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What Federal Policymakers Must Do to Restore and Strengthen a Title X Family Planning Program That Serves All

By Ruth Dawson

Title X is the nation's family planning program, created in 1970 as part of the Public Health Service Act with the express intent to address inequities in access to contraception and related reproductive health care, especially for people with low incomes.[1] Title X grants support a diverse network of providers across the country that offer a range of crucial reproductive health care.[2] The program affirms and promotes patients' reproductive autonomy and well-being through high-quality, confidential services and information that center individual decision making.[3]

Title X providers play a central role in the family planning world. In 2016, Title X sites served 17% of U.S. women who likely need government support for contraceptive services,[4] and 60% of women who received contraceptive services at a Title X–supported provider had no other interaction with the medical system that year.[5] Even more notable is that 82% of patients surveyed that year were returning clients, who reported returning for reasons of familiarity (70%), quality and convenience (59%), affordability (50%) and availability of services (45%).

Unfortunately, the Title X program has weathered political attacks for the past decade and chronic underfunding for much of its existence. The Trump-Pence administration unleashed a barrage of attacks against contraceptive and related care over four years,[6] including implementing the Title X "domestic gag rule" that imposed ideologically driven restrictions and requirements on care and has essentially cut the network's patient capacity in half.[7] On top of this, providers are continuing to valiantly provide care during a global pandemic that has been grossly mismanaged, the fallout of which has landed on health care workers and already-marginalized communities.

KEY POINTS

- *For the last 50 years, the federal government has funded the nation's family planning networks through Title X to provide superlative care, yet Trump-Pence administration attacks have slashed the program's patient capacity in half.*
- *The Biden-Harris administration and Congress must restore the Title X family planning program to its status before the previous administration's changes and make a substantially greater investment in the program.*
- *To fulfill the promise of Title X, the administration and Congress must protect providers from discrimination, modernize program funding and infrastructure, and systemically ensure patients are getting the care they need.*

A half century into Title X's existence, the Biden-Harris administration and Congress must work together to not only restore the program to its status before being severely weakened during the Trump years, but also help this vital program reach its full promise. To do so, the Biden-Harris administration should immediately repeal the gag rule through emergency rulemaking, reverting the program regulations to their pre-Trump form and codifying stronger program requirements. The administration should work with Congress to fully fund and modernize the program, as well as support and restore the Title X network.

Reverse the Damage

On January 28, 2021, the Biden-Harris administration took its first step toward rescinding the Title X domestic gag rule and restoring the Title X program. President Biden signed a presidential memorandum directing the U.S. Department of Health and Human Services (HHS) to review the Title X rule and other restrictive regulations on the program and consider whether to suspend, revise or rescind them.[8]

The gag rule, finalized in March 2019, includes a number of harmful restrictions on the program.[9] One such restriction is the requirement for program grantees and subrecipients to be physically separated from any and all abortion-related activities, including referrals and counseling.[10] The rule provides broad and potentially abusable discretion for enforcing this provision to the Office of Population Affairs (OPA), the agency within HHS that administers the program.

In addition, the rule eliminates the long-standing program requirement to provide pregnant patients with nondirective counseling about all of their pregnancy options. The rule permits entities to only provide counseling on carrying a pregnancy to term and adoption, requires providers to refer all pregnant patients to prenatal care, and prohibits providers from making referrals for abortion, all regardless of a patient's communicated desires.

The rule imperils patient confidentiality and autonomy by narrowing exceptions to the existing requirement that providers encourage family participation for minor patients, and it expands that requirement to patients of all ages. It further requires providers to document the steps they took to encourage family participation for minor patients, potentially eroding trust between providers and patients.

