



Updated June 8, 2023

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, codified at 42 U.S.C. §§300 to 300a-6). 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. Most Title X regulations are at 42 C.F.R. Part 59.

Overview of Title X

What Is the Federal Funding Level? The Consolidated Appropriations Act, 2023 (P.L. 117-328) provided \$286.5 million in FY2023 discretionary funding for Title X. The program has had the same enacted annual discretionary funding level since FY2014.

The American Rescue Plan Act (ARPA; P.L. 117-2, §2605) also provided Title X with \$50 million in one-time mandatory funding, with funds to remain available until expended. HHS indicated it used some of the ARPA funding for FY2022 grants for the following purposes: to address the “dire need” for family planning services in certain states with “restrictive” policies on reproductive health access and in certain states that had no or limited Title X services (<https://go.usa.gov/xug5j>); to improve and expand telehealth infrastructure (<https://go.usa.gov/xJgaN>); and to support “training and technical assistance to address the challenges that the recent Supreme Court decision [*Dobbs v. Jackson Women's Health Organization*] may have” on Title X services (<https://go.usa.gov/xSYyW>). P.L. 118-5, Fiscal Responsibility Act of 2023, Division B §2(24) rescinded unobligated balances of this ARPA funding as of the date of enactment, June 3, 2023. As of this writing, USAspending.gov showed an unobligated balance of \$4 million, reflecting data through April 30, 2023.

What Clinical Services Are Provided? Regulations require Title X projects to provide “a broad range of acceptable and effective medically approved family planning methods (including natural family planning methods) and services (including pregnancy testing and counseling, assistance to achieve pregnancy, basic infertility services, STI [sexually transmitted infection] services, preconception health services, and adolescent-friendly health services).” Title X clinical guidelines are at <https://go.usa.gov/xEdm6>. KFF reports that there are 4,108 Title X clinics as of 2023.

Does Title X Fund Abortions? Since Title X’s establishment in 1970, the PHS Act has prohibited using Title X funds in programs where abortion is a method of family planning. Additionally, annual appropriations laws

have stated that Title X funds “shall not be expended for abortions.”

Program guidance requires that a grantee’s Title X project activities and its non-Title X abortion activities be “separate and distinct”; they may share a common facility, a common waiting room, common staff, and a common records system, “so long as it is possible to distinguish between the Title X supported activities and non-Title X abortion-related activities,” for example, through allocating and prorating costs (<https://go.usa.gov/xMfP5>).

Must Title X projects provide abortion referrals upon client request? Regulations require Title X projects to offer pregnant clients information and nondirective counseling on prenatal care and delivery; infant care, foster care, or adoption; and abortion (unless a client indicates that they do not want information or counseling about particular options). Projects are also required to provide referrals upon client request, including abortion referrals.

Program guidance states that abortion referrals may include providing relevant factual information (such as the abortion provider’s phone number, address, and charges), but “the project may not take further affirmative action (such as negotiating a fee reduction, making an appointment, providing transportation) to secure abortion services for the patient” (<https://go.usa.gov/xhDns>).

HHS has stated that “objecting individuals and grantees will not be required to counsel or refer for abortions in the Title X program in accordance with applicable federal law” (86 Fed. Reg. 56153) and that “providers may separately be covered by federal statutes protecting conscience.” (42 C.F.R. 59.5, footnote 2)

What Do Clients Pay? Persons with income at or below 100% of the federal poverty level guidelines (FPL) do not pay for care. Clients with income higher than 100% and up to 250% FPL are charged on a sliding scale based on their ability to pay. Clients with income higher than 250% FPL are charged fees designed to recover the reasonable cost of providing services. (In 2023, in the 48 contiguous states and the District of Columbia, the poverty guideline for an individual is an annual income of \$14,580; for families of two or more persons, \$5,140 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.

