



T E X A S  
Women's Healthcare  
COALITION

Janet P. Realini, MD, MPH  
Steering Committee Chair  
The Texas Women's Healthcare Coalition  
2300 W. Commerce St. #212  
San Antonio, TX 78207

**TO:** Claudia Himes-Crayton, Nurse Consultant  
Texas Health and Human Services Commission

**CC:** Lesley French, Associate Commissioner for Women's Health  
Texas Health and Human Services Commission

**DATE:** April 22, 2016

**SUBJECT:** Family Planning Program Proposed Rules

Thank you for this opportunity to provide comments on the proposed rules for the Family Planning Program. The Texas Women's Healthcare Coalition (TWHC) and its 63 healthcare, faith, and community-based member organizations are dedicated to improving the health and well-being of Texas women, babies, and families by ensuring access to preventive healthcare for all Texas women. Access to preventive and preconception care—including health screenings and contraception—means healthy, planned pregnancies and early detection of cancers and other treatable conditions.

Included below are the TWHC's recommendations related to the proposed rules for the Family Planning Program. Recommended changes for each section are indicated in red, with additional comments following. The TWHC would like to highlight the following concerns, many of which are reflected in the proposed changes below:

- Having a robust Family Planning network and increasing provider participation in FPP is a requirement for meeting the growing demand for women's preventive healthcare in Texas. We urge HHSC to take all necessary steps to reduce administrative barriers to