

Updated May 18, 2021

Title X Family Planning Program

Introduction

The Title X Family Planning Program (Title X) was enacted in 1970 as Title X of the Public Health Service Act (PHS Act). Title X provides grants to public and nonprofit agencies for family planning services, research, and training. The Office of Population Affairs (OPA) within the Department of Health and Human Services (HHS) administers Title X, which is the only domestic federal program dedicated solely to family planning and related preventive health services.

Overview of Title X

What Is the Federal Funding Level? The Consolidated Appropriations Act, 2021 (P.L. 116-260) provides \$286.5 million in FY2021 discretionary funding for Title X. The American Rescue Plan Act (P.L. 117-2) also provides the program with \$50 million in mandatory funding for FY2021, with funds to remain available until expended. This provision increases the funds available for Title X in FY2021 by 17%, the first increased funding level for the program since FY2014. The President's discretionary budget request proposes \$340 million for Title X in FY2022 (see <https://go.usa.gov/xHW6s>).

What Is the Status of the 2019 Final Rule? In March 2019, HHS published in the *Federal Register* a final rule that, among other things, prohibits Title X projects from referring clients for abortion as a method of family planning. It also requires physical and financial separation between Title X projects and certain abortion-related activities. (CRS In Focus IF11142, *Title X Family Planning Program: 2019 Final Rule*.) The rule has been challenged in several lawsuits across the country, but is currently in effect in all states except Maryland, where it has been enjoined (see <https://go.usa.gov/xVX4t>).

In the April 15, 2021, *Federal Register*, HHS published a proposed rule that would, among other things, reverse many of the changes made by the 2019 final rule. For example, it would require Title X projects to provide an abortion referral if requested by the client and would remove the physical separation requirement (see <https://go.usa.gov/xHWMb>). HHS has indicated that it expects the notice-and-comment rulemaking process to be completed by the end of 2021; until a new final rule takes effect, HHS plans to continue to enforce the 2019 rule (see <https://go.usa.gov/xHeyY>).

What Clinical Services Are Provided? Title X clinical guidelines are at <https://go.usa.gov/xEdm6>. The 2019 rule requires Title X projects to provide “a broad range of acceptable and effective family planning methods (including contraceptives, natural family planning, or other fertility awareness-based methods) and services (including infertility services, information about or referrals for

adoption, and services for adolescents).” The 2019 rule also states that family planning methods and services include, for example, choosing not to have sex, preconception counseling, general reproductive and fertility health care, and “the prevention, diagnosis, and treatment of infections and diseases which may threaten childbearing capability or the health of the individual, sexual partners, and potential future children.” Title X does not fund prenatal care directly, but the 2019 rule requires Title X projects to provide prenatal care referrals for all pregnant clients.

Does Title X Fund Abortions? Since the program's establishment in 1970, the PHS Act has prohibited using Title X funds in projects where abortion is a method of family planning (42 U.S.C. §300a-6). The 2019 rule requires “physical and financial separation” between Title X projects and prohibited activities, replacing the prior requirement that they be “separate and distinct” from each other. Prohibited activities include abortion, referral for abortion as a method of family planning, and activities that encourage, promote, or advocate for abortion.

Physicians and advanced practice providers may, however, provide *nondirective abortion counseling*. The 2019 rule's preamble provides guidance that nondirective counseling involves presenting options “in a factual, objective, and unbiased manner.” Title X projects may also refer patients to abortion providers for emergency care and in certain cases of rape and incest.

What Do Clients Pay? Persons with income at or below 100% of the federal poverty guidelines do not pay for care. Clients with income higher than 100% and up to 250% of the poverty guidelines are charged on a sliding scale based on their ability to pay. Clients with income higher than 250% of the poverty guidelines are charged fees designed to recover the reasonable cost of providing services. (In 2021, the poverty guidelines for an individual in the 48 contiguous states and the District of Columbia is an annual income of \$12,880; for families of two or more persons, \$4,540 is added to the annual income figure for each additional person.)

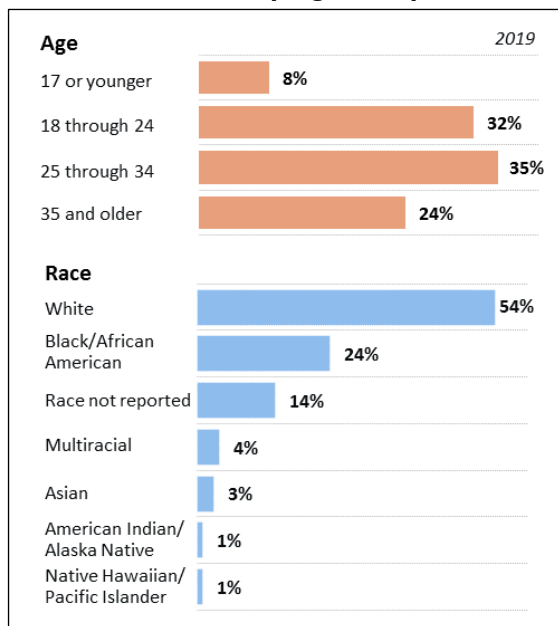
For unemancipated minors who request confidential services, eligibility for discounts is based on the minor's own income. The 2019 rule also allows Title X project directors to offer discounted or free contraceptive services to certain clients who cannot get job-based contraception coverage due to their employer's religious or moral objection.

