthood clinics in Beaver Dam (2010 75330), Chippewa Falls (2010 46459), Fond du Lac (2010 58443), Green Bay (2010 34897), Kenosha (2010 55068), Madison (2010 15792), Milwaukee - South 7th Street (2010 84963), Milwaukee - West Wisconsin Avenue (2010 38805), Racine (2010 22240), Shawano (2010 40664), and Waukesha (2010 39809) were conducted of the period Jan. 1, 2007, through Dec. 31, 2009.

The audits recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, that Planned Parenthood review and complete an attached report and include a copy of each physician clinic note and invoice for the product, and that Medicaid seek repayment.

Wisconsin Audit XXVI - August 2012

An August 2012 audit⁷¹ of payments to Planned Parenthood of Wisconsin found that Planned Parenthood was billing for duplicate services, with overpayments of \$2,204.26.

The Wisconsin Department of Health and Family Services noted that the quantities billed by Planned Parenthood were excessive relative to the standard usage, or the dollar amount billed was inconsistent with the quantity billed. All the claims related to intrauterine contraception devices (IUDs), progesterone contraceptive injections, vaginal rings, and contraceptive patches.

The audit recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, that Planned Parenthood review and complete an attached report and include a copy of each physician clinic note, and that Medicaid seek repayment.

⁷¹ The audit (2012 18225) was conducted of the period Jan. 1, 2010, through Dec. 31, 2010.

AUDITS OF OTHER NONPROFIT ABORTION AND FAMILY PLANNING FACILITIES

States have also begun to audit abortion and family planning facilities other than Planned Parenthood affiliates.

One such audit examined the financial management systems related to the Title X family planning program of Tapestry Health Systems, Inc., a nonprofit human service organization located in Western Massachusetts.⁷² Tapestry engages in: (1) Family Planning/Health Services; (2) Education and Training/Community Support Services; and (3) HIV/AIDS Services. The Family Planning/Health Services division performs physical exams, counseling, testing and referrals to other health service providers. HHS-OIG conducted the audit to determine whether Tapestry had adequate financial management systems to ensure accurate and complete disclosure of the financial results of the Federal Title X award. HHS-OIG found that Tapestry was commingling funds and space, and recommended that Tapestry implement systems that: 1) provide for identification of Title X expenses (which it had not been doing as required); 2) ensure that family planning surplus revenues are used for family planning; 3) provide that requests for Title X funds be related to minimum amounts needed; and 4) ensure that space costs are allocated to all benefiting programs on an equitable basis. In addition, HHS-OIG recommended that Tapestry continue to monitor support of payroll charges to ensure proper allocation of salaries of employees working in family planning. In response, Tapestry claimed that it was grateful that the audit found no cause to question the quality of its services or to request disallowance or return of federal funds. Yet, as HHS-OIG noted in reply, “these conclusions cannot be drawn from this report as this audit did not include a review of services provided by Tapestry or the allowability of claimed costs.”

In Maine, Family Planning Association of Maine, Inc. (FPAM), was fined \$36,016 by the Maine Department of Health and Human Services for the fiscal year

⁷² Audit of Tapestry Health Systems, Inc., Financial Management Systems Related to the Title X Family Planning Program, A-01-00-01504, May 2000.

ending June 30, 2010, for not following the correct cost sharing method, resulting in the misuse of restricted funds.⁷³ FPAM was further fined \$12,075,91 for overbillings relating to IUDs, including twenty billings for removals rather than insertions (thus requiring no IUD), five billings where no IUD was inserted, forty-four billings at approximately 150% of actual acquisition cost, and one billing without proper documentation.⁷⁴

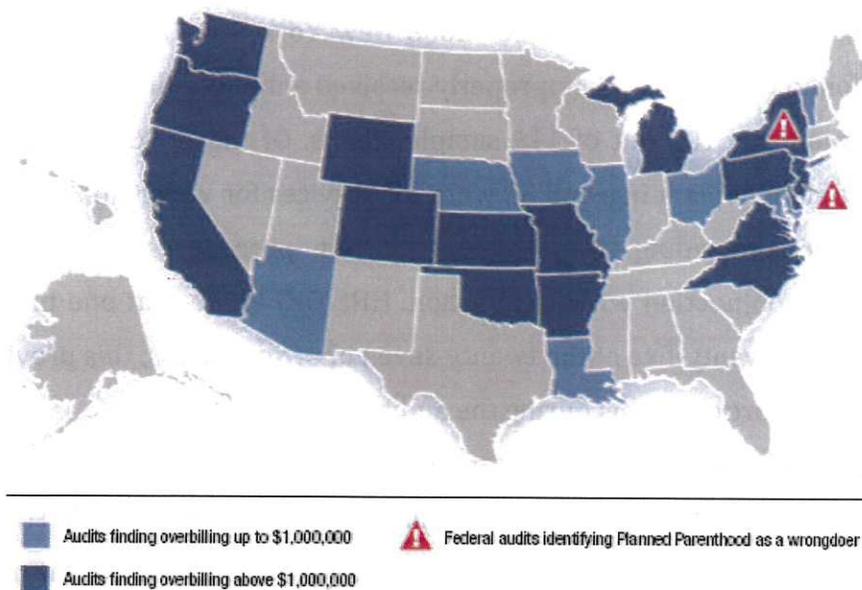
⁷³ See Letter from Herbert F. Downs, Director, Financial Services – Audit, Maine Department of Health and Human Services, to George Hill, Chief Executive Officer, Family Planning Association of Maine, Inc. (Aug. 31, 2012) (on file with Alliance Defending Freedom). Audits of the FPAM fiscal years ending June 30, 2007, 2008, and 2009, did not appear to find any overbilling, but the scope of these audits is not known. See Letter from Herbert F. Downs, Director, Financial Services – Audit, Maine Department of Health and Human Services, to George Hill, Chief Executive Officer, Family Planning Association of Maine, Inc. (July 31, 2009) (on file with Alliance Defending Freedom); Letter from Herbert F. Downs, Director, Financial Services – Audit, Maine Department of Health and Human Services, to George Hill, Chief Executive Officer, Family Planning Association of Maine, Inc. (Apr. 25, 2011) (on file with Alliance Defending Freedom). Alliance Defending Freedom is working to obtain full records on the audits.

⁷⁴ See Letter from Michael Bishop, Auditor II, Program Integrity, Division of Audit, Maine Department of Health and Human Services, to Brenda Chabre, Medical Billing Manager, Family Planning Association (Dec. 1, 2010) (on file with Alliance Defending Freedom). Alliance Defending Freedom is working to obtain full records on the audit process.

FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS

Fifty-one federal audits by HHS-OIG of state family planning programs in twenty-four states found over \$107 million in overbilling, at a minimum. The audited dates are known for fifty audits. Of these audits, as much as \$4,410,900.70 was overbilled in one audited year; the average overbilled amount per audited year was \$701,305.28. The 2010 GAO report and Office of Population Affairs Title X Family Planning Directory of Grantees report reveal that Planned Parenthood receives the lion's share of federal funding for family planning by private organizations under Title X and other programs.⁷⁵

FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS



Two of these audits specifically identified Planned Parenthood - and only Planned Parenthood - as the problem in state family planning program overbilling.

⁷⁵ See U.S. GOVERNMENT ACCOUNTABILITY OFFICE, FEDERAL FUNDS: FISCAL YEARS 2002-2009 OBLIGATIONS, DISBURSEMENTS, AND EXPENDITURES FOR SELECTED ORGANIZATIONS INVOLVED IN HEALTH-RELATED ACTIVITIES (GAO-10-533R) (2010), at Table 7, available at <http://www.gao.gov/new.items/d10533r.pdf>; OFFICE OF POPULATION AFFAIRS, TITLE X FAMILY PLANNING DIRECTORY OF GRANTEEES (2014), available at .

(1) In the June 2008 New Jersey audit A-02-06-01010, HHS-OIG determined that the overpayment occurred in part because “many” family planning clinics (“especially Planned Parenthood providers”) improperly billed *all* services as family planning, and eligible for 90-percent Federal funding.

(2) In the May 2008 New York State audit A-02-07-01001, HHS-OIG determined that the resultant overpayment occurred in part because some providers – “especially Planned Parenthoods” – incorrectly claimed services as family planning (“[M]any provider officials (especially Planned Parenthoods) stated that they billed most of their claims to Medicaid as related to ‘family planning.’”). **Thirteen months later, New York State released its first known audit report of a Planned Parenthood affiliate.**

Additionally, in the November 2008 New York State audit A-02-07-01037, HHS-OIG found that New York improperly received enhanced ninety-percent federal reimbursement for 102 out of 119 sample claims. Of these, 96 were for services unrelated to family planning, and 33 were for services for which no reimbursement was available - including twenty-seven abortion procedures, and four services performed in conjunction with an abortion. HHS-OIG found that one provider was responsible for twenty-five of the twenty-seven abortion claims; this provider billed at least 3,900 abortion claims during the audit period.

In the July 2007 New York State audit A-02-05-01009, HHS-OIG noted that one “laboratory provider [which specialized in examining abortion-related specimens] submitted 95 of the 98 improper sample claims” out of the 100 claims sampled. Forty-two of the improper claims involved abortion-related laboratory tests for which no federal funding is available, e.g., tests performed on the aborted fetus and tests performed before the abortion to assess the risk to the patient, such as complete blood counts, electrolytes, and blood typing.

In the September 2009 New York State audit A-02-09-01015, the 105 sample claims had been submitted by a total of fourteen providers. Six of them coded approximately ninety-nine percent of their claims as family planning during the audit period, improperly claiming, among other things, treatment for sexually

transmitted diseases and pre-abortion counseling visits unrelated to family planning services.

