

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE STATE OF CALIFORNIA; THE
STATE OF DELAWARE; THE STATE OF
MARYLAND; THE STATE OF NEW
YORK; THE COMMONWEALTH OF
VIRGINIA,

Plaintiffs,

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ALEX M. AZAR, II, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; R. ALEXANDER ACOSTA, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE U.S. DEPARTMENT OF LABOR; U.S. DEPARTMENT OF LABOR; STEVEN 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,

THE LITTLE SISTERS OF THE POOR, JEANNE JUGAN RESIDENCE; MARCH FOR LIFE EDUCATION AND DEFENSE FUND.

Defendant-Intervenors.

4:17-cv-05783-HSG

DECLARATION OF JENNIFER WELCH

I, JENNIFER WELCH, declare:

1. I am the President and CEO of Planned Parenthood of Illinois (PPIL). I have been President and CEO since May 2017. I have a thirty year career in public service in government and nonprofit leadership. In my professional opinion, the two Final Rules published by the Department of Health and Human Services, Treasury and Labor on November 15, 2018, entitled “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” and “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” will cause a strain on public funding for contraceptive care in the State of Illinois, including on the Illinois Medicaid and Title X programs.

2. I declare under penalty of perjury that the following is true and correct and of my own personal knowledge. This declaration is based on my professional knowledge, my knowledge of PPIL's operations, and my review of the Final Rule. If called and sworn as a witness, I could and would testify competently to the information contained in this declaration.

3. PPIL's mission is to provide and promote compassion, comprehensive reproductive health care, education, and rights. PPIL's work is dedicated to creating access for all to quality reproductive health care without judgment and with respect. PPIL operates 17 health centers throughout Illinois. It served more than 68,000 patients in 2017. In many Central Illinois communities, PPIL is the only provider of long-acting reversible contraceptives. For many of our patients, Planned Parenthood is the only health care provider they see all year – and we take that responsibility seriously. Our goal is to treat every person who comes through our doors with compassion, dignity, and respect while giving them the care they need — no matter their background, identity, or income.

Access to Contraceptive Coverage in Illinois

4. Illinois law requires all individual or group health insurance policies amended, delivered, issued, or renewed in Illinois to provide contraceptive coverage which matches the federal guarantee provided by the Affordable Care Act (Public Health Service Act 2713(c)). Illinois Insurance Code, 215 Ill. Comp. Stat. § 5/356z.4. The law specifically requires coverage

1 for all contraceptive drugs, devices, and other products approved by the United States Food and
 2 Drug Administration, including all over-the-counter contraceptive drugs, devices and products.
 3 *Id.* This coverage must be provided without cost-sharing and must provide for the dispensing of
 4 12 months' worth of contraceptives at one time. *Id.* The law also requires coverage of voluntary
 5 sterilization procedures and contraceptive services, patient education and counseling, and
 6 follow-up services. *Id.* This law, however, does not cover women – or covered dependents – who
 7 have coverage through an employer that uses a self-insured plan. Therefore, Illinois women in
 8 self-insured employer-sponsored health insurance plans are at risk of losing contraceptive
 9 coverage if their employer uses the new accommodations or exemptions in the Final Rule.

10 5. The State of Illinois also ensures access to contraceptive coverage to Illinois
 11 women through its Medical Assistance (“Medicaid”) program. Illinois Public Aid Code, 305 Ill.
 12 Comp. Stat. § 5/5-5. Illinois women with incomes up to 138% of the federal poverty level are
 13 eligible for Illinois’ Medicaid program. Illinois Public Aid Code, 305 Ill. Comp. Stat. § 5/5-2.
 14 Illinois’ Medicaid program provides coverage for “reproductive health care that is otherwise
 15 legal in Illinois.” Illinois Public Aid Code, 305 Ill. Comp. Stat. § 5/5-5.

16 6. The State of Illinois also provides contraceptive coverage through the Illinois
 17 Department of Public Health (IDPH) Family Planning Program. IDPH is a grantee in the federal
 18 Title X National Family Planning Program, administered by the U.S. Department of Health and
 19 Human Services. As of October 2018, IDPH provided funding to more than 66 sites throughout
 20 Illinois, including health departments, hospital-based clinics, single services not-for-profit
 21 agencies, federally qualified health centers, and community-based organizations for the
 22 provision of family planning services, including contraceptives. U.S. Department of Health &
 23 Human Services, Office of Population Affairs, “Title X Family Planning Directory,” Oct. 2018,
 24 [https://www.hhs.gov/opa/sites/default/files/Title-X-Family-Planning-Directory-
 25 October2018.pdf](https://www.hhs.gov/opa/sites/default/files/Title-X-Family-Planning-Directory-October2018.pdf).

26 **Contraceptive Care Provided by PPIL is Largely Funded by Public Programs**

27 7. PPIL is a participant in the Title X National Family Planning Program,
 28 administered by the U.S. Department of Health and Human Services. As a direct grantee of that

1 program, PPIL provides no-cost family planning and related preventive health care to individuals
 2 with incomes up to 250% of the federal poverty level. For individuals with incomes above
 3 250% of the federal poverty level, PPIL provides services for a sliding scale fee. PPIL receives
 4 federal funding to reimburse the costs for individuals who receive family planning services
 5 pursuant to Title X. PPIL served more than 40% of all Illinois patients that access family
 6 planning support from a Title X health center. The vast majority of young people that access
 7 sexually transmitted infections treatment and additional services at PPIL rely on public health
 8 coverage programs to afford care. Without the ability to access Medicaid or Title X subsidies,
 9 young people will face additional barriers to obtaining the preventive care they need to stay
 10 healthy.

