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8  
9 IN THE UNITED STATES DISTRICT COURT  
10  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 **THE STATE OF CALIFORNIA; THE**  
13 **STATE OF DELAWARE; THE STATE OF**  
14 **MARYLAND; THE STATE OF NEW**  
15 **YORK; THE COMMONWEALTH OF**  
16 **VIRGINIA,**

17 Plaintiffs,

18 v.

19 **ALEX M. AZAR, II, IN HIS OFFICIAL**  
20 **CAPACITY AS SECRETARY OF THE U.S.**  
21 **DEPARTMENT OF HEALTH & HUMAN**  
22 **SERVICES; U.S. DEPARTMENT OF**  
23 **HEALTH AND HUMAN SERVICES; R.**  
24 **ALEXANDER ACOSTA, IN HIS OFFICIAL**  
25 **CAPACITY AS SECRETARY OF THE U.S.**  
26 **DEPARTMENT OF LABOR; U.S.**  
27 **DEPARTMENT OF LABOR; STEVEN**  
28 **MNUCHIN, IN HIS OFFICIAL CAPACITY AS**  
**SECRETARY OF THE U.S. DEPARTMENT OF**  
**THE TREASURY; U.S. DEPARTMENT OF**  
**THE TREASURY; DOES 1-100,**

Defendants,

and,

25 **THE LITTLE SISTERS OF THE POOR,**  
26 **JEANNE JUGAN RESIDENCE; MARCH**  
27 **FOR LIFE EDUCATION AND DEFENSE**  
**FUND,**

28 Defendant-Intervenors.

4:17-cv-05783-HSG

**DECLARATION OF KARYL T.**  
**RATTAY, M.D., M.S.**

1 I, Karyl T. Rattay, M.D., M.S., Director of the Delaware Department of Health and Social  
2 Services, Division of Public Health, declare and say as follows:

3       1. I am the Director of the Delaware Division of Public Health (DPH) within the  
4 Department of Health and Social Services. I have served as Delaware's State Health Officer  
5 since May 2, 2009 and in similar positions for more than 15 years.

6       2. Under Title X of the Public Health Services Act, DPH offers a wide range of  
7 reproductive health services and supplies to both women and men comprised of physical  
8 examinations and reproductive health services including pap smears and clinical breast  
9 examinations; family planning counseling and education; birth control education, including  
10 screening and supplies; emergency contraception; pre-conceptional counseling; sterilization  
11 counseling, education and referral; testing for and treatment of sexually transmitted diseases; HIV  
12 education, counseling and testing; and pregnancy testing.

13       3. DPH bases its fees for services and supplies on income, but no one is denied services  
14 if he or she is unable to pay. DPH's Title X program accepts Medicaid and other insurance and  
15 uses a sliding scale for cash payments. Regardless of the ability to pay, federal regulations  
16 require that all be served based on need rather than income.

17       4. The current Title X family planning budget for Delaware for fiscal year 2018 is  
18 \$810,000, which covers a 7-month budget period. It has been communicated from the Office of  
19 Population Affairs that in fiscal year 2019, the program will be flat-funded. Women in need of  
20 contraception and other services who lose coverage as a result of the final exemption rules and  
21 seek assistance at DPH will increase the responsibilities of the already overwhelmed Title X  
22 program. The current Delaware network of providers does not have the capacity or funding to  
23 provide services to those additional clients.

24       5. The Guttmacher Institute reports that, in 2011, 45% of all pregnancies in the United  
25 States were unintended, including three out of four pregnancies to women younger than 20.  
26 <https://www.guttmacher.org/fact-sheet/state-facts-about-unintended-pregnancy-delaware>. In  
27 2010, the 57% rate of unintended pregnancies in Delaware was the highest in the nation at 62 per  
28 1,000 women aged 15 to 44.

## 6. The financial impact of unintended pregnancy on Delaware resources is profound.

According to the Guttmacher Institute:

- In 2010, 3,300 or 71.3% of unplanned births in Delaware were publicly funded, compared with 68% nationally.
- In Delaware in 2010, the federal and state governments spent \$94.2 million on unintended pregnancies; of this, \$58.2 million was paid by the federal government and \$36.0 million was paid by the state.
- The total public costs for unintended pregnancies in 2010 was \$526 per woman aged 15-44 in Delaware, compared with \$201 per woman nationally.
- In 2010, public expenditures for family planning client services in Delaware totaled \$7.2 million; this includes \$5.6 million through Medicaid and \$908,000 through Title X. Most states also use some of their own money (in addition to funds required to match federal grants) for family planning services. In 2010, Delaware contributed \$693,000.

7. If the final exemption rules are enforced in Delaware, the impact on the health of Delaware would be profound. The Public Health Accreditation Board concluded that, “unintended births was higher in younger mothers, those with 12 years of schooling, with low income, among non-Hispanic Blacks or African Americans, higher in Kent and Sussex counties, and among those with Medicaid as insurer.” It is universally accepted that poverty and maternal age are critical measures of maternal and child health. Reduction of insurance coverage via the final exemption rules will contribute to an increase in Delaware’s nationally high unintended pregnancy rate as women forego needed contraception and other services. Increases in unintended pregnancies among at-risk populations without proper pre-natal care, due to lost insurance coverage, will increase the number of newborns in Delaware dealing with illness, physical challenges and cognitive impairment due to low birthweight and prematurity. The impact goes beyond contraception as these mothers and infants may face lifelong challenges with significant financial and societal costs.

1       8. The cost to Delaware Medicaid for the costs of birth alone for unintended pregnancies  
2 is almost \$30,000,000.00 annually. I predict that, if the final exemption rules are enforced in  
3 Delaware, more women who lose access to contraceptives through their employer-sponsored  
4 plans will seek access to those services and products through DPH's programs, which will result  
5 in increased costs to the State, increasing the burden on the Delaware Medicaid program. I  
6 expect that the Medicaid enrollment will expand as preventable, unintended pregnancies and  
7 resulting healthcare needs drive women and families into poverty. Not only will the costs of  
8 births from unintended pregnancies increase, so will the lifetime medical costs of both mother and  
9 child.

10      9. As unintended pregnancies increase poverty levels for mothers and children, there  
11 will be an impact on other types of social spending by Delaware. I expect that more families will  
12 qualify for TANF, SNAP, WIC and other social spending programs. The increase in enrollment  
13 in these programs will tax Delaware's already overburdened public assistance programs. In the  
14 lean economic times that Delaware is facing, programs such as Child Development Watch are  
15 already functioning well beyond capacity as increased pediatrician screenings are identifying  
16 higher numbers of substance exposed infants as well as babies and young children (0-3) with  
17 possible developmental delays. These services are vital to the health and development of  
18 Delaware's most vulnerable children, but further demands will lead to gaps and loss of services.  
19 Children will fall through the cracks due to lack of staff capacity and available state resources to  
20 serve these families.

21      10. I expect that educational costs for both mothers and children born of unintended  
22 pregnancies will rise. I predict that costs for early intervention services and IDEA-mandated  
23 services will steeply increase as more such children need such remedial services.

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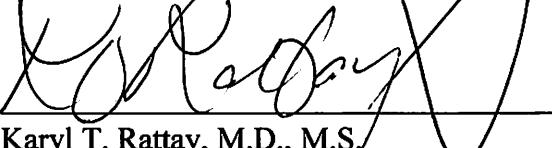
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1 I declare under penalty of perjury that the foregoing is true and correct and of my own  
2 personal knowledge.

3 Executed on December 6, 2018 in New Castle County, Delaware.

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6 Karyl T. Rattay, M.D., M.S.

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