

CORE Brief

Title X in Wisconsin

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I. What is Title X?

Title X is the only Federal program dedicated to providing family planning services. It was established in 1970 when Richard Nixon signed the “Population Research and Voluntary Family Planning Programs” into law, as part of the American Public Health Services Act.

Title X is run by the Office of Population Affairs (OPA), a division of the US Department of Health and Human Services. OPA grants funds to organizations to provide Title X- approved services to low-income adults (and adolescents). These organizations are known as grantees. Grantees then administer the funds through clinics, known as sites.

It is noteworthy that this landmark legislation on family planning and population has had strong bipartisan support. I am confident that by working together—at Federal, State, and local levels—we can achieve the goal of providing adequate family planning services within the next five years to all those who want them but cannot afford them.

-President Nixon upon signing Title X into law, 1970

The most recent publicly available data shows that OPA funded 89 Title X grantees and a network of 3,858 service sites nationwide in 2017.¹ Grantees included state, county and local health departments (roughly 50% of all Title X grantees), federally qualified health centers (FQHCs), private hospitals and Planned Parenthood clinics. In fiscal year (FY) 2017, the program served more than 4 million people across the country.

Title X-funded centers have traditionally offered the following services:

- contraceptive education and counseling
- full-range of contraceptive methods
- breast and cervical cancer screening
- sexually transmitted disease testing
- HIV testing, referral and prevention education
- pregnancy diagnosis and counseling

New Title X rules published in March 2019 changes the nature of services provided (see Section IV).

Since Title X’s inception, federal law has prohibited the use of Title X funds to provide abortion services.² However, historically a clinic could be a recipient of Title X funds and still provide abortions.³ This scenario is no longer the case under new rules published by the Trump Administration in March 2019 (see Section IV).

II. How does Title X work in Wisconsin?

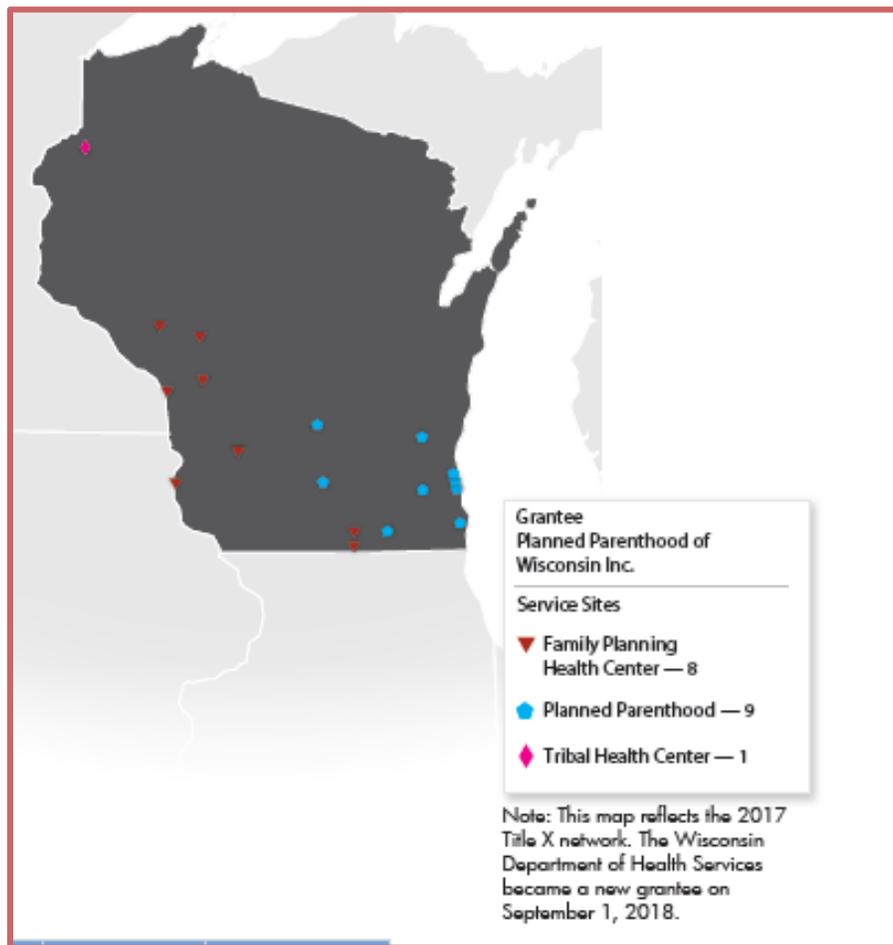
Planned Parenthood of Wisconsin (PPWI) was the sole Title X grantee for 47 years, from 1971 to September 2018. They historically directed Title X funds to health centers located in communities with the greatest need, determined by a variety of factors such as population size, demographics and health outcomes. However, there is no documentation to assess how PPWI decided how to direct Title X funds