	HHS-OIG Audit #	Audited Period	Total Overbilling
Arizona	A-09-04-00027	10/01/1999 – 09/30/2002	\$558,093 ⁷⁶
Arkansas	A-06-11-00022	10/01/2005 – 09/30/2010	\$1,906,657 ⁷⁷
California	A-09-11-02040	10/01/2008 – 09/30/2010	\$5,671,216
California	A-09-12-02077	10/01/2008 – 09/30/2010	\$627,053
Colorado	A-07-04-01005	10/1999 – 12/2003	\$1,587,305
Colorado	A-07-04-01008	07/01/1998 – 06/30/1999	\$454,786
Colorado	A-07-11-01095	10/01/2005 – 09/30/2009	\$617,999
Colorado	A-07-11-01096	10/01/2005 – 09/30/2009	\$1,975,800
Colorado	A-07-11-01097	10/01/2005 – 09/30/2009	\$2,295
Delaware	A-03-03-00220	10/2000 – 06/2004	\$2,916,288 ⁷⁸
Illinois	A-05-10-00053	10/01/2007 – 09/30/2009	\$869,273
Iowa	A-07-12-03178	10/01/2010 – 09/30/2011	\$8,291 ⁷⁹
Kansas	A-07-09-04146	07/01/2005 – 06/30/2009	\$589,355

⁷⁶ HHS-OIG recommended that the Medicaid agency work with CMS to determine the eligibility of \$558,093 in payments. However, another HHS-OIG audit, A-03-06-00200, included this figure in its entirety in its total amount of claimed unallowable family planning costs.

⁷⁷ Further, HHS-OIG recommended that the State agency “work with CMS to determine the allowable portion of the [additional] \$929,019 in family planning Federal share that it received for allocated sterilization costs.”

⁷⁸ Alternatively, Delaware could provide support for the family planning service costs claimed.

⁷⁹ This overpayment relates to services provided to just 28 women, or an average of over \$296 per woman.

Kansas	A-07-10-04156	07/01/2005 – 06/30/2009	\$2,447,414
Kansas	A-07-10-04157	07/01/2005 – 06/30/2009	\$151,526
Kansas	A-07-10-04162	07/01/2005 – 06/30/2009	\$485,982
Louisiana	A-06-10-00075	*80	*81
Louisiana	A-06-10-00076	10/01/2007 – 09/30/2009	\$0
Maryland	A-03-03-00218	07/2000 – 03/2004	\$228,643
Michigan	A-05-08-00064	10/01/2005 – 09/30/2007	\$1,000,519
Michigan	A-05-09-00050	10/01/2005 – 09/30/2007	\$838
Missouri	A-07-04-01004	10/01/2000 – 09/30/2003	\$0
Missouri	A-07-04-01012	10/01/1995 – 09/30/2001 ⁸²	\$6,467,583
Missouri	A-07-12-01117	01/01/2009 – 09/30/2011	\$2,373,541 ⁸³
Missouri	A-07-12-01118	01/01/2009 – 12/31/2010	\$487,351

⁸⁰ Key: * - audited dates or overbilling figures unknown

⁸¹ Alliance Defending Freedom is working to obtain records on this audit.

⁸² These were retroactive claims that were submitted in the quarter ending March 31, 2001.

⁸³ The audit found overpayments of \$1,480,516 and recommended that this amount be refunded to the federal government, and also recommended that the state agency review costs for family planning sterilization procedures for reporting periods after the audited period. The state agency found and pledged to additionally refund \$893,025.

Missouri	A-07-12-01121	01/01/2009 – 12/31/2010	\$862,398
Nebraska	A-07-11-02759	01/01/2009 – 03/31/2009 ⁸⁴	\$43,948
New Jersey	A-02-05-01016	07/01/1997 – 03/31/2002	\$314,446 ⁸⁵
New Jersey	A-02-05-01019	02/01/2001 – 01/31/2005	\$2,219,746
New Jersey	A-02-06-01010 ⁸⁶	02/01/2001 – 01/31/2005	\$597,496
New Jersey	A-02-06-01020	02/01/2001 – 01/31/2005	\$162,548
New York	A-02-05-01001	01/01/2000 – 12/31/2003	\$1,566,740
New York	A-02-05-01009	01/01/2000 – 12/31/2003	\$3,235,640 ⁸⁷
New York	A-02-05-01018	01/01/2000 – 12/31/2003	\$6,132,366 ⁸⁸
New York	A-02-06-01007	01/01/2000 – 06/30/2005	\$2,603,128
New York	A-02-07-01001 ⁸⁹	10/01/2002 – 06/30/2006	\$918,816

⁸⁴ The review period for reviewing internal controls was October 1, 2008, to March 31, 2010, but expenditure testing was conducted only for the selected quarter, January 1, 2009, to March 31, 2009. Based on the audit, it is likely that \$43,948 of the claims were not allowable.

⁸⁵ Additionally, HHS-OIG set aside \$4,346,987 in unsupported claims for resolution.

⁸⁶ This is one of the two audits that named Planned Parenthood as a wrongdoer.

⁸⁷ This amount was considered overbilled but would be reviewed by CMS and the state because qualified practitioners had not performed a medical review of the sample claims.

⁸⁸ This audit did not question the medical necessity of the services or their eligibility for Medicaid reimbursement. Thus, the audit questioned and calculated only the difference between the applicable FMAP and the enhanced ninety-percent federal funding rate, which is either 40% (for the 50% FMAP, 90% - 50%) or 37.05% (for the 52.95% FMAP, 90% - 52.95%). Thus, the actual amount of overbilling may have been even higher.

⁸⁹ This audit uncovered improperly billed claims, including, e.g., a fractured ankle billed as family planning, and sterilizations performed without obtaining proper consent. This is one of the two audits that named Planned Parenthood as a wrongdoer.

New York	A-02-07-01037	04/01/2003 – 03/31/2007	\$17,151,156
New York	A-02-09-01015	04/01/2007 – 09/30/2008	\$3,773,506
North Carolina	A-04-10-01089 ⁹⁰	10/01/2004 – 09/30/2007	\$1,387,378
North Carolina	A-04-10-01091	10/01/2005 – 09/30/2007	\$666,826
North Carolina	A-04-10-01092	10/01/2004 – 09/30/2007	\$541,513
Ohio	A-05-10-00035	10/01/2007 – 09/30/2009	\$320,774
Oklahoma	A-06-09-00097	10/01/2008 – 12/31/2008	\$12,703 ⁹¹
Oklahoma	A-06-10-00047	01/01/2005 – 12/31/2009	\$3,356,074
Oregon	A-09-10-02043	10/01/2006 – 09/30/2009	\$1,487,974
Oregon	A-09-11-02010	10/01/2006 – 09/30/2009	\$1,692,956 ⁹²
Pennsylvania	A-03-03-00214	10/2000 – 02/2004	\$15,070,548
Vermont	A-01-05-00002	10/01/2003 – 09/30/2004	\$323,367
Virginia	A-03-04-00209	04/2001 – 03/2004	\$1,388,506
Washington	A-09-09-00049	10/01/2005 – 09/30/2008	\$8,458,169
Wyoming	A-07-11-01100	01/01/2006 – 12/31/2010	\$1,348,942
TOTAL			\$107,065,472⁹³

⁹⁰ This audit uncovered improperly billed pharmacy claims and sterilizations performed without obtaining proper consent.

⁹¹ The Oklahoma Health Care Authority was further directed to work with CMS to determine what portion of an additional \$126,613 was unallowable.

⁹² Additionally, HHS-OIG set aside 27,405 claims totaling \$3,310,404 (\$2,979,364 federal share) for resolution for clients for whom the State agency did not verify client incomes and/or social security numbers.

⁹³ Each audit was very limited in scope as to location, time frame, and type of claim examined. Even with these restrictions, if the overbilling does include the amounts set aside, the total amount of overbilling could be far higher.

Further, HHS-OIG estimated these amounts, where applicable, using the lower limit at the ninety-percent confidence level, and not all audits questioned the medical necessity of services or their eligibility for Medicaid reimbursement, thus questioning and calculating only the difference between the applicable FMAP and the enhanced ninety-percent federal funding rate, rather than zero reimbursement and the ninety-percent federal funding rate.

FEDERAL QUI TAM LAWSUITS AGAINST PLANNED PARENTHOOD AFFILIATES

Numerous False Claims Act whistleblower lawsuits around the country have alleged waste, abuse, and potential fraud by Planned Parenthood affiliates. The federal False Claims Act (FCA) forbids government contractors from submitting “false or fraudulent” claims for payment, and authorizes whistleblowers to bring suit against the offenders in order to recover the fraudulently obtained funds. By law, such cases must initially be filed under seal and may not be made public while federal authorities decide whether to join the case. Six such lawsuits against Planned Parenthood affiliates have been made public at this time, and one – *Reynolds v. Planned Parenthood Gulf Coast* – recently led to an agreement by Planned Parenthood to pay \$4.3 million or more to settle claims that the U.S. Department of Justice called Medicaid fraud. Planned Parenthood does not mention these abuses in its 2012-2013 annual report’s discussion of its “growing litigation docket.”⁹⁴

***Reynolds v. Planned Parenthood Gulf Coast*⁹⁵**

American Center for Law and Justice attorneys represented Karen Reynolds, who was employed as a Health Care Assistant at the Lufkin, TX, Planned Parenthood clinic from October 1999 to February 2009 and filed her False Claims Act lawsuit against Planned Parenthood Gulf Coast, formerly known as Planned Parenthood of Houston and Southeast Texas, Inc., in the U.S. District Court for the Eastern District of Texas, Lufkin Division.

Her complaint alleged that Planned Parenthood’s clinics were required “to constantly increase their ‘pay per visit’ goals which were the bills charged to Medicaid for every patient visit.” The policies were intended to maximize “the financial payments and grants made by Medicaid, either directly or through Texas’ programs.” Reynolds’ complaint alleged that Planned Parenthood billed Medicaid for services that individual patients did not need or request, and that were not originally attested to by entries made in each individual patient’s chart, and then

⁹⁴ PLANNED PARENTHOOD FEDERATION OF AMERICA, ANNUAL REPORT 2012-2013, at 4.