Are There Special Requirements for Services to Minors? All Title X services are confidential, including services to minors. Title X projects do not require parental notification or parental consent. However, Title X statute

requires grantees, “[t]o the extent practical,” to encourage family participation. By law, Title X providers must also counsel minors on how to resist attempted coercion into sexual activity. Under the 2019 rule, Title X projects must conduct a preliminary screening of any minor who presents with a sexually transmitted disease, pregnancy, or any suspicion of abuse in order to rule out victimization. The 2019 rule also has new documentation requirements (e.g., certain minors’ medical records should indicate their sexual partners’ ages).

Who Are Title X Clients? In 2019, Title X served 3.1 million clients, 21% fewer than in 2018. Of those clients, 87% were female, 13% were male, 64% had incomes at or below the federal poverty guidelines, and 84% had incomes at or below 200% of the federal poverty guidelines. The Guttmacher Institute found that in 2016, 60% of clients said their Title X clinic was their only source of broader health care over the past year. In 2019, 41% of Title X clients were uninsured. **Figure 1** provides demographic data.

Figure 1. Title X Clients by Age and by Race



Source: CRS using data from HHS, Title X Family Planning Annual Report: 2019 National Summary, pp. 12, 15, <http://go.usa.gov/xGQXE>.

Notes: 33% of clients (all races) identified as Latino/Hispanic. Percentages may not sum to 100% due to rounding.

Legislative Mandates

What Title X Provisions Are in the Most Recent Appropriations Law? The Consolidated Appropriations Act, 2021 (P.L. 116-260) included requirements on the use of Title X funds that are similar to provisions included in previous years’ appropriations laws:

- Title X funds cannot be spent on abortions.
- All pregnancy counseling must be nondirective.
- Funds cannot be spent on “any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office.”

- Grantees must certify that they encourage family participation when minors seek services.
- Grantees must certify that they counsel minors on how to resist attempted coercion into sexual activity.
- Family planning providers are not exempt from state notification and reporting laws on child abuse, child molestation, sexual abuse, rape, or incest.

These requirements are in addition to statutory mandates in Title X of the PHS Act, which, among other things, require family planning participation to be voluntary and prohibit the use of Title X funds in programs in which abortion is a method of family planning.

Other Family Planning Programs

Do Other Federal Programs Fund Family Planning?

Although Title X is the only federal domestic program primarily focused on family planning, other programs also finance family planning, among their other services. These programs include Medicaid, the Health Center Program under Section 330 of the PHS Act, Maternal and Child Health Block Grants, Social Services Block Grants, and Temporary Assistance for Needy Families. In FY2015, Medicaid accounted for 75% of U.S. public family planning expenditures (including federal, state, and local government spending), whereas Title X accounted for 10% (see <https://www.guttmacher.org/report/public-funding-family-planning-abortion-services-fy-1980-2015>).

Are Private Health Plans Required to Cover Family Planning Services?

Federal law generally requires health insurance issuers and employment-based health plans to cover FDA-approved contraceptives for women (see <https://go.usa.gov/x7xg2>). Regulations issued in 2018 exempt employers that have religious or moral objections to providing contraceptive coverage. See CRS Report R45928, *The Federal Contraceptive Coverage Requirement: Past and Pending Legal Challenges*. In 2020, following legal challenges by a number of states, the Supreme Court upheld the 2018 rules as authorized by the Affordable Care Act (*Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367 (2020)). However, litigation continues in the lower courts on other grounds.

COVID-19

How Has the COVID-19 Pandemic Affected Title X?

Title X clinics have continued to provide services during the COVID-19 pandemic. The Centers for Disease Control and Prevention released guidance on “Ensuring access to family planning services during COVID-19”; for example, through telehealth, curbside pickup, and by providing a one-year supply of oral contraceptives (see <https://go.usa.gov/xGQXH>). According to John Snow, Inc., in a May 2020 survey, 87% of Title X providers reported that they were providing telehealth services, compared to 11% about a year earlier. HHS’s preliminary estimate is that Title X served 1.5 million clients in 2020, compared to 3.1 million in 2019 and 3.9 million in 2018 (see <https://go.usa.gov/xHWMs>). It is not clear how much of the decrease was due to the pandemic versus other factors, such as providers leaving the program due to the 2019 final rule.

Angela Napili, Senior Research Librarian

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