

BEYOND THE BELTWAY



State Responses to the Title X Domestic Gag Rule

December 2020

For 50 years, the Title X Family Planning Program has provided federal funding to a network of health centers around the country that provide free or low-cost birth control and related services to millions of people with low incomes annually.

In August 2019, the Trump Administration undermined the ability of the Title X program to continue providing quality care by enforcing the “domestic gag rule.” Put simply, the domestic gag rule forces health centers that receive Title X funds to make an impossible choice. These centers must now decide between two options: accept funds to support their patients who might not otherwise be able to afford family planning care or withhold some information from patients about abortion services. This includes not mentioning that abortion is one of three legal options available to those who are pregnant—or even where they can access abortion services. Notably, Title X funds have never paid for abortions; this rule focuses on disallowing health providers from providing their patients information about their legal medical options. In the face of these challenges, family planning providers are doing their best to provide high-quality services to their patients and fill gaps left in the wake of the disruption caused by the rule.¹

As of December 2020, 34 states have been impacted by the gag rule.ⁱ This includes six states that have lost all of their Title X grants, 10 states that have lost some Title X grants, and another 18 states that have lost individual clinics from their Title X network. Grantees that exited the program returned their remaining Title X funds to the US Department of Health and Human Services (HHS) and HHS redistributed funds in [September 2019](#) and [September 2020](#)—primarily to organizations that it already funds.^{2,3} It is unclear whether these redistributed funds will fill the gaps left by grantees and clinics who exited the program. All eyes are on what the incoming Biden-Harris Administration will do to reverse the rule and repair the damage done by it, including ensuring that grantees forced to leave the program have a rapid path to rejoin the Title X network.

After the initial loss of Title X funds, some states impacted by the gag rule provided their own general funds as a stopgap measure. As the examples below demonstrate, it

ⁱ For more information on the impact of the Title X gag rule in each state, see state-specific fact sheets from the National Family Planning and Reproductive Health Association (NFPRHA) www.nationalfamilyplanning.org/pages/issues/nfprha-interactive-map

is not reasonable that states can or should be able to replace the federal funding that they have received over many years, nor is it sustainable for states to do so—particularly as the current COVID-19 pandemic strains state resources. Also, while some non-governmental actors are providing supplemental funds, the focus of this document is funding from state governments.

The upheaval to the safety net caused by the domestic gag rule continues to evolve. The following is based on the best available information, as of December 11, 2020.

Colorado

The Colorado Department of Public Health and Environment, the sole Title X grantee in the state, remains in the program. Two previously participating clinics decided to exit the program, however.⁴ While Colorado provided those clinics with \$400,000 in general funds, it is \$100,000 less than they received in federal Title X funds. These state funds, which must be approved annually by the legislature,⁵ were included in the final fiscal year (FY) 2021 budget.⁶ However, due to a budget shortfall, cuts were made across the state budget, including an approximately 15% cut to family planning services.⁷

Connecticut

Planned Parenthood of Southern New England (PPSNE) was one of two grantees in the state. PPSNE exited Title X once the gag rule went into effect, forfeiting \$2.1 million dollars, or 88% of Connecticut's funding from the program. A bill (SB 274) introduced in February 2020 proposed providing funds from available appropriations to organizations impacted by the gag rule. While SB 274 died at the end of the legislative session, Governor Lamont's FY 2021 midterm budget adjustments propose providing \$1.2 million dollars to PPSNE via the Department of Public Health.⁸

Illinois

Once the gag rule went into effect two of the state's three grantees, Planned Parenthood of Illinois and the Illinois Department of Public Health, exited the program. Together these grantees forfeited approximately \$7.5 million dollars in federal Title X funds or roughly 94% of the state's total Title X funding. In 2019, Governor Pritzker promised to reallocate \$2.4 million from the Illinois Public Health Department's (PHD) FY 2020 appropriation to the 72 clinics managed by the DOH. The state is not substituting the funds lost by Planned Parenthood of Illinois.⁹ The FY 2021 enacted budget includes \$5.8 million for grants and administrative expenses for family planning programs, a \$5.4 million increase over FY 2020's budget.¹⁰

Maine

Maine Family Planning, the state's sole grantee exited the Title X program when the gag rule went into effect. In 2019, legislators introduced [LD 1613](#) to replace the nearly \$2 million in annual Title X funds that the state lost when Maine Family Planning exited the program.¹¹ The bill was carried over to the 2020 legislative session and then to the special session, where it ultimately died.¹²

Maryland

The Maryland Department of Health (DOH) was one of two grantees in the state. Prior to exiting the program, the DOH received 80% of the Title X funds that were awarded to the state (\$3.2 million).