⁹⁵ No. 9:09-cv-124 (E.D. Tex.).

Planned Parenthood employees altered patients' charts to reflect that all such services had actually been rendered. In July 2013 **Planned Parenthood settled the lawsuit by agreeing to reimburse \$4.3 million or more⁹⁶ to the federal and State of Texas governments to settle claims that the U.S. Department of Justice called Medicaid fraud.**

U.S. Attorney John M. Bales stated: "We are very pleased to settle this matter for an amount of money that addresses what was, in the Government's view, an abuse of programs that are extremely important to the well-being of many American women. . . . I am particularly grateful to the whistleblower for bringing the matter to our attention."⁹⁷

Johnson v. Planned Parenthood Gulf Coast⁹⁸

Alliance Defending Freedom is representing former Planned Parenthood clinic director Abby Johnson in her federal False Claims Act lawsuit against the same affiliate as Reynolds (Planned Parenthood's Houston and Southeast Texas affiliate, now known as Planned Parenthood Gulf Coast) in July 2010 and unsealed by a federal court in March 2012. This suit alleges that Planned Parenthood knowingly committed Medicaid fraud from 2007 to 2009 by submitting "repeated false, fraudulent, and ineligible claims for Medicaid reimbursements" through the Texas Women's Health Program for products and services not reimbursable by that program.

The lawsuit alleges that Planned Parenthood of Houston and Southeast Texas filed at least 87,075 false, fraudulent, or ineligible claims with the Texas Women's Health Program. As a result, Planned Parenthood wrongfully received and retained reimbursements totaling more than \$5.7 million.

⁹⁶ Planned Parenthood will pay an additional, unspecified amount for Reynolds' attorneys' fees.

⁹⁷ See Press Release, U.S. Department of Justice, Planned Parenthood Pays \$4.3 Million to Settle Allegations of Unnecessary Medical Care (Aug. 16, 2013), available at <http://www.justice.gov/usao/txe/News/2013/edtx-settlement-plan-081613.html>.

⁹⁸ No. 4:10-cv-03496 (S.D. Tex.).

Johnson's suit alleges that Planned Parenthood officials acknowledged that they had received taxpayer reimbursements to which they were not entitled, and that their policies had resulted in waste, abuse, and potential fraud. When Johnson pressed them about what they were going to do with those funds, she says, a Planned Parenthood official responded, "We're going to hope we don't get caught."

Carroll v. Planned Parenthood Gulf Coast⁹⁹

Patricia M. Carroll, employed as the Accounts Receivable Manager by Planned Parenthood Gulf Coast from October 2007 to October 2012, filed her complaint against the same affiliate as Reynolds and Johnson in December 2012 after noticing that one Planned Parenthood clinic had increased its revenue more than 300%. Carroll alleges in her complaint that she discovered that Planned Parenthood "targeted" incarcerated, primarily minority teens at a school they were ordered to attend for STD and HIV blood tests performed offsite in two separate visits by unqualified non-medical staff and without physician supervision. Since neither school nor prison services are reimbursable by Medicaid, Planned Parenthood employees engaged in "blatant falsification," using Medicaid billing codes (e.g., for "office visit" and "syphilis in-house") to indicate the tests were performed in-clinic by a physician, then altering their clinic scheduling records to make it appear that the patients had actually visited the clinic. The complaint additionally alleges that at least some of the services were not medically necessary due to the duplication of visits, teens already having been tested at the jails or court systems they came from, and the higher-level staff already onsite at the school who could provide the same testing and education at no cost. Carroll also notes HIPAA violations and that Planned Parenthood "endangered" the children's "health and safety." Upon uncovering this duplicity, Carroll locked pending claims so they could not be submitted for payment, and attempted to report the overbillings. After Planned Parenthood Gulf Coast refused to acknowledge the false claims, she contacted Planned Parenthood Federation of America corporate offices in New York,

⁹⁹ No. 4:12-cv-03505 (S.D. Tex.).

NY, and Washington, DC. When even the “ethics” attorney she was directed to failed to call her back and instead reported her complaint to the very perpetrators of the fraud, Carroll resigned. In a May 2014 court order requesting more information from Carroll, the presiding judge found that the information already provided by Carroll “allows the court to draw the reasonable inference that Planned Parenthood knowingly filed false claims.” The complaint alleges that the false claims were billed “for the sole purpose of generating revenue,” and that between 2002 and May 2012, Planned Parenthood received improper reimbursements of approximately \$200 per patient for thousands of patients; at least as of the date of Carroll’s resignation, Planned Parenthood has refused to admit or reimburse the fraudulent billing.

Gonzalez v. Planned Parenthood of Los Angeles¹⁰⁰

American Center for Law and Justice represents Victor Gonzalez, employed as Vice President of Finance and Administration (CFO) by Planned Parenthood of Los Angeles (PPLA) from December 2002 to March 2004. His complaint alleges that Planned Parenthood was involved in an ongoing statewide scheme involving all California Planned Parenthood affiliates and officers, to bill Medicaid and other government family planning programs for oral contraceptive pills and contraceptive devices far in excess of reimbursement limits set by federal and state law. The complaint alleges that between 1997 and 2004, Planned Parenthood affiliates in California received improper reimbursements far in excess of \$200,000,000.

An internal email from Gonzalez states that PPLA’s actual acquisition cost for oral contraceptive pills was \$1-2, but that it was charging the government \$12-48 per pack – a “hefty markup” “proscribed by DHS regulations.” Gonzalez estimates the impact on PPLA alone as approximately \$4 million in revenues in a single typical year.¹⁰¹

¹⁰⁰ No. CV 05-8818 AHM (C.D. Cal.).

¹⁰¹ Email from Victor Gonzalez, Vice President of Finance and Administration, Planned Parenthood of Los Angeles, to Thomas Schulte, Managing Partner, RBZ, LLP (Feb. 20, 2004, 09:45 PST) (on file with Alliance Defending Freedom).

In response to news that California's Department of Health Services would be auditing PPLA's contraceptive purchases, CEO Mark Salo wrote that if Planned Parenthood could only charge the government "only what we paid for the product," "this could kill many of us."¹⁰² PPLA President Martha Swiller replied: "This is bad."¹⁰³

Thayer v. Planned Parenthood of the Heartland¹⁰⁴

In a federal lawsuit filed in March 2011 by Alliance Defending Freedom attorneys and made public on July 9, 2012, Sue Thayer, former manager of Planned Parenthood's Storm Lake and LeMars clinics, alleged that Planned Parenthood's Iowa affiliate knowingly committed Medicaid fraud from 2002 to 2009 by filing nearly one half million false claims with Medicaid for products and services not legally reimbursable, from which Planned Parenthood received and retained nearly \$28 million, and additionally failed to meet acceptable standards of medical practice. If Thayer prevails, Planned Parenthood could be ordered to pay the United States and Iowa as much as \$5.5 billion in False Claims Act damages and penalties.

The lawsuit explains that, to enhance revenues, Planned Parenthood implemented a "C-Mail" program that automatically mailed a year's supply of birth control pills to women who had only been seen once at a Planned Parenthood clinic and usually by personnel who were not qualified healthcare professionals. Thereafter, thousands of unrequested birth control pills were mailed to these clients. Planned Parenthood's cost for a 28-day supply of birth control pills mailed to clients was \$2.98. In turn, Planned Parenthood was reimbursed \$26.32 for the birth control pills by the taxpayers through Medicaid. In some cases, birth control pills were returned to Planned Parenthood by the Postal Service. Instead of crediting

¹⁰² Email from Mark Salo, Chief Executive Officer, Planned Parenthood of San Diego and Riverside Counties, to Jon Dunn, President and Chief Executive Officer, Planned Parenthood of Orange and San Bernardino Counties, et al. (Jan. 26, 2004, 16:00 PST) (on file with Alliance Defending Freedom).

¹⁰³ Email from Martha Swiller, President, Planned Parenthood of Los Angeles, to Victor Gonzalez, Vice President of Finance and Administration, Planned Parenthood of Los Angeles, et al. (Jan. 26, 2004, 17:38 PST) (on file with Alliance Defending Freedom).

¹⁰⁴ No. 4:11-cv-00129-JAJ-CFB (S.D. Iowa).

Medicaid or destroying the returned pills, Planned Parenthood resold the same birth control pills and billed Medicaid twice for the same pills.

The suit also claims that Planned Parenthood coerced “voluntary donations” for services and then billed Medicaid for them. In effect, the lawsuit explains, Planned Parenthood both falsely billed Medicaid and took money from low-income women by getting them to pay for services Medicaid was intended to cover in full. Additionally, Planned Parenthood billed Medicaid for services provided in connection with non-reimbursable abortions, engaged in directive counseling to urge women toward abortions, and – like Tapestry Health Systems, as described above – failed to separate abortion activities from its federally funded “options counseling” program.

Finally, Thayer alleges that Planned Parenthood instructed women experiencing post-medical abortion bleeding to go to the hospital and tell medical staff there that they were having a miscarriage, since Planned Parenthood had no doctor on site to assist, didn’t want the negative press or client loss associated with bleeding, upset women returning to the clinic, and didn’t want the medical community to know it was outsourcing the “messy” part of the work to them. According to Thayer, Planned Parenthood was unconcerned that this policy resulted in doctors treating women based on a false history and diagnosis, putting the women at grave risk,¹⁰⁵ or that it resulted at times in doctors violating the law in submitting Medicaid claims for Hyde Amendment-prohibited abortions, and violating their own conscience in completing abortion procedures.