Finally, the rule is at odds with the Title X program's evidence-based recommendations, Providing Quality Family Planning Services. This gold standard of clinical family planning guidelines was developed by OPA and the Centers for Disease Control and Prevention (CDC) and is meant to apply to all providers and settings.[11]

The Title X rule presented an impossible choice for providers and was devastating both for those entities that stayed in the program and for those entities that left. Entities that stayed in the Title X program have borne a heavy burden of adhering to the new requirements while maintaining access to care for patients. Many other providers exited the program, hobbling the Title X network during a time of compounding national and state assaults on contraceptive access.[7] An estimated one in four Title X service sites left the network in 2019, reducing the network's capacity to provide women with contraceptive services by 46%, which would be 1.6 million fewer patients (see figure 1).[12] However, some of these patients were likely able to receive care despite the rule, either at a different Title X site or at a site no longer receiving Title X support.

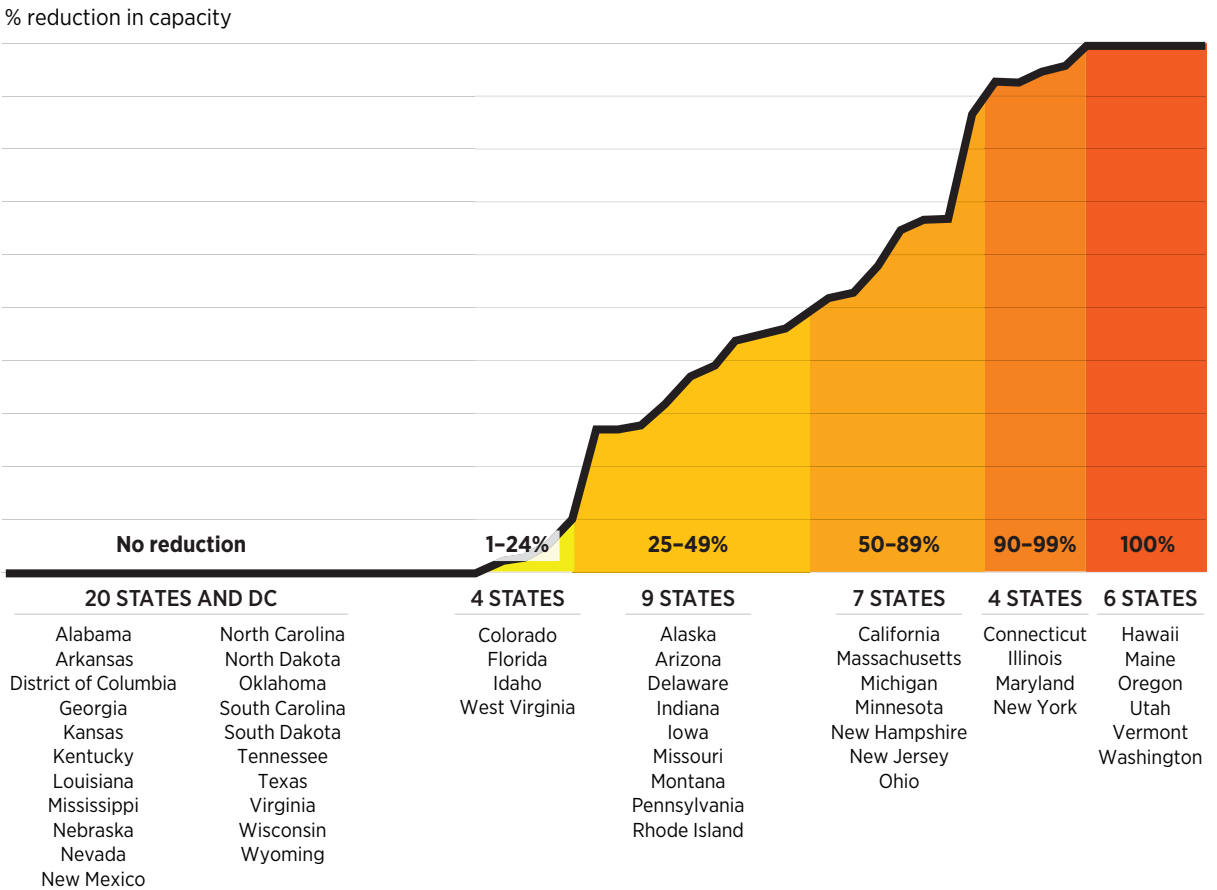
Recent data from OPA's own Family Planning Annual Report show that the number of patients served by the Title X program decreased by approximately 800,000 from 2018 to 2019.[13] Considering the Title X rule was finalized in March 2019, had a staggered rollout, and entities began exiting the program en masse in summer 2019,[14,15] these numbers represent only a partial picture of the damage the program sustained under the gag rule. And, these numbers do not represent the patients who accessed family planning care eventually, but for whom doing so was significantly more burdensome or costly.