over the four decades that PPWI was a grantee.⁴ In 2017, eligible PPWI clinics relied on Title X funding for between 23% and 33% of their entire revenue.⁵

PPWI subcontracted Title X funds with three other entities in Wisconsin: [Essential Health Clinic](#) for over thirty years (statewide, but mostly in rural areas); Community Action, Inc's [First Choice Women's Health Clinics](#) in Janesville and Beloit for over forty years; and St. Croix Tribal Health for less than two years, ending in 2018.⁶ Essential Health Clinic, Community Action, Inc's First Choice Women's Health Clinics and St. Croix Tribal Health clinic were all family planning clinics, therefore they did not provide abortion services. Note that in October 2018, First Choice Clinics in Janesville and Beloit closed due to the "changing funding circumstances."⁷

In 2017, PPWI was the sole Title X grantee and there were 18 Title X sites in our state, including nine Planned Parenthood clinics and eight subcontracted family planning health centers (seven Essential Health Clinics and two First Choice Clinics) and one tribal health center (St. Croix).^{8,9} (See Figure 1.)

Figure 1: Title X Family Planning Clinics in Wisconsin in 2017



Source: National Family Planning & Reproductive Health Association ¹⁰

2018 brought significant changes to the Title X program in Wisconsin. First, state statute [WI §253.075](#) (passed in 2015) requires the Wisconsin Department of Health Services (DHS) to apply for federal grant funds under Title X starting in the 2018 grant cycle. Under this statute, DHS is also prohibited from contracting with entities that "provide abortion services" or "have an affiliate that provides abortion."¹¹

Additionally, if granted, the statute requires that DHS must contract with public entities, such as state and local health departments. If there are remaining funds not allocated to a public entity, DHS may contract with nonpublic entities, but under the aforementioned statutory language, DHS cannot contract with Planned Parenthood. DHS has not yet published information regarding how they are spending these funds, including service sites.

DHS submitted its Title X grant proposal to OPA in May 2018. Despite the aforementioned statute, in September 2018, OPA awarded Title X contracts to both Planned Parenthood and DHS to provide services between September 1, 2018 and March 31, 2019.¹² As of April 1, 2019, OPA withdrew all funding to PPWI. Since April 1, 2019, WI DHS is currently the sole grantee.¹³

III. Title X funding

Federal funding

Title X has been under political attack—both federally and in Wisconsin—since 2011. The US House of Representatives voted to eliminate the program six times between 2011-2018. Over the same time, the Senate supported Title X and the program was not defunded.¹⁴

At its peak in FY 2010, the program’s federal budget was \$317.5 million. It was cut markedly in FY 2014 and has remained at \$286.5 million from FY 2015 through FY 2019.¹⁵ Patients served also declined by 1.2 million over the same period. (See Table 1.)

The president’s FY 2020 budget proposal recommends flat funding (\$286.5 million) for Title X. The House Appropriations Committee, Subcommittee on Labor has proposed a \$400 million budget for the program in FY 2020 and seeks to undo recent Trump administration rules (see Section IV). However, the Senate Labor-HHS draft appropriation (released September 9, 2019) proposes flat funding and does not address recent rule changes.¹⁶

Table 1. Title X Funding and Patient Levels in Wisconsin and Nationally, FY 2010-2019

	FY2010	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019
National							
Funding	\$317.5 m	\$286.4 m	\$286.5 m	\$286.5 m	\$286.5 m	\$286.5 m	\$286.5 m
Patients	5,224,862	4,129,283	4,018,015	4,007,552	4,004,246	Not yet published	Not yet published
Wisconsin							
Funding	\$3,600,000	\$3,743,000	\$3,468,000	\$3,468,000	\$3,468,000	\$3,100,000	3,800,000
Patients	57,952	40,231	35,278	37,014	35,921	~36,000	Not yet published