¹⁰⁵ The complications associated with medical abortion, including hemorrhage and severe infection, can be far more serious than those associated with surgical abortion or with miscarriage due to the mechanism of the medical abortion drug, mifepristone: (1) mifepristone can cause the blood vessels in the uterus to fail to contract, resulting in the loss of large amounts of blood, even if there is no pregnancy tissue left, and (2) mifepristone can cause a suppression of the immune system, resulting in massive, sometimes fatal infections such as *C. Sordellii*. See generally, e.g., Margaret M. Gary & Donna J. Harrison, *Analysis of Severe Adverse Events Related to the Use of Mifepristone as an Abortifacient*, 40 THE ANNALS OF PHARMACOTHERAPY 191 (2006); Martha Shuping et al., *Medical Abortion with Mifepristone (RU-486) Compared to Surgical Abortion* (on file with Alliance Defending Freedom).

Bloedow v. Planned Parenthood of the Great Northwest¹⁰⁶

Alliance Defending Freedom attorneys represent federal False Claims Act whistleblower Jonathan Bloedow, a Washington resident who discovered the alleged frauds through state open records requests and filed suit against Planned Parenthood of the Great Northwest in July 2011. The suit alleges that Planned Parenthood submitted false claims to Washington's Department of Social and Health Services and its Health and Recovery Services Administration (HRSA). HRSA runs the state's Title XIX Medicaid program.

Bloedow charges that Planned Parenthood of the Great Northwest filed at least 25,000 false claims with HRSA for reimbursements in excess of the amount allowed for oral contraceptive pills and at least another 25,000 for reimbursements in excess of the amount allowed for "emergency contraceptive" ("Plan B") pills under the federal government's 340B drug reimbursement program. Total damages could be as much as \$377,134,130.

The allegations of Bloedow's complaint are consistent with a 2011 Government Accountability Office report that concluded that HRSA monitoring of the 340B program was "inadequate" and recommended that "HRSA take steps to strengthen oversight regarding program participation and compliance with program requirements."¹⁰⁷

¹⁰⁶ No. C11-1192 MJP (W.D. Wash.).

¹⁰⁷ U.S. GOVERNMENT ACCOUNTABILITY OFFICE, DRUG PRICING: MANUFACTURER DISCOUNTS IN THE 340B PROGRAM OFFER BENEFITS, BUT FEDERAL OVERSIGHT NEEDS IMPROVEMENT (GAO-11-836) (2011), at Highlights, 21, *available at* <http://www.gao.gov/products/GAO-11-836>. As noted *supra* at n.7, Planned Parenthood Federation of America and dozens of its affiliates nonetheless objected strenuously to a proposed Center for Medicare and Medicaid Services rule that would limit the number of entities that could purchase pharmaceuticals at reduced prices to 340B entities and intermediate care and nursing facilities. Planned Parenthood advocated for 340B-ineligible "safety net providers" to receive nominal pricing, as well, stating that many of its own clinics were not 340B-eligible and would be forced to close if asked to pay list price for pharmaceuticals. *See, e.g.*, Letter from Jacqueline K. Payne, Director of Government Relations, to Leslie V. Norwalk, Acting Administrator, Centers for Medicare and Medicaid Services (Feb. 20, 2007) (as a comment Medicaid Prescription Drugs Average Manufacture Price, 71 Fed. Reg. 77174 (Dec. 22, 2006)) (on file with Alliance Defending Freedom).

Further, the Washington Medical Assistance Administration (MAA) uncovered massive overbilling above actual acquisition cost by Planned Parenthood in Washington. In an internal email, MAA summarized the overbilling as follows:

Data Story:

- Since sometime in 2001 Family Planning Providers have been routinely billing us for birth control pills at our maximum allowable cost rather than their acquisition cost, **which is required of them by statute as a 340B drug purchaser** (parallel requirements are in our WAC and BI); ...
- Planned Parenthood providers are receiving large reimbursements from MAA for birth control pills. Our maximum allowable cost for the pills is \$17.00. **They are billing us around \$16.95; \$16.99 etc for a product that costs them somewhere around 2.50, 2.00 or lower.**
- **Better enforcement of their statutory requirement to pass the savings on to Medicaid** will result in a major shift in resources from the provider back to the state.

Old History:

- In 2000 and 2001 this same issue of inflated billings was uncovered at an audit of a Planned Parenthood clinic. ...

Recent History:

- Planned Parenthood initiated the recent conversations asserting that MAA has a problem with reimbursement methods for birth control pills; and that they would assume until told otherwise that the difference between their acquisition cost and our maximum allowable cost was to be considered a dispensing fee. **This is a misdirection. There is nothing we can do to relieve them of their obligations under 340B pricing rules and our rules clearly tell 340B purchasers to bill their actual acquisition cost.**¹⁰⁸

In defense, in a September 24, 2004 meeting between MAA and Planned Parenthood representatives, Planned Parenthood's attorneys argued that "the higher 340B drug reimbursement is necessary to support the other services that PP

¹⁰⁸ Email from Myra S. Davis, Medical Assistance Administration Rules and Publications, to Heidi Robbins Brown, Deputy Assistant Secretary, Medical Assistance Administration, Washington Department of Social and Health Services (Sept. 17, 2004, 11:56 PDT) (on file with Alliance Defending Freedom) (emphases supplied).

provides” and that the overbilling could be justified as substantially similar to a dispensing fee. Another Planned Parenthood representative opined that “family planning providers are completely exempt from” pharmacy law; MAA noted that they “interpret it differently.”¹⁰⁹ Documents indicate that Planned Parenthood has been caught and warned on this issue on at least two occasions. Yet no further audit or prosecution beyond the two audits detailed *supra* has taken place, despite pressure from the public.¹¹⁰

¹⁰⁹ Notes from Meeting regarding Family Planning Policies and 340B Reimbursements (Sept. 24, 2004) (on file with Alliance Defending Freedom).

¹¹⁰ See documents and emails on file with Alliance Defending Freedom.

**REPORT ON PLANNED PARENTHOOD AFFILIATES' POTENTIAL MISUSE OF
GRANTS FOR BREAST HEALTH TREATMENT AND EDUCATION**

On April 3, 2013, Alliance Defending Freedom released a report identifying an additional area of potential waste, abuse, and fraud, this time in connection with the Susan G. Komen breast health foundation's controversial grant program.¹¹¹ Over the last several years, this program distributed nearly \$3 million in grants to Planned Parenthood affiliates for the primary purpose of providing breast cancer screening and education services to low-income, Medicaid-eligible women. During this controversy and as detailed in the report, Planned Parenthood repeatedly claimed that it used Komen's grant funds to provide mammograms, clinical breast exams, and breast health education for low-income women. However, during the entire length of the grant program, not a single Planned Parenthood facility had mammography equipment on site or performed any mammograms. Nor was any Planned Parenthood clinic capable of or licensed for mammography, since no Planned Parenthood facility was licensed to perform mammograms.

Furthermore, the Komen report determined that, while the services Planned Parenthood did provide to Medicaid-eligible women were underwritten by Komen grants, Planned Parenthood nonetheless apparently sought reimbursement routinely for these same services from Medicaid authorities without reflecting offsets for the amounts received from Komen, as it was required to do. In essence, Planned Parenthood affiliates apparently were "double-dipping": accepting grant money to provide, in part, services they did not provide, then billing the "payor of last resort" Medicaid for the entire amount rather than reducing the bill by the amount already paid for by other insurance or a grant.

¹¹¹ ALLIANCE DEFENDING FREEDOM, REPORT ON POTENTIAL FRAUD BY PLANNED PARENTHOOD AFFILIATES RELATING TO GRANTS FROM SUSAN G. KOMEN FOR THE CURE (2013), *available at* <http://www.alliancedefendingfreedom.org/content/campaign/2013/Planned-Parenthood/images/ADF/Publications/4-8-2013-Memo-to-Selected-Members-of-Congress-re-PP-Fraud.pdf>.

**ACTION STEPS FOR INCREASED OVERSIGHT OF PLANNED PARENTHOOD AND
STATE FAMILY PLANNING PROGRAMS**

Alliance Defending Freedom applauds Representative Diane Black, Representative Pete Olson, and other Members of Congress for their February 21, 2013, letter requesting that GAO conduct a comprehensive audit of the receipt and use of federal taxpayer dollars by Planned Parenthood Federation of America and its related entities, and GAO for accepting the request and opening an investigation into Planned Parenthood, the Guttmacher Institute, and other prominent family planning organizations.

Alliance Defending Freedom now urges congressional oversight committees, state attorneys general, and other relevant federal and state entities to:

1. Vigorously pursue the current GAO investigation seeking, among other things, “up-to-date information regarding federal funding of Planned Parenthood and other specific organizations.”
2. Continue and complete the investigation begun in September 2011 by the House Energy and Commerce Committee’s Oversight and Investigations Subcommittee into PPFA and its affiliates’ use of federal funding and compliance with federal abortion funding restrictions.¹¹²
3. Empower auditors and state Medicaid Fraud Control Units (MFCUs) to investigate, prosecute, and recover overbilling practices including:
 - a. contraceptive overprescription, often through the use of mandatory, opt-out programs such as Pills by Mail, C-Mail, and Quarterly Contraceptive Kits (each containing 3 months of pill or patch, 24 male condoms, 3 female condoms, and 1 emergency contraceptive pill package), which are automatically mailed to Medicaid beneficiaries after Planned Parenthood calculates that

¹¹² See MEDICAID CONTRACTOR BENEFICIARY AND PROVIDER COMMUNICATIONS MANUAL, 60.3.2.4-CONGRESSIONAL INQUIRIES TIMELINESS (2014), available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R29COM.pdf> (congressional inquiries must be responded to within ten business days of receipt).