Recommendations

First, the Biden-Harris administration should immediately repeal the Title X gag rule through emergency rulemaking in order to restore the program's regulations to their status before the Trump-Pence administration. Reversing the rule would eliminate the strict physical separation requirement, restore the requirement for nondirective counseling about all pregnancy options, and buttress patient confidentiality and autonomy. The administration should also swiftly take steps to fully reimplement the Quality Family Planning recommendations for providers to follow.

Once the program rules have been righted in this way, OPA should move quickly to inject Title X funds back into jurisdictions that lost all or significant portions of their funding because of the gag rule. Providers that left the program have in some cases dipped into emergency funds and others are located in states that have passed emergency funding measures,[7] but these stopgap measures are unsustainable. OPA should recognize that these providers need funds to help them reenter the program, and Congress should allocate funds accordingly.

1 The domestic gag rule has reduced the Title X network's capacity by 46% nationwide, and by much more in many states, affecting potentially 1.6 million female contraceptive patients



Protect Providers Against Discrimination

Throughout the last decade, conservative activists opposed to reproductive health care have undertaken a politicized campaign to strip public funding from certain trusted reproductive health providers for their provision of or mere association with abortion services. It is no secret that the Title X gag rule was a tool in the effort to "defund" Planned Parenthood as an organization and hinder providers who offer or help patients access abortion services.[16] By punishing providers for offering, counseling on or referring for abortion, the gag rule ultimately caused Planned Parenthood and some other high-quality family planning providers to leave Title X.

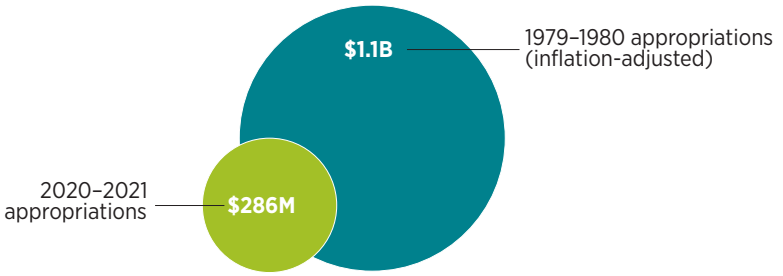
Family planning providers that offer abortion, including Planned Parenthood, are not targeted because they are subpar providers; in fact, research reveals the opposite. Providers that specialize in sexual and reproductive health care are specifically set up for and equip their clinicians to offer this focused care. In particular, Planned Parenthood sites consistently perform better than other types of clinics that provide publicly funded family planning on many indicators of accessibility and quality of contraceptive care.[17] Planned Parenthood centers also represented a significant portion of the Title X network: Before the gag rule was implemented, Planned Parenthood centers served 41% of the contraceptive clients served by all Title X–funded providers nationwide.[18]

Rather, these providers are targeted because they have been unfairly turned into a political lightning rod, drawing the ire of conservatives who oppose abortion rights. The politicization of Planned Parenthood and other specialized reproductive health providers both imperils provision of services and punishes the patients who rely on them.

Recommendations

First, to ensure high-quality providers and their patients are not unjustly punished for offering, counseling or referring for abortion, HHS should incorporate provider

2 Title X funding is far below recommendations to meet the program's needs and has not even kept up with inflation



nondiscrimination protections in all regulations and guidance it promulgates for the Title X program. The program criteria must be in service of comprehensive, medically sound and patient-centered care, rather than being politically motivated or punitive. To this end, criteria should be tied to adherence with the Quality Family Planning recommendations and other program requirements.