State law required Maryland to stop accepting federal Title X funds for FY 2020 and to offset the loss in those funds with state dollars (at the same level it received in 2019).¹³ The enacted budget for FY 2021 includes \$3.6 million for the family planning program.¹⁴

On February 14, 2020, the US Court of Appeals for the Fourth Circuit upheld a lower court decision permanently blocking the gag rule from going into effect in Maryland.¹⁵ As of September 18, 2020, the Maryland DOH resumed receiving Title X funds, after recompeting for them.ⁱⁱ

Massachusetts

Once the gag rule went into effect two of the three grantees in the state, the Massachusetts Department of Public Health and Health Imperatives, Inc. left the program. Together these grantees forfeited approximately \$4 million dollars, representing 69% of the state's total federal Title X funds.

In April 2019, Governor Baker [signed](#) into a law [H.3638](#), a supplemental appropriations bill that made \$8 million available for family planning services that could be expended through June 30, 2020. The FY 2021 budget approved by the governor includes \$6.7 million for "comprehensive family planning services previously funded by Title X Family Planning funding due to restrictions applied federally . . ." ^{16,17}

New Jersey

The New Jersey Family Planning League, the sole Title X grantee in the state, remains in the program. However, the gag rule forced Planned Parenthood affiliate health centers that previously received funding from Title X to exit the program.

In January 2020, Governor Murphy signed into law a bill that provides an additional \$9.5 million in family planning funds to the New Jersey Department of Health for the 2020 fiscal year.¹⁸ The funds will be granted to organizations that previously participated in the federal Title X program, but exited as a result of the gag rule. The FY 2021 budget approved by the governor—which covers the nine months from October 1, 2020 to June 30, 2021—includes \$15.3 million for family planning services.¹⁹

ⁱⁱ Due to the gag rule not being in effect in Maryland, the US Department of Health and Human Services issued a funding opportunity announcement (FOA) specific to Maryland, alongside one for the rest of the country. The Maryland FOA uses the same criteria that were in effect in the FY 2019 competition. See the FOA at <https://www.grants.gov/web/grants/view-opportunity.html?oppld=327358>

New York

Once the gag rule went into effect two of the state's four grantees, Public Health Solutions and the New York State Department of Health, exited the program. Together these grantees forfeited approximately \$13.1 million dollars in federal funds or roughly 92% of the state's total Title X funding.

In April 2020, Governor Cuomo signed S 7500 into law, a bill making FY 2020 appropriations for state operations. It includes funds for "services and expenses related to state grants for a program of family planning services," directly appropriated to several organizations that previously participated in the state's Title X network (though the loss of Title X funds is not explicitly stated in the budget as the reason).²⁰ These appropriations include \$1.8 million for former grantee Public Health Solutions (approximately 40% of its Title X grant) and a combined \$2.2 million for four health centers.

Also, several bills have been introduced in the legislature to address the loss of federal Title X funds. S2593 / A5686 passed the Senate in June 2019 but died in the Assembly in January 2020. S1053, which calls for \$35 million for a family planning services contingency fund, has never moved out of committee.

Oregon

The Oregon Health Authority was the sole Title X grantee in the state prior to the implementation of the gag rule. In 2019, Oregon officials noted that state funds would be provided to clinics that serve more than 37,000 clients.^{21, 22} However, the state has continued to fund the network, according to the Oregon Health Authority.²³

Washington

The Washington State Department of Health was the sole Title X grantee in the state prior to the implementation of the gag rule.

The state provided general funds to clinics that serve more than 91,000 patients, stating that it only had enough funds to last through March 2020.²⁴ The FY 2020 supplemental budget proposal does not appropriate additional funds and notes sufficient funds were provided in the 2019-2021 biennium budget to cover these services.

Conclusion

It is helpful that some states are filling the gaps left by Title X funding on a temporary basis; there are others states who are not and where gaps remain. In the wake of the COVID-19 pandemic and a weakening economy, many states are facing declines in general fund revenues and are unlikely to be able to sustain their additional financial support for clinics. It is critical that the federal government—in particular the incoming Biden-Harris Administration—take immediate action to [#FixTitleX](#) and undo the harm caused by the gag rule.

Endnotes

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