11 8. PPIL also receives reimbursement from the State of Illinois for services provided
 12 to individuals enrolled in the Illinois Medicaid program. Planned Parenthood of Illinois
 13 participates in Illinois Medicaid and is contracted with the Illinois Department of Healthcare and
 14 Family Services (HFS) and Illinois Medicaid Managed Care Organizations (MCOs). Last fiscal
 15 year, almost 23,000 of PPIL patients were Illinois Medicaid recipients, accounting for 34% of all
 16 the patients we served. Like any other provider, Planned Parenthood submits insurance claims
 17 for services rendered to Medicaid patients and is reimbursed at the Illinois Medicaid fee
 18 schedule for contracted services with IHFS and MCOs. For example, if a woman comes in to
 19 get a pap smear or birth control, our PPIL health center will apply for reimbursement to
 20 Medicaid for those services. Patients come to Planned Parenthood for a variety of reasons, one
 21 reason could be that we accept Medicaid. Many providers don't accept Medicaid because the
 22 reimbursement rates are very low.

23 9. PPIL also serves patients with commercial insurance, employer sponsored
 24 insurance, and individuals without any coverage. More than 22,000 PPIL patients seen last year
 25 had third party (commercial) insurance, accounting for 33% of all patients served, a very similar
 26 percentage as those we serve with public insurance.

27 **Women May Seek Publicly Funded Contraceptive Care from PPIL and Other Providers if**
 28 **They Cannot Get Coverage Through Their Employer-Sponsored Plan**

1 10. In my professional experience, women who do not have health insurance coverage
2 for contraceptives will likely still seek such care from providers like PPIL and other Title X
3 providers. Part of PPIL's mission is to ensure that all women have access to crucial healthcare,
4 including contraceptives and family planning services, regardless of their health insurance
5 coverage or ability to pay. PPIL currently serves approximately 22,000 Illinois individuals who
6 are uninsured or do not have coverage for contraceptives care. This group represented the final
7 third of our patients served. PPIL will provide contraceptive care to women who lose coverage
8 previously provided by their employer-sponsored insurance as a result of the Final Rule. I
9 expect that the number of Illinois women seeking contraceptive care from PPIL without
10 coverage for contraceptive care will increase if the Final Rule goes into effect. At least some of
11 these women seeking contraceptive care will be financially unable to afford doing so and such
12 services will be publicly funded by the State of Illinois, the federal government, or go
13 uncompensated.

14 11. Additionally, PPIL currently serves, and will continue to serve, women who
15 receive dependent coverage through a spouse or parent who is a policyholder. For those women,
16 a decision by the policyholder's employer to exclude contraceptive coverage may leave them
17 without alternatives to coverage. Women whose insurance comes from their spouse or parent's
18 employer may be limited in their ability to obtain alternative insurance (public or private) that
19 includes coverage for contraceptive care. These women are likely to continue to seek
20 contraceptive care from PPIL, only now it may be reimbursed by Title X or other publicly
21 funded programs, rather than the policyholder's insurance.

22 12. It is likely that some women who are denied contraceptive coverage by their
23 employer, or the employer of their spouse or parent, will forgo such insurance and enroll in
24 Illinois' Medicaid program if their incomes are less than 138% of the federal poverty level. This
25 shifts the cost of contraceptive care for these women from their employer to the State of Illinois.
26 In other instances, women with incomes below 250% of the federal poverty level will seek
27 services compensated by Title X. At least some of these women will seek services from PPIL or
28 from one of the 66 clinics in the IDPH Family Planning Program. Approximately 101,619

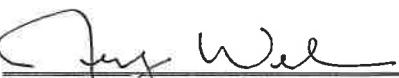
1 women received family planning services from a Title X provider in Illinois in 2017. Family
 2 Planning Annual Report: 2017 National Summary, (Exhibit B-1). Of those, 38% had publicly
 3 funded insurance, 28% had private insurance, and 33% were uninsured. *Id.* at Exhibit B-3a. If
 4 these numbers expand because of a loss of employer-sponsored coverage under the Final Rules,
 5 this will constrain the resources of Title X funding throughout the State of Illinois and put
 6 additional financial burdens on reduced- and no-cost contraceptive services and programs in
 7 Illinois, as well as an emotional and financial strain on the women who are now seeking
 8 contraceptive care without the benefit of employer-sponsored insurance coverage.

9 **Women Who Do Not Seek Contraceptive Care or Services from Planned Parenthood or
 10 Other Title X Providers May Experience Unintended Pregnancies**

11 13. Family planning and the use of contraceptives is the most effective way to avoid
 12 unintended pregnancies. If it is more difficult for women to access contraceptives, unintended
 13 pregnancies will naturally increase. In my professional experience, it is likely that women who
 14 lose contraceptive coverage as a result of the Final Rules may not receive contraceptive care and
 15 experience unintended pregnancies. Those unintended pregnancies are likely to increase costs
 16 for Illinois Medicaid and other publicly funded programs. According to one study, 78.3% of
 17 unplanned pregnancies were publicly funded in Illinois, at least in part by with state funds.
 18 Guttmacher Institute, "Public Costs from Unintended Pregnancies and the Role of Public
 19 Insurance Programs in Paying for Pregnancy-Related Care: National and State Estimates for
 20 2010," Feb. 2015, Table 1.

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22 Executed on December 18, 2018 in Chicago Illinois.

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 24 JENNIFER WELCH
 25 PRESIDENT & CEO
 26 PLANNED PARENTHOOD OF ILLINOIS
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