- 75% of the original prescription has been used, leading to stockpiling, and which may be sent to women no longer using these contraceptives or no longer at the original address;
- b. billing contraceptives at much higher than actual acquisition cost, often a 900% markup;
 - c. prescribing and dispensing prescription contraceptives without medical authorization: for patients who have not been seen by a licensed clinician and without the required clinician signature; and
 - d. miscoding claims in order to maximize revenues, resulting in overbilling and an incorrect medical record that would not provide an accurate history to doctors who see the patient in the future.
4. Insist on greater transparency in reports maintained by federal and state Medicaid authorities on family planning program claims and reimbursements, as well as in the annual audits and quality control reviews required of all non-federal entities that expend \$500,000 or more of federal awards in a year.¹¹³
 5. Update state False Claims Act laws according to HHS-OIG guidelines in order to qualify for an incentive under section 1909 of the Social Security Act,¹¹⁴ and to encourage legitimate whistleblowers to come forward.
 6. Update state Medicaid regulations relating to prescription refill frequency and maximum prescription reimbursement amount.
 7. Investigate whether Planned Parenthood is double-dipping by billing Medicaid (and thus federal taxpayers) for services that the Susan G. Komen foundation and its donors are already paying it to provide.

¹¹³ See U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL, RECOVERY ACT OVERSIGHT, <https://oig.hhs.gov/recovery-act-oversight/>.

¹¹⁴ See U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL, STATE FALSE CLAIMS ACT REVIEWS, <https://oig.hhs.gov/fraud/state-false-claims-act-reviews/index.asp>.

APPENDIX: CALCULATIONS

The tables below demonstrate the calculations by which Alliance Defending Freedom determined the averages and other figures above.

Audits of Planned Parenthood Affiliates

State Audit	Audited Years	Total Overbilling	Overbilling by Audited Year
California	1	\$5,213,645.92	\$5,213,645.92
Connecticut	*	\$18,791.00	*
Illinois	2	\$387,000.00	\$193,500.00
Louisiana	1	\$6,147.18	\$6,147.18
Louisiana	1	\$0	\$0
Maine	5.02	\$33,294.83	\$6,632.44
New York - I	*	\$207,809.00	*
New York - II	1	\$15,723.91	\$15,723.91
New York - III	2	\$1,254,603.00	\$627,301.50
New York - IV	1	\$886.26	\$886.26
[New York - V	3	\$112,490.31	\$37,496.77
[New York - VI	3	\$12,031.29	\$4,010.43
[New York - VII	3	\$11,539.48	\$3,846.49
Texas	*	\$409,675.10	*
Washington - I	*	*	*
Washington - II	2.96	\$629,142.88	\$212,548.27
Washington - III	*	\$11,453	*
[Wisconsin - I	0.75	\$450.39	\$600.52
[Wisconsin - II	0.75	\$1,276.31	\$1,701.75
[Wisconsin - III	0.75	\$135.18	\$180.24
[Wisconsin - IV	0.75	\$128.28	\$171.04
Wisconsin - V	1	\$74.28	\$74.28
[Wisconsin - VI	2	\$368.51	\$184.26
[Wisconsin - VII	2	\$467.02	\$233.51
[Wisconsin - VIII	2	\$381.99	\$191.00
[Wisconsin - IX	2	\$404.59	\$202.30
[Wisconsin - X	2	\$2,533.46	\$1,266.73
[Wisconsin - XI	2	\$277.31	\$138.66
[Wisconsin - XII	2	\$613.19	\$306.60
[Wisconsin - III	2	\$773.84	\$386.92
Wisconsin - XIV	1	\$1,864.42	\$1,864.42
[Wisconsin - XV	3	\$800.00	\$266.67
[Wisconsin - XVI	3	\$5,139.71	\$1,713.24
[Wisconsin - XVII	3	\$1,968.71	\$656.24

Alliance Defending Freedom offers information on how to detect and address waste, abuse, and potential fraud to any interested government oversight entity. This audit report only adds to the urgency and necessity of such oversight.

State	Year	Total	Percentage
Alabama	2013	1,213,000	0.1%
Alaska	2013	1,213,000	0.1%
Arizona	2013	1,213,000	0.1%
Arkansas	2013	1,213,000	0.1%
California	2013	1,213,000	0.1%
Colorado	2013	1,213,000	0.1%
Connecticut	2013	1,213,000	0.1%
Delaware	2013	1,213,000	0.1%
District of Columbia	2013	1,213,000	0.1%
Florida	2013	1,213,000	0.1%
Georgia	2013	1,213,000	0.1%
Hawaii	2013	1,213,000	0.1%
Idaho	2013	1,213,000	0.1%
Illinois	2013	1,213,000	0.1%
Indiana	2013	1,213,000	0.1%
Iowa	2013	1,213,000	0.1%
Kansas	2013	1,213,000	0.1%
Kentucky	2013	1,213,000	0.1%
Louisiana	2013	1,213,000	0.1%
Maine	2013	1,213,000	0.1%
Maryland	2013	1,213,000	0.1%
Massachusetts	2013	1,213,000	0.1%
Michigan	2013	1,213,000	0.1%
Minnesota	2013	1,213,000	0.1%
Mississippi	2013	1,213,000	0.1%
Missouri	2013	1,213,000	0.1%
Montana	2013	1,213,000	0.1%
Nebraska	2013	1,213,000	0.1%
Nevada	2013	1,213,000	0.1%
New Hampshire	2013	1,213,000	0.1%
New Jersey	2013	1,213,000	0.1%
New Mexico	2013	1,213,000	0.1%
New York	2013	1,213,000	0.1%
North Carolina	2013	1,213,000	0.1%
North Dakota	2013	1,213,000	0.1%
Ohio	2013	1,213,000	0.1%
Oklahoma	2013	1,213,000	0.1%
Oregon	2013	1,213,000	0.1%
Pennsylvania	2013	1,213,000	0.1%
Rhode Island	2013	1,213,000	0.1%
South Carolina	2013	1,213,000	0.1%
South Dakota	2013	1,213,000	0.1%
Tennessee	2013	1,213,000	0.1%
Texas	2013	1,213,000	0.1%
Utah	2013	1,213,000	0.1%
Vermont	2013	1,213,000	0.1%
Virginia	2013	1,213,000	0.1%
Washington	2013	1,213,000	0.1%
West Virginia	2013	1,213,000	0.1%
Wisconsin	2013	1,213,000	0.1%
Wyoming	2013	1,213,000	0.1%

[Wisconsin - XVIII]	3	\$2,096.00	\$698.67
[Wisconsin - XIX]	3	\$13,270.11	\$4,423.37
[Wisconsin - XX]	3	\$468.71	\$156.24
[Wisconsin - XXI]	3	\$2,198.13	\$732.71
[Wisconsin - XXII]	3	\$700.00	\$233.33
[Wisconsin - XXIII]	3	\$3,200.00	\$1066.67
[Wisconsin - XXIV]	3	\$1,100.00	\$366.67
[Wisconsin - XXV]	3	\$378.40	\$126.13
Wisconsin - XXVI	1	\$2,204.26	\$2,204.26
TOTAL	80.98	\$8,367,505.96	\$6,341,885.56

Total overbilling not including the audits for which audited years are not available:

\$7,719,777.86

Average overbilling per audited year, in a single audit:

$\$7,719,777.86 / 80.98 = \underline{\$95,329.44}$

Key:

[- audits of different affiliates or clinics within one state that cover the same time frame and the same services

* - audited dates or overbilling figures unknown

Federal Audits of State Family Planning Programs and Other Organizations

	Audited Years	Total Overbilling	Overbilling by Audited Year
Arizona	3	\$558,093	\$186,031.00
Arkansas	5	\$1,906,657	\$381,331.40
California	2	\$5,671,216	\$2,835,608.00
California	2	\$627,053	\$313,526.50
Colorado	4	\$1,587,305	\$396,826.25
Colorado	1	\$454,786	\$454,786.00
Colorado	4	\$617,999	\$154,499.75
Colorado	4	\$1,975,800	\$493,950.00
Colorado	4	\$2,295	\$573.75
Delaware	3.75	\$2,916,288	\$777,676.80
Illinois	2	\$869,273	\$434,636.50
Iowa	1	\$8,291	\$8,291.00
Kansas	4	\$589,355	\$147,338.75
Kansas	4	\$2,447,414	\$611,853.50
Kansas	4	\$151,526	\$37,881.50
Kansas	4	\$485,982	\$121,495.50
Louisiana	*	*	*
Louisiana	2	\$0	\$0.00
Maryland	3.75	\$228,643	\$60,971.47
Michigan	2	\$1,000,519	\$500,259.50
Michigan	2	\$838	\$419.00
Missouri	3	\$0	\$0.00
Missouri	6	\$6,467,583	\$1,077,930.50
Missouri	2.75	\$2,373,541	\$863,105.82
Missouri	2	\$487,351	\$243,675.50
Missouri	2	\$862,398	\$431,199.00
Nebraska	0.25	\$43,948	\$175,792.00
New Jersey	4.75	\$314,446	\$66,199.00
New Jersey	4	\$2,219,746	\$554,936.50
New Jersey	4	\$597,496	\$149,374.00
New Jersey	4	\$162,548	\$40,637.00
New York	4	\$1,566,740	\$391,685.00
New York	4	\$3,235,640	\$808,910.00
New York	4	\$6,132,366	\$1,533,091.50
New York	5.5	\$2,603,128	\$473,296.00
New York	3.75	\$918,816	\$245,017.60
New York	4	\$17,151,156	\$4,287,789.00
New York	1.5	\$3,773,506	\$2,515,670.67

North Carolina	3	\$1,387,378	\$462,459.33
North Carolina	2	\$666,826	\$333,413.00
North Carolina	3	\$541,513	\$180,504.33
Ohio	2	\$320,774	\$160,387.00
Oklahoma	0.25	\$12,703	\$50,812.00
Oklahoma	5	\$3,356,074	\$671,214.80
Oregon	3	\$1,487,974	\$495,991.33
Oregon	3	\$1,692,956	\$564,318.67
Pennsylvania	3.41666	\$15,070,548	\$4,410,900.70
Vermont	1	\$323,367	\$323,367.00
Virginia	3	\$1,388,506	\$462,835.33
Washington	3	\$8,458,169	\$2,819,389.67
Wyoming	5	\$1,348,942	\$269,788.40
TOTAL	152.666	\$107,065,472	\$32,981,646.82

Average overbilling per audited year, in a single audit:

\$107,065,472 / 152.666 = \$701,305.28

Key:

* - audited dates or overbilling figures unknown

WOMEN HAVE REAL CHOICES

There are 7 health care clinics for every Planned Parenthood.