Sources:

FY10-2017: Source: NFPHRA Fact Sheet: Family Planning in Wisconsin <https://www.nationalfamilyplanning.org/file/impact-maps-2017/WI.pdf>

FY18 19: Health and Human Services, Office of Population Affairs. HHS Title X Family Planning Service Grants Award by State. <https://www.hhs.gov/opa/grants-and-funding/recent-grant-awards/index.html>

FY 18: State of Oregon v. Alex M. Azar. Case No. 6:19-cv-317. United States District Court of Oregon. <http://cdn.cnn.com/cnn/2019/images/03/05/oregon.v.azar.complaint.pdf>.

FY 18: Planned Parenthood of Wisconsin, Inc. v. Alex M. Azar. Civil Action No. 18 Civ. 1035. United States District Court for the District of Columbia. Page 18. https://www.plannedparenthood.org/uploads/filer_public/de/31/de31a7a1-c012-4160-aa7a-198a9d96ca1d/ppfa_complaint_5218amdocx.pdf

Wisconsin funding

Title X funding in Wisconsin declined over the period FY 2010 to FY 2017, from \$3.6 million to \$3.468 million. (See Table 1.) In September 2018, despite WI statute changes barring Planned Parenthood from receiving Title X money (see Section II), OPA awarded PPWI \$2.1 million and DHS \$1.0 million to provide services between September 1, 2018 and March 31, 2019.¹⁷ As of April 1, 2019, DHS became the sole Title X grantee in the state and received \$3.8 million in funding for FY 2019.¹⁸

In FY 2010, 57,952 patients were served in Wisconsin under Title X, falling to 35,921 in FY 2017.¹⁹ The exact number of patients seen by Wisconsin Title X clinics in 2018 is not published. However, a recent estimation is around 36,000 patients.²⁰

IV. New Title X regulations

On March 4, 2019, the US Department of Health and Human Services published new regulations for the Title X program.²¹ (The Department can propose rules and regulations regarding their programs that do not require Congressional approval.) The rules contain major revisions to the Title X program. If implemented despite legal challenges (see Section V), the rules would reduce the network of providers of Title X services and the scope of family planning services nationwide provided to low-income and uninsured women.

HHS also announced departures from longstanding Title X grantmaking criteria. Specifically, the application review criteria are now influenced by “program priorities” like abstinence as an approach to birth control and working with faith-based organizations.²²

The new rules have been analyzed extensively by such organizations as the [Guttmacher Institute](#), the [National Family Planning & Reproductive Health Association](#) and the [Kaiser Family Foundation](#). A comparison between previous regulations and the 2019 rule prepared by the Congressional Research Service can be found [here](#).

In brief, the rule issues a domestic “gag rule” that prohibits Title X clinics from providing abortion counseling and referrals and imposes physical and financial separation of Title X-funded activities from abortion-related activities. Additionally, the rule permits Title X sites to offer only some family planning methods, at the provider’s discretion, and does not require the methods and services to be “medically approved.” The rule emphasizes the inclusion of abstinence and natural family planning methods and requires all pregnant people to be referred to prenatal care and social services regardless of the information requested.

Several pending lawsuits seek to prohibit the implementation of the new rules (see Section V). However, as of July 15, 2019, the Trump Administration declared that Title X grantees must stop abortion referrals immediately while litigation proceeds.²³

V. Current lawsuits

In February 2018, the US Department of Health and Human Services released a new Funding Opportunity Announcement (FOA) outlining changes to the Title X program that have since become the final rule (see Section IV). Planned Parenthood of Wisconsin (and affiliates in Ohio and Utah) filed a federal lawsuit in May 2018 over the FOA and later consolidated into *Planned Parenthood of Wisconsin v Azar* (the

Secretary of Health and Human Services).^{24,25} The lawsuit argues that these changes will fundamentally change the program without obtaining legislative approval. The National Family Planning and Reproductive Health Association has brought a similar lawsuit (NRHFP vs. Azar).²⁶ Oral arguments were held on December 12, 2018 and the appellate court has not yet issued a ruling.²⁷ However, as of October 1, 2019, the US Court of Appeals for the Ninth Circuit has denied NRHFP's request to use the Title X funds as they were *before* the final rule was issued while the hearing process moves forward.²⁸ In other words, Title X grantees must comply with current rules while the judicial process takes place.