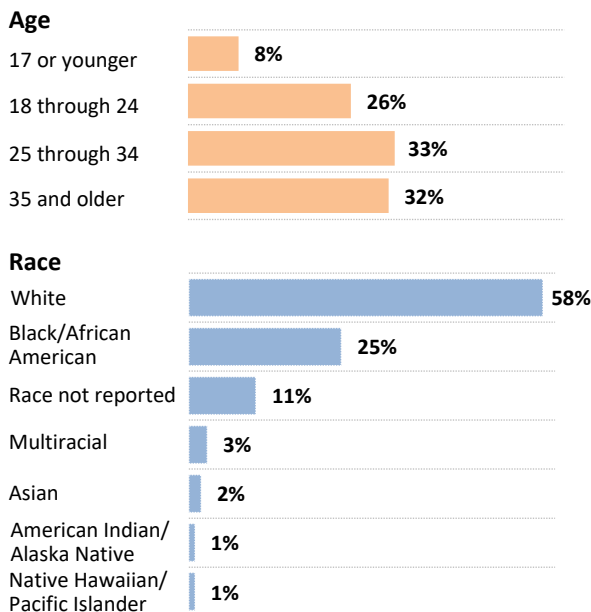
Are There Special Requirements for Services to Minors? Annual appropriations laws have stated that Title X providers are not exempt from state notification and reporting laws on child abuse, child molestation, sexual abuse, rape, or incest. Title X providers must counsel

minors on how to resist attempted coercion into sexual activity. The Title X statute also requires grantees, “to the extent practical,” to encourage family participation.

Regulations state that Title X projects may not require parental consent and may not notify a parent or guardian that a minor has requested or received Title X family planning services. On December 20, 2022, a federal district court in Texas, in a case filed by a parent who objected to these regulations on religious grounds, ruled that these regulations violated the plaintiff’s constitutional right to direct the upbringing of his children and set aside these regulations. See CRS Legal Sidebar LSB10916, *Title X Parental Consent for Contraceptive Services Litigation: Overview and Initial Observations (Part 1 of 2)* and CRS Legal Sidebar LSB10917, *Title X Parental Consent for Contraceptive Services Litigation: Overview and Initial Observations (Part 2 of 2)*. The government has filed an appeal; litigation is ongoing.

Who Are Title X Clients? In 2021, Title X served 1.7 million clients. Of those clients, 85% were female, 65% had incomes at or below FPL, 83% had incomes at or below 200% FPL, and 36% were uninsured. The Guttmacher Institute found that in 2015-2019, of clients receiving contraceptive services, 60% said their Title X clinic was their usual source of broader health care over the past year. **Figure 1** provides demographic data.

Figure 1. Title X Clients by Age and Race, 2021



Source: CRS using data from HHS, *Title X Family Planning Annual Report: 2021 National Summary*, pp. 12, 14, 15, <https://go.usa.gov/xMNPJ>.

Notes: 38% 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, 2023 (P.L. 117-328) 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 where abortion is a method of family planning.

Dobbs v. Jackson Women's Health Organization

How has the Title X program responded to the Dobbs decision? The U.S. Supreme Court’s June 2022 ruling in *Dobbs v. Jackson Women's Health Organization* provided states with increased discretion to restrict abortions. As mentioned, the Title X program does not fund abortions, but Title X projects are required to provide pregnant clients with nondirective counseling and referrals upon client request, including abortion referrals.

In June 2022, OPA sent Title X providers *Dobbs v. Jackson Women's Health Organization U.S. Supreme Court Decision: Impact on Title X Program*, a guidance document on topics such as protecting client confidentiality, providing clients with referrals to out-of-state providers, serving clients who live out-of-state, and pregnancy counseling via telehealth (<https://bit.ly/3OvGt8M>).

In January 2023, the Title X-funded Reproductive Health National Training Center released a Nondirective Counseling and Referral Sample Policy Template. It suggests that providers may want to include in their referral procedures a description of abortion’s legal status in their state and a process for out-of-state referrals, if necessary (<https://bit.ly/3M8dHK1>). In April 2023, HHS announced a forecasted funding opportunity to establish a national Title X Nondirective Options Information, Counseling, and Referrals Hotline and accompanying website for pregnant clients (<https://bit.ly/3KKzc49>).

Other Family Planning Programs

Do Other Federal Programs Support Family Planning? Although Title X is the only federal domestic program primarily focused on family planning, other programs also finance family planning and contraception, among their other services. For details, see CRS Report R46785, *Federal Support for Reproductive Health Services: Frequently Asked Questions*.

Angela Napili, Senior Research Librarian

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.