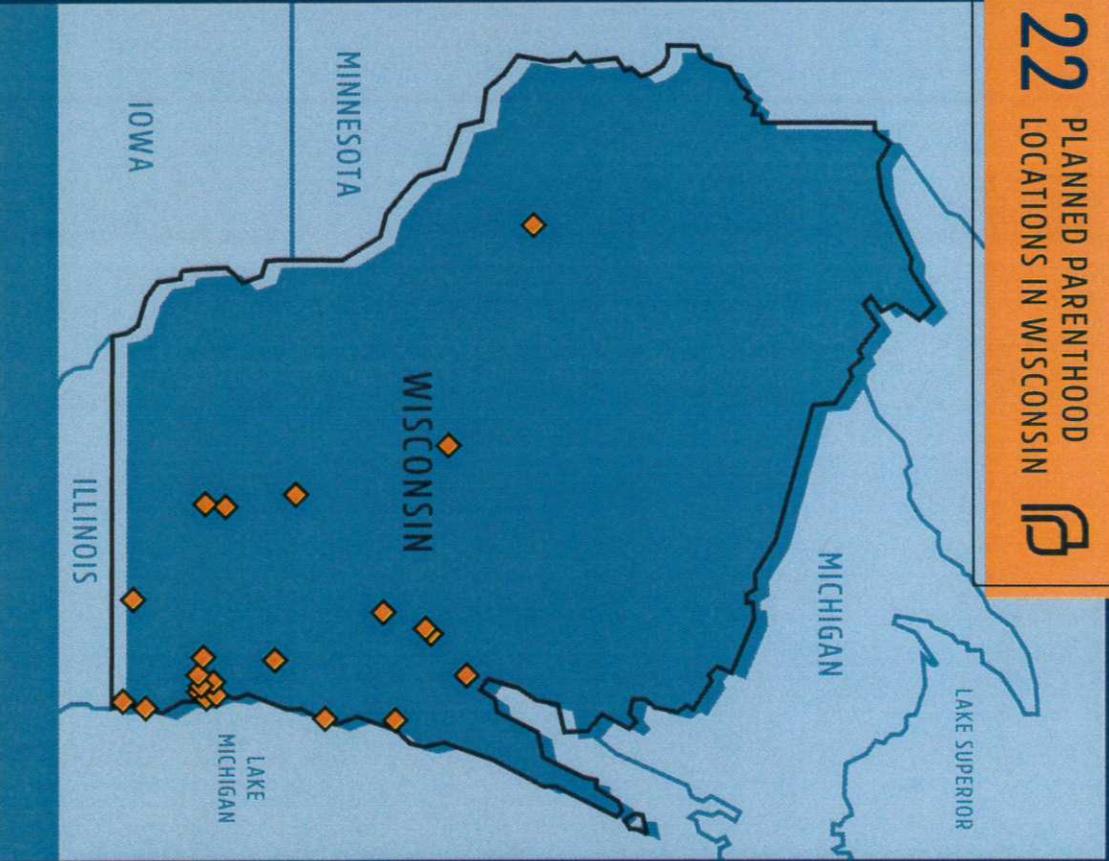
162

BETTER HEALTH CARE ALTERNATIVES*



22

PLANNED PARENTHOOD LOCATIONS IN WISCONSIN



#Defundpp

*Data based on information provided by <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MILN/Products/Downloads/ncdlistbyprovidername.pdf> last visited Sept. 3, 2015) and <http://datawarehouse.hrsa.gov/Data/dataDownload/nccDownload.aspx> (last visited Sept. 3, 2015). Note: this map does not include the many additional private health providers in Wisconsin who accept Medicaid for women's health needs.

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WISCONSIN CATHOLIC CONFERENCE

TO: Senate Committee on Health and Human Services

FROM: Kim Wadas, Associate Director, Education and Health Care

DATE: September 22, 2015

RE: Senate Bill 237, Title X Funding Reform

On behalf of the Wisconsin Catholic Conference, I thank you for the opportunity to submit the following testimony and urge you to support Senate Bill 237, which would reform how Title X of the Public Health Service Act funds are disbursed in Wisconsin.

Senate Bill 237 would establish a priority process that would make Title X funds flow first to the Department of Health Services (DHS) for use in the Wisconsin Well-Woman Program, and then onto other public entities that provide services to women at the local level. This bill would prohibit public entities from distributing Title X funds to a private, nonprofit entity that provides abortion services, makes referrals for abortion services, or has an affiliate that provides abortion services or makes referrals for abortion services.

At the outset, we would like to reiterate certain principles that not only guide the Catholic Church's ministry, but are recognized by all as necessary for the advancement of the common good. One such principal is the importance of access to quality health care. Since 1919, the bishops of the United States have been vocal advocates of the idea that all Americans should enjoy access to affordable health care. As the U.S. bishops stated in 1993, "Health care is more than a commodity; it is a basic human right, an essential safeguard of human life and dignity." We affirm that Wisconsin must continue to seek improved access to comprehensive health care services for those in need, especially women.

Having said this, we think that abortion and those entities that facilitate abortion do not reflect the respect for human dignity that should be at the core of all health care institutions. By prioritizing funding for state and public health entities, Senate Bill 237 ensures that women's health care is devoted to prevention, diagnosis, and care, not termination of life.

Senate Bill 237 also allows the employee of a Title X recipient agency to refuse to offer family planning services to the extent that doing so is contrary to that employee's personal beliefs. The Wisconsin Constitution explicitly recognizes the importance of the right of conscience. By permitting employees to forgo an activity that would violate their conscience, SB 237 further clarifies that which is already true, namely that "[t]he right of every person to worship Almighty God according to the dictates of conscience shall never be infringed..." (Wis. Const. Art. I, s. 18)

As responsible citizens, we acknowledge that the government should not establish a religion. But neither should government programs promote health care entities and practices that fail to uphold and adhere to the first principle of medicine, to do no harm. There are a myriad of providers that can meet women's health needs without invoking ethical inconsistencies. As a society, we should champion these providers by making certain they gain access to the funds necessary to serve women in need.

For these reasons, we urge you to support Senate Bill 237. Thank you.



Office of the County Executive

Bob Ziegelbauer, County Executive

Manitowoc County Courthouse • 1010 S. 8th Street • Manitowoc WI 54220

Office: 920.683.5107 • Cell: 920.323.7497

bobziegelbauer@co.manitowoc.wi.us • www.bobziegelbauer.com

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September 2, 2015

Chairman Sanfellippo and members of the Assembly Health Committee:

While I am unable to attend today's hearing, I appreciate the opportunity to submit this letter as written testimony in support of Assembly Bill 310.

As you know, Planned Parenthood is presently the only applicant, and thus only recipient of the Title X funding that is allocated for a wide variety of public health activities in Wisconsin. AB 310 requires the State of Wisconsin to apply for and prioritize the Title X funds that are allocated for Wisconsin, just as many other states have done for their state Title X formula allocations. I understand that most Title X recipients nationally are public entities.

This bill would add up to \$3.538 Million annually in very welcome federal funding for cervical and breast cancer screening through the Wisconsin Well Woman Program and for a variety of communicable disease control and public health programs overseen by county and local health departments. This funding would allow for local government to target funding to many of the greatest current and emerging needs in public health at the local level, both through services and initiatives performed by county and local health departments and by allowing local governments to grant Title X funding to providers in the community.

At their March 17, 2015 meeting, the Manitowoc County Board passed a "Resolution Requesting State Funding to Support Communicable Disease Control" by a 23-1 vote. A copy of that resolution is attached to my testimony, and was sent to several individuals, including Manitowoc County's legislative delegation in the state legislature. I believe that AB 310 responds to the resolution's request, and will assist county governments across the state. I urge your support for this legislation, and appreciate your consideration.

Sincerely,

A handwritten signature in black ink that reads "Bob Ziegelbauer". The signature is written in a cursive, flowing style.

Bob Ziegelbauer
Manitowoc County Executive

Paul Farrow

Waukesha County Executive



September 1, 2015

Chairman Joe Sanfelippo
306 North, State Capitol
Madison, WI 53708

Dear Chairman Sanfelippo:

I am submitting this testimony to you in support of Assembly Bill 310 (AB310). As you know I recently left the legislature and was sworn in as the County Executive in Waukesha County.

Over the past four and a half months I have met with the Waukesha County Department of Health & Human Services (HHS) and many organizations within the county that are engaged in helping our citizens receive services they desperately need. I have seen how the Department and agencies work to stretch every available dollar to perform these programs. AB 310 provides our HHS Department and the agencies another funding source to apply for assistance for our most in need.

Authorizing the Department of Health Services (DHS) to apply for Title X grant funds will allow the approximately \$3.5 million dollars of federal funding to be utilized by the Wisconsin Well Woman Program and other local agencies that play a critical role in ensuring access to a broad range of family planning and related preventive health services for many of our low-income or uninsured individuals in the county. No single agency has ability to help all of those in need. Providing the Title X grant funds to a broader network of agencies will strengthen the safety net supported by counties.

As you may know there are only three states in the country, Connecticut, Utah and Wisconsin, identify Planned Parenthood as the sole Title X grantee for the state. Thirty-two other states do not use Planned Parenthood as a grantee. (Source: *The National Family Planning & Reproductive Health Association's website Title X information page, state snapshots*).

I urge you to support this common sense adjustment that will allow more groups to apply for the needed grants.

Sincerely,

PAUL FARROW
Waukesha County Executive

CC:

Representative Jacque
Senator Kapenga
Representative Rohrkaste
Representative Edming

Representative Skowronski
Representative Kremer
Representative Tittl
Representative Peterson

Representative Kolste
Representative Zamarripa
Representative Riemer
Representative Subeck



Deanna Alexander

18th District Milwaukee County Supervisor

September 2, 2015

RE: SUPPORT FOR 2015 AB 310

Committees, Boards, & Councils
Transportation, Public Works & Transit Committee
Parks, Energy & Environment Committee
Intergovernmental Relations Committee
Emergency Medical Services Council, Chair
Milwaukee Child Welfare Partnership Council

Dear Mr. Chairman and Members of the Assembly Health Committee:

While I am unable to attend today's hearing, I appreciate the opportunity to submit this letter as written testimony in support of Assembly Bill 310.

It is my understanding that Planned Parenthood is presently the only applicant, and thus the only potential recipient of the Title X funding that is allocated for a variety of public health activities in Wisconsin. It is also my understanding that Planned Parenthood is an organization that has been caught skirting abortion and public health laws so wildly that there is little doubt nationally that the organization has been cavalierly harvesting organs from late term fetuses and live babies that survive abortion procedures, all behind the government's and the public's backs. While the organization has made claims that abortions are only a small part of its business, I would call you to what I hope you to find a clear and compelling comparison: Even the Ku Klux Klan does community outreach, and lynchings were "only a small part" of their operations. The fact that Planned Parenthood still reveres and hails its founder, Margaret Sanger, an avid supporter of the KKK and known eugenicist surely doesn't help the case Planned Parenthood would like to have you believe.

Amongst many reasons for my support of AB 310 is that most of my constituents are African Americans, and most of my constituents also live with a Judeo-Christian world view that does not support the racist roots nor the outrageous human rights violations that Planned Parenthood clearly exhibits. I must speak against government funding going to support such an organization. *Please note that I am speaking for the 53,000+ resident district that I represent and am not lobbying nor requesting your consideration on behalf of the County, the County Board as a body, nor the office of the County Executive.*

The bill before you bill would add up to \$3.538 Million annually in very welcome federal funding for cervical and breast cancer screening through the Wisconsin Well Woman Program and for a variety of communicable disease control and public health programs overseen by county and local health departments. This funding would allow for local government to target funding to many of the greatest current and emerging needs in public health at the local level, both through services and initiatives performed by county and local health departments and by allowing local governments to grant Title X funding to providers in the community, while exempting abortion providers – most specifically the one that has been caught with blood on its hands harvesting organs for profit across the United States.

I urge your support for this legislation and appreciate your consideration.

Deanna Alexander

(414) 278-4259 • deanna.alexander@milwcnty.com • www.county.milwaukee.gov/Alexander
901 North 9th Street, RM 201 • Milwaukee, WI 53233

John H Bulawa

Washington County Supervisor Dist. 22

Cell 414-531-6479

September 2, 2015

Chairman Sanfellippo & members of the Assembly Health Committee:

I would like to express my support in written testimony, for Assembly Bill 310.

Title X funding is an important resource that should be applied for by the State of Wisconsin. Once the State has been awarded the funds for Family Planning & Related Preventive Health Services, those funds can be distributed to local health departments in our counties. The counties either have their own programs or can contract with service providers to utilize this federal resource.

This proposed change could be a great fit for the residents of our state. If the counties were to be the end users of the Title X funding, residents of all 72 counties could benefit from this resource. The current recipient of these funds only have locations in larger population centers, and does not serve the entire statewide population.

Thank you for considering this point of view from someone who has served for 2 years on Washington Counties Human Services Committee.

John H Bulawa

Chippewa County Board

Paul Michels, County Board Chair
pmichels@co.chippewa.wi.us



September 2, 2015

RE: Assembly Bill 310

Chairman Sanfellippo and Members of the Assembly Health Committee:

While I am unable to attend today's hearing, I appreciate the opportunity to submit this letter as written testimony in support of Assembly Bill 310.

As you know, Planned Parenthood is presently the only applicant, and thus only recipient of the Title X funding that is allocated for a wide variety of public health activities in Wisconsin. AB 310 requires the State of Wisconsin to apply for and prioritize the Title X funds that are allocated for Wisconsin, just as many other states have done for their state Title X formula allocations. I understand that most Title X recipients nationally are public entities.

This bill would add up to \$3.538 Million annually in very welcome federal funding for cervical and breast cancer screening through the Wisconsin Well Woman Program and for a variety of communicable disease control and public health programs overseen by county and local health departments. This funding would allow for local government to target funding to many of the greatest current and emerging needs in public health at the local level, both through services and initiatives performed by county and local health departments and by allowing local governments to grant Title X funding to providers in the community.

I urge your support for this legislation, and appreciate your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Paul Michels". The signature is written in black ink and is positioned above the printed name and title.

Paul Michels
Chippewa County Board Chair

Kimberly Jo Simac
P.O. Box 961
Eagle River, Wi. 54521
715-891-3207 bk951@frontier.com

September 1, 2015

Chairman Sanfelloppo and members of the Assembly Health Committee:

I am submitting this letter in support of Assembly Bill 310, as a tax payer, concerned citizen, and an elected official at the county level.

You have the very unique opportunity to pass a bill that would alter what could arguably be considered an indefensible “*monopoly*” of tax payer funding currently being enjoyed by Planned Parenthood state wide. Assembly Bill 310, would restructure the use of critical dollars being offered to Wisconsin residents. This bill would offer the capability of valuable Title X dollars to be distributed to other well established state wellness programs. Respected programs, such as the Wisconsin Well Women Program for example, need and would utilize additional funding in a proper manner.

Wisconsin’s county health departments are completely established, and are dedicated to the health and safety of their respected residents. Wisconsin county health departments are always in need of additional dollars to offer programs that benefit their residents. Title X dollars at the county level would be wisely used for suggested women’s health screenings and be a far more fair representation of federal dollars than historically has been the example.

But perhaps most importantly, the recent exposure of barbaric and irresponsible practices of precious tax payer dollars in the hands of Planned Parenthood renders no alternative for you, as moral and responsible stewards of the citizens’ hard earned tax dollars, other than to reallocate such funds to alternative women’s health organizations that better reflect the values and of Wisconsin’s electorate than does Planned Parenthood.

I live in a far northern county. As an elected county supervisor, I have learned how hard it is to fund the citizens’ most reliable and respected services. Assembly Bill 310 is an excellent opportunity for you as an elected official, to share additional health service dollars in each and every county.

Passage of this bill and the new distribution of Title X dollars will result in a clear message;

ALL Women and their health are important in Wisconsin

Respectfully,

Kim Simac

Vilas County Supervisor – Town of Lincoln District 21



Testimony in support of: Senate Bill 237 (AB 310) – Relating to: family planning and preventive health services grants and granting rule-making authority and Senate Bill 238 (AB 311) – Relating to: billing the Medical Assistance program for prescription by certain entities.

Senate Committee on Health and Human Services

By Gwen Finnegan, Director of Vigil for Life, Madison

September 22, 2015

Good Morning, my name is Gwen Finnegan. I am the Director of Vigil for Life, Madison and am registering in favor of SB 237 (AB 310) and SB 238 (AB 311). I am registering in favor for the entire Vigil for Life, Madison community.

I will start out by telling you a little about Vigil for Life, Madison. Our mission is “To pray, fast and peacefully witness for an end to the intentional destruction of all innocent human beings, especially those most in need.” We engage in this loving outreach primarily on the public sidewalk outside of Planned Parenthood on Orin Road. We bring a peaceful and prayerful witness, and some of us invite the people we encounter to engage in conversation where we encourage choosing life. We direct women to go across the street to the Women’s Care Center where they offer free pregnancy tests and free ultrasounds. The Women’s Care Center gives the love and support that any woman facing a crisis pregnancy deserves and needs. We also are on the sidewalk outside of Planned Parenthood on Orin Road to offer hope and healing to mothers who have just lost their babies to abortion.

We are in favor of SB 237 and SB 238 because the passage of these bills will further defund Planned Parenthood in Wisconsin. We would

like to see Planned Parenthood defunded because we do not want our taxpayer dollars supporting an organization that does not work for the common good of our society.

Planned Parenthood does not work for the common good of our society because Planned Parenthood is the largest provider of abortions in the United States.¹ They are also the largest provider of abortions in Madison and in its surrounding communities. The Planned Parenthood business model is centered on abortion.² Abortion always has, at least, two victims: the mother and the baby. The mother is a victim because abortion can cause physical, emotional, psychological and spiritual damage to her. Every time an ambulance pulls up to Planned Parenthood, we know that there has been physical damage done to a woman during an abortion procedure. We have witnessed ambulances arrive at Planned Parenthood on Orin Road. Most recently on July 8, 2015 a woman was transported from Planned Parenthood via ambulance for a perforated uterus. Last year, on March 5, 2014 a woman was transported for hemorrhaging. This woman had lost, at least, 2 liters of blood at the time of the 911 call.³ Uterine perforations and hemorrhaging are serious physical complications of abortion that require a woman to be transported to a nearby hospital by an ambulance.⁴ The emotional, psychological and spiritual damage done to women by abortion is often long-lasting. Some of this damage includes: regret, anger, guilt, shame, a sense of loneliness or isolation, a loss of self-confidence, insomnia or nightmares, relationship issues and suicidal thoughts and feelings.⁵ The baby is a victim of abortion because the baby dies a cruel death.⁶ Planned Parenthood likes to hide behind the façade of being a champion of women's healthcare yet they cannot even take care of a woman who is seriously harmed by an abortion procedure done at their own facility. They also do not provide for or promote organizations that provide treatment to heal the emotional, psychological and spiritual damage done to women by the abortions that they provide.⁷

Abortion is not healthcare. Our women and our babies deserve better than abortion. Our women and our babies deserve better than Planned Parenthood.