In March 2019, 21 state attorney generals, including Wisconsin's, sued to block implementation of the new Title X regulations.²⁹ This case may ultimately make it to the Supreme Court to decide if the regulations violate federal statutes or the Constitution. As of October 10, 2019, there has not yet been a final ruling.

Planned Parenthood Federation of America and the American Medical Association also teamed up and filed a lawsuit against the Secretary of Health and Human Services, the Department of Health and Human Services and the Office of Population Affairs.³⁰

Additionally, 19 medical organizations representing 4.3 million health care providers including the American College of Obstetricians and Gynecologists signified their disapproval over the final rule by signing a public letter protesting the revisions.³¹

VI. Impact of changes in Title X rules nationally

It is not yet clear how many grantees will lose or drop their Title X funding if the new rules are implemented despite legal challenges. Some would be prohibited from receiving funds. Others may choose not to participate in the program because of concerns about clinical standards of care, medical liability and burdensome administrative requirements. Planned Parenthood withdrew from Title X funding in August 2019 due to "gag rule" regarding abortion counseling.³² Other grantees may choose to opt out due to burdensome requirements to receive funding. Clinics that lose funding will either close or restructure their business models to rely more heavily on patients who have insurance to pay for services, private donations and other funding sources.^{33,34} Overall, Title X funds accounted for on average 19 percent of the revenue of participating family planning clinics.³⁵

The impact of these changes on family planning service provision and access will be large. For example, Planned Parenthood health centers made up just 13 percent of Title X centers yet served 41 percent of all Title X patients.³⁶ As the Kaiser Family Foundation reports, those clinics which do stay open may need to reduce staff, service hours and training, which could reduce access to reproductive healthcare services, especially for those in the most underserved rural areas, and for communities of color.³⁷ Further, under new Title X rules, faith-based organizations which do not provide the full range of reproductive healthcare services may receive more Title X funding.³⁸

VII. Impact of changes in Title X rules in Wisconsin

WI DHS currently receives all Title X funds in the states. Their program is not yet fully implemented and updates on their process are only documented through October of 2018.³⁹

Title X funding accounted for approximately 14% of PPWI's annual budget in 2018.⁴⁰ This significant loss of funding could lead PPWI to close four rural health centers which already operate at a negative profit and two to three health centers around Milwaukee.⁴¹ These centers care for some of the highest-risk

populations in the state. When PPWI lost \$1 million in state funding in 2011, PPWI had to close five rural health centers. Research has shown that most patients never found another provider and patients went without reproductive healthcare, leading to spikes in STIs among other fallouts.⁴²

In Wisconsin and elsewhere, FQHCs and local public health departments will most likely have to absorb the patients that PPWI has historically served. Evidence indicates that caseloads will at least double, likely causing a significant increase in wait times.⁴³ FQHCs and local public health departments already have longer than average wait times for initial contraceptive visits.⁴⁴ Also, FQHCs and local public health departments do not specialize in reproductive healthcare and are less likely to offer long-acting reversible contraceptives (IUDs and contraceptive implants) than PPWI.⁴⁵ Likewise, PPWI is much more likely to offer insertion of LARCs on the same day as initial appointment than a local health department or FQHC.⁴⁶ See graphics showing the impacts of excluding PPWI from Title X [here](#).⁴⁷

Last, the effects of the final ruling will be disproportionately felt by low-income patients, patients in rural areas, patients who are not proficient in English and communities of color in underserved areas.^{48,49}

VIII. References

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² [Family Planning Services and Population Research Act of 1970](#); Pub. L. No. 91-572, 84 Stat.

³ Section 1008 of the Title X statute and 42 CFR 59.5(a)(5).

⁴ M. Benson, personal communication, September 26, 2019.

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¹³ Office of Population Affairs. [Funding history](#) [Internet]. U.S. Department of Population Affairs; 2019 April.

¹⁴ National Family Planning & Reproductive Health Association. [Title X: budget and appropriations](#)[Internet]; 2019 September.

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- ²⁷ Ibid.
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