

July 31, 2018



Diane Foley, MD, FAAP
Deputy Assistant Secretary for Population Affairs
Office of the Assistant Secretary for Health
Office of Population Affairs
US Department of Health and Human Services
Attention: Family Planning
Hubert H. Humphrey Building, Room 716G
200 Independence Avenue SW
Washington, DC 20201

Re: Notice of Proposed Rulemaking: Compliance with Statutory Program Integrity Requirements, RIN 0937-ZA00

The Leadership Conference on Civil and Human Rights (“The Leadership Conference”) is pleased to provide comments to the U.S. Department of Health and Human Services’ (HHS) notice of proposed rulemaking (NPRM), “Compliance with Statutory Program Requirements,” RIN 0937-ZA00. The Leadership Conference is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States. We are deeply concerned that the proposed rule will have devastating effects on the Title X family planning program and the four million low-income patients, especially women of color, for whom Title X currently provides critical health care. Its provisions would have far-reaching implications for all Title X-funded programs, the services provided, and the ability of patients to seek and receive high-quality, confidential family planning and preventive health care services.

The proposed rule attempts to impose limits on pregnancy counseling and to mandate misleading information for patients, going beyond even the Reagan-era so-called “domestic gag” rule. The rule would: move Title X away from its proper focus on making modern family planning methods available to all, regardless of income; create unworkable and unclear physical separation and compliance requirements for providers; and prevent highly qualified, trusted family planning providers from continuing to provide comprehensive health care services to their Title X patients. These proposed changes would severely undermine the stability and effectiveness of the Title X program.¹ By reconfiguring the recipients of Title X funding, as well as the scope of family planning methods and services that those providers offer, the proposed regulations would make it more difficult for low-income individuals to obtain the quality family planning services that they need and have historically received.

The Leadership Conference is particularly concerned about the impact that this proposed rule will have on low-income women and women of color. The Title X program offers confidential, preventive health care services to those most in need, including young people and people who lack health insurance. Nearly 85

¹ Dep’t of Health & Human Servs., *Announcement of Anticipated Availability of Funds for Family Planning Services Grants*. 2018. <https://www.hhs.gov/opa/sites/default/files/FY18-Title-X-Services-FOA-Final-Signed.pdf>.

percent of Title X recipients have incomes below 200 percent of the federal poverty level, and 40 percent are uninsured.² Additionally, Title X serves a racially and ethnically diverse patient population, with women of color comprising a large portion of the Title X population, due to racism and other systemic barriers that have contributed to income inequality.

While people of color experience disparities in almost every area of health care, these inequities are particularly egregious for reproductive health services. Women of color face greater obstacles to obtaining preventive and reproductive health services than non-Hispanic White Americans,³ and African-American women experience higher rates of reproductive cancers, unintended pregnancies, and sexually transmitted infections than White Americans.⁴ African-American patients are often diagnosed later than others with the same health problems and have less access to high quality affordable care, resulting in higher death rates from the same conditions.⁵ Similar reproductive health disparities exist in the Hispanic community. Latinas are more likely to be diagnosed with cervical cancer than women of any other racial or ethnic group⁶ and are more likely to live in areas with poor access to family planning services.⁷ About 31 percent of Latinas are uninsured and approximately 25 percent live in poverty.⁸

Disparities in reproductive health are undeniably linked to the disparities that women of color face in health care coverage. For example, while most private insurance providers cover reproductive health services, African-American women are 55 percent more likely to be uninsured than their White counterparts.⁹ Title X funded health centers are a critical source of health care for women of color. In fact, women of color make up more than half of all Title X patients, and of all female patients, 32 percent are Latina, 21 percent are Black, and 4 percent are Asian American and Pacific Islander.¹⁰ In many states, Title X providers are sometimes the only places where women of color can access reproductive and preventive health care services.

For nearly 50 years, the Title X family planning program has been a critical underpinning of the public health safety-net that serves millions of low-income people each year. Furthermore, Title X has been a critical source of health coverage for women of color and the program has proven to be critical to filling coverage and quality gaps in their health care. This federal program should be preserved and strengthened – not compromised by unnecessary over-regulation and limitations that are contrary to ethical medical practice. The proposed rule, if adopted, would significantly undermine the program’s ability to properly serve its patients and to provide its hallmark quality care. It should be withdrawn to ensure that the four

² RTI International. *Family Planning Annual Report: 2016 National Summary*. August 2017. 22-23.
<https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2016-national.pdf>.

³ Planned Parenthood, *Addressing Sexual and Reproductive Health Disparities among African Americans*. 2015.
https://www.plannedparenthood.org/files/3614/2773/6927/AA_Disparities.pdf.

⁴ *Id.*

⁵ *Id.*

⁶ Planned Parenthood, *Addressing Sexual and Reproductive Health Disparities among Latinas*. 2015.
https://www.plannedparenthood.org/files/2814/2773/6927/Latino_Disparities.pdf.

⁷ *Id.*

⁸ *Id.*

⁹ Kaiser Family Foundation, *State Health Facts: Uninsured Rates for the Nonelderly by Race/Ethnicity*. 2016.
<https://www.kff.org/uninsured/state-indicator/rate-by-raceethnicity/>.

¹⁰ Office of Population Affairs. *Family Planning Annual Report: 2016 National Summary*. August 2017.
<https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2016-national.pdf>

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million patients who rely on the varied network of providers participating in the Title X program can continue to access high-quality, culturally responsive family planning and preventive health services. For these reasons, The Leadership Conference on Civil and Human Rights urges HHS to withdraw the proposed rule.

If you require additional information, please do not hesitate to contact Arielle Atherley, Policy Associate, at The Leadership Conference at atherley@civilrights.org.

Sincerely,



Vanita Gupta
President & CEO