Planned Parenthood does not work for the common good of our society because they promote and provide for the early sexualization of our children. They do this through their sexual education programs that are often offered in public schools.^{8,10}

The early sexualization of our children is not healthcare. Our children deserve to retain their innocence throughout their childhood. Our children deserve better than Planned Parenthood.

Planned Parenthood does not work for the common good of our society because they promote and provide for teenage promiscuity especially among teenage girls.⁸ They do this through their sexual education programs, literature, social media and websites made for teens.¹⁰ Much like a child predator, Planned Parenthood works to keep teenagers isolated from their parents on the topics of sex and abortion. For example, Planned Parenthood has historically opposed legislation that requires parental consent for minors to procure an abortion.¹¹

The promotion of teenage promiscuity is not healthcare. Our teens deserve to be encouraged to develop healthy relationships. Our teens deserve better than Planned Parenthood.

Planned Parenthood does not work for the common good of our society because they promote the use of and provide hormonal birth control and other abortifacient drugs. Hormonal birth control has been classified as a Type 1 Carcinogen.¹² Hormonal birth control may cause an early abortion. Abortifacient drugs are made to induce abortion.¹³

Hormonal birth control and abortifacient drugs are not healthcare. Our women deserve better than hormonal birth control and abortifacient drugs. Our women deserve better than Planned Parenthood.

Planned Parenthood has been found to cover up cases of statutory rape,¹⁴ incest,¹⁵ sex trafficking¹⁶ and selling human organs and tissue from babies they have aborted for profit.¹⁷ This is not healthcare.

In summary, ¹Planned Parenthood does not work for the common good of our society. **They are not the champion of women's healthcare that they claim to be. Our society deserves better than Planned Parenthood.** That is why we register in favor of SB 237 and SB 238 to further defund Planned Parenthood in Wisconsin.

Thank you so much for your time and kind consideration.

¹<http://dailysignal.com/2013/01/09/planned-parenthood-sets-record-for-abortions-and-government-funding/>

²<http://thehill.com/blogs/congress-blog/politics/153699-exposing-the-planned-parenthood-business-model>

³Open records requests of 911 calls for these ambulance visits

⁴<http://emedicine.medscape.com/article/795001-clinical>

⁵<http://americanpregnancy.org/unplanned-pregnancy/abortion-emotional-effects/>

⁶<http://americanpregnancy.org/unplanned-pregnancy/surgical-abortions/>

⁷<http://www.rachelsvineyard.org/>

⁸<http://www.infowars.com/former-abortion-clinic-operator-we-sexualized-kids-to-keep-abortion-cash-flowing/>

⁹<http://www.mrc.org/articles/planned-parenthood-teens-nothing-bad-or-unhealthy-about-promiscuity>

¹⁰<http://www.prnewswire.com/news-releases/planned-parenthood-launches-new-web-site-for-teens-teenwirecom-75011077.html>

¹⁰<http://www.plannedparenthood.org/teens/>

¹⁰<https://www.pop.org/content/planned-parenhoods-assault-on-teens-1939>

¹⁰<http://www.abortionfacts.com/literature/planned-parenthood-its-not-what-you-think>

¹⁰<https://www.lifesitenews.com/pulse/top-10-reasons-to-fight-planned-parenthood-sex-education>

¹¹<http://www.lifenews.com/2012/10/16/planned-parenthood-keep-parents-in-the-dark-about-teens-abortion/>

¹²<http://www.cancer.org/cancer/cancercauses/othercarcinogens/generalinformationaboutcarcinogens/known-and-probable-human-carcinogens>

¹³<http://www.lifeissues.org/2014/09/abortifacients-overview/>

¹⁴<http://liveaction.org/monalisa/>

¹⁵<https://www.lifesitenews.com/news/woman-sues-planned-parenthood-for-covering-up-incest-suffered-years-of-abus>

¹⁶<http://liveaction.org/traffick/>

¹⁶<http://liveactionnews.org/8-undercover-videos-exposing-planned-parenthood-you-need-to-see/>

¹⁷<http://www.centerformedicalprogress.org/cmp/investigative-footage/>

**REPORT ON PLANNED PARENTHOOD AFFILIATES' POTENTIAL MISUSE OF
GRANTS FOR BREAST HEALTH TREATMENT AND EDUCATION**

On April 3, 2013, Alliance Defending Freedom released a report identifying an additional area of potential waste, abuse, and fraud, this time in connection with the Susan G. Komen breast health foundation's controversial grant program.¹¹¹ Over the last several years, this program distributed nearly \$3 million in grants to Planned Parenthood affiliates for the primary purpose of providing breast cancer screening and education services to low-income, Medicaid-eligible women. During this controversy and as detailed in the report, Planned Parenthood repeatedly claimed that it used Komen's grant funds to provide mammograms, clinical breast exams, and breast health education for low-income women. However, during the entire length of the grant program, not a single Planned Parenthood facility had mammography equipment on site or performed any mammograms. Nor was any Planned Parenthood clinic capable of or licensed for mammography, since no Planned Parenthood facility was licensed to perform mammograms.

Furthermore, the Komen report determined that, while the services Planned Parenthood did provide to Medicaid-eligible women were underwritten by Komen grants, Planned Parenthood nonetheless apparently sought reimbursement routinely for these same services from Medicaid authorities without reflecting offsets for the amounts received from Komen, as it was required to do. In essence, Planned Parenthood affiliates apparently were "double-dipping": accepting grant money to provide, in part, services they did not provide, then billing the "payor of last resort" Medicaid for the entire amount rather than reducing the bill by the amount already paid for by other insurance or a grant.

¹¹¹ ALLIANCE DEFENDING FREEDOM, REPORT ON POTENTIAL FRAUD BY PLANNED PARENTHOOD AFFILIATES RELATING TO GRANTS FROM SUSAN G. KOMEN FOR THE CURE (2013), *available at* <http://www.alliancedefendingfreedom.org/content/campaign/2013/Planned-Parenthood/images/ADF/Publications/4-8-2013-Memo-to-Selected-Members-of-Congress-re-PP-Fraud.pdf>.

**ACTION STEPS FOR INCREASED OVERSIGHT OF PLANNED PARENTHOOD AND
STATE FAMILY PLANNING PROGRAMS**

Alliance Defending Freedom applauds Representative Diane Black, Representative Pete Olson, and other Members of Congress for their February 21, 2013, letter requesting that GAO conduct a comprehensive audit of the receipt and use of federal taxpayer dollars by Planned Parenthood Federation of America and its related entities, and GAO for accepting the request and opening an investigation into Planned Parenthood, the Guttmacher Institute, and other prominent family planning organizations.

Alliance Defending Freedom now urges congressional oversight committees, state attorneys general, and other relevant federal and state entities to:

1. Vigorously pursue the current GAO investigation seeking, among other things, “up-to-date information regarding federal funding of Planned Parenthood and other specific organizations.”
2. Continue and complete the investigation begun in September 2011 by the House Energy and Commerce Committee’s Oversight and Investigations Subcommittee into PPFA and its affiliates’ use of federal funding and compliance with federal abortion funding restrictions.¹¹²
3. Empower auditors and state Medicaid Fraud Control Units (MFCUs) to investigate, prosecute, and recover overbilling practices including:
 - a. contraceptive overprescription, often through the use of mandatory, opt-out programs such as Pills by Mail, C-Mail, and Quarterly Contraceptive Kits (each containing 3 months of pill or patch, 24 male condoms, 3 female condoms, and 1 emergency contraceptive pill package), which are automatically mailed to Medicaid beneficiaries after Planned Parenthood calculates that

¹¹² See MEDICAID CONTRACTOR BENEFICIARY AND PROVIDER COMMUNICATIONS MANUAL, 60.3.2.4-CONGRESSIONAL INQUIRIES TIMELINESS (2014), available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R29COM.pdf> (congressional inquiries must be responded to within ten business days of receipt).

- 75% of the original prescription has been used, leading to stockpiling, and which may be sent to women no longer using these contraceptives or no longer at the original address;
- b. billing contraceptives at much higher than actual acquisition cost, often a 900% markup;
 - c. prescribing and dispensing prescription contraceptives without medical authorization: for patients who have not been seen by a licensed clinician and without the required clinician signature; and
 - d. miscoding claims in order to maximize revenues, resulting in overbilling and an incorrect medical record that would not provide an accurate history to doctors who see the patient in the future.
4. Insist on greater transparency in reports maintained by federal and state Medicaid authorities on family planning program claims and reimbursements, as well as in the annual audits and quality control reviews required of all non-federal entities that expend \$500,000 or more of federal awards in a year.¹¹³
 5. Update state False Claims Act laws according to HHS-OIG guidelines in order to qualify for an incentive under section 1909 of the Social Security Act,¹¹⁴ and to encourage legitimate whistleblowers to come forward.
 6. Update state Medicaid regulations relating to prescription refill frequency and maximum prescription reimbursement amount.
 7. Investigate whether Planned Parenthood is double-dipping by billing Medicaid (and thus federal taxpayers) for services that the Susan G. Komen foundation and its donors are already paying it to provide.

¹¹³ See U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL, RECOVERY ACT OVERSIGHT, <https://oig.hhs.gov/recovery-act-oversight/>.

¹¹⁴ See U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL, STATE FALSE CLAIMS ACT REVIEWS, <https://oig.hhs.gov/fraud/state-false-claims-act-reviews/index.asp>.