Second, HHS guidance should ensure that the relationship between a Title X grantee (the entity that receives and administers a grant) and a subrecipient (an agency that contracts with a grantee to provide services) is not able to be politicized. This relationship can be especially fraught if the grantee is a state health department with leadership opposed to sexual and reproductive health.

Longer term, Congress should codify provider nondiscrimination provisions in the Title X statute to shield providers from the political winds of future administrations and ensure willing providers who meet the program requirements are eligible to receive funds.

Modernize Program Funding and Infrastructure

Title X funds are key to family planning providers' ability to offer high-quality, no-cost or affordable reproductive health care to patients who may otherwise struggle to access it. Title X provides services to patients who are uninsured, underinsured or who are unable to use their insurance for concerns such as cost or confidentiality. In 2018, Title X sites served four million patients throughout the 50 states, District of Columbia and U.S. territories.[19] Sixty-five percent of these patients had incomes at or below the federal poverty level, 40% were uninsured and another 38% had Medicaid or other public coverage.

Notwithstanding the immense value of the Title X program, it has been consistently underfunded for most of its existence. Congressional funding has essentially flatlined at $286.5 million per year since fiscal year 2014, far below what it would be if it had even kept up with inflation (see figure 2).[20] And from 2011 to 2018, the U.S. House of Representatives moved, though unsuccessfully, to wholly eliminate Title X funding.[21]

Despite chronic underfunding and threats to its existence, the Title X program has been essential to training clinicians, building technology and other administrative infrastructure, buffering the steep initial costs of some contraceptive methods (such as IUDs) and otherwise shoring up reproductive health services at the provider level in a way that centers patient autonomy.[3] The flexibility of the Title X grant program is one of its strengths: funds can also be used for patient education, insurance enrollment assistance and referrals. With most publicly funded family planning providers shifting at least partially to telehealth services out of necessity during the pandemic,[22] they have incurred additional costs. Providers should also have access to trainings on a variety of topics, such as care for LGBTQ patients, patients with disabilities, patients who speak languages other than English and patients younger than 18.

In addition to having to stretch their grant dollars, providers in the network have had to maintain stability for their patients in the face of both funding and programmatic uncertainty and resource-intensive administrative requirements. All providers are required to submit a variety of regular reports and to regularly reapply for grants, which can be a significant administrative burden. Stability is important—not to ossify the status quo, but to ensure trusted grantees can focus on system-wide

improvements and service provision. If some reporting could be done on a less frequent basis, grantees could focus on system-wide improvements and service provision without having to divert scarce resources to the grant process.

Recommendations

Foundationally, Congress should use its power of the purse to fully fund the Title X program to the level where it can serve all patients who likely need public support for contraceptive services. The Blueprint for Sexual and Reproductive Health, Rights and Justice, developed by more than 90 organizations, sets this estimate at $954 million for fiscal year 2022.[23]

The Biden-Harris administration should build out additional structural supports within the program to enable providers to operate in the current climate. Given the rise in telehealth services during the pandemic, OPA should create guidance for the Title X network about how telehealth innovations fit into the program. Such information could include which services should and should not be provided via telehealth and best practices to ensure high-quality and positive patient experiences. To ensure equity, OPA should make clear that Title X funding can be used for telehealth start-up costs, so that providers with the thinnest margins—often those serving the most marginalized patients—can also provide safe and flexible services.

To ensure cultural competency and inclusion, the Reproductive Health National Training Center and the National Clinical Training Center for Family Planning, both of which OPA funds, should create a menu of resources—such as model clinic forms and best practices for certain patient populations—that providers can incorporate proactively into their clinic operations. Such standardized resources could help providers, particularly smaller providers and those that do not specialize in family planning, to effectively implement guidelines and best practices. The training centers should also partner with other experts to expand trainings on working with underserved or marginalized populations and distribute them across the network, and OPA should incentivize Title X providers to take these trainings.

To provide stability and alleviate the administrative burden on providers, OPA should consider elongating the program's reporting periods, for requirements such as performance and financial reports, for long-standing providers that have proven their effectiveness and adherence to program guidelines. In the future, when Title X is robustly funded, OPA should consider reducing bureaucracy and making it easier for smaller providers or those with thin margins to join the program.

Ensure Patients Are Getting What They Need

The Title X program's close ties in communities across the country mean the program is in a particularly good position to address health care inequities and deliver high-quality sexual and reproductive health care to patients who may not otherwise have access to such services.

Title X is a crucial source of care for marginalized populations, including low-income patients, patients of color, immigrants and youth. Title X operates on a sliding scale, offering free care to patients with incomes at or below 100% of the federal poverty level. The Title X program disproportionately serves patients of color: In 2019, 33% of Title X patients identified as Hispanic or Latino, and 24% identified as African American.[13] There are no citizenship or documentation requirements for care, as many other publicly funded programs have, and minors can access services without parental notification or permission.[24]

To center reproductive autonomy, it is imperative that any inquiries into which services to offer center the needs and desires of patients, especially those from communities whose reproductive decision making has been historically undervalued or subverted.[25] In response to patient need, traditional Title X providers are increasingly providing services such as talk therapy for anxiety and depression and gender-affirming hormone therapy for transgender patients. Providers may feel that the current Quality Family Planning recommendations require conversations to be framed around the patient's reproductive life plan, even if that is not pertinent to the care a particular patient seeks. This may run counter to patients' self-determination in their clinical visit and providers' freedom to provide reproductive and sexual health services untethered from this expectation.

Recommendations

OPA and CDC should revisit and revise the Quality Family Planning clinical standards[11] to ensure they are up to date and support a diverse patient population's holistic reproductive health needs. The revision should be undertaken with a patient lens, driven by patient

preference data when possible. Similarly, OPA should use provider and patient data to determine which services are appropriate for certain telehealth modes and which are not, and should state explicitly that telehealth services are meant to supplement and not replace existing modes of service delivery.

OPA should also reinforce that all Title X services are available to eligible patients who need them without contraceptive counseling or a reproductive life plan, if that is not what the patient seeks. And OPA should, through regulations and subsequent guidance, continue to protect confidentiality for minor patients to the broadest extent possible, clarifying that confidentiality protections within the Title X program supersede state laws.[26]

Predicated on full and robust funding, OPA should consider allocating grant money for insurance enrollment assistance and beefing up referrals, to connect patients to both the health insurance coverage and outside services they need. Considering the foundational role of Title X providers in many patients' lives, these providers are uniquely positioned to streamline systems helping patients connect to both coverage and care. Many providers have long been doing so, and these efforts should be recognized and incentivized.[27]

In the long term, Congress should revisit the underlying Title X statute and reframe the program from "family planning" to "sexual and reproductive health." This would center patient autonomy, equity and inclusivity and more accurately reflect how the program fits into patients' lives. Congress should also clarify in statute what services providers must offer if they accept Title X funds, and which additional services may be covered by these funds to meet patients' needs.

Looking Ahead

Title X's original design to provide contraceptive and related care to those who need it and cannot afford it has made the program an indispensable cornerstone of family planning and reproductive autonomy throughout the United States. Trusted, effective and valiantly serving a patient population that has largely been sidelined in our health care system, Title X needs support, and fast. After its first half century in existence, and following a federal administration that besieged sexual and reproductive health care in every conceivable way, the Title X program is at a crossroads.

The Biden-Harris administration and Congress must immediately reverse the domestic gag rule, enact commonsense measures to reverse the damage the previous administration has wrought, and unequivocally prioritize deepening support for this crucial network so it can continue providing high-quality, trusted care to those who need it most. With an eye toward the next 50 years, policymakers must set Title X on a solid track to fulfill its promise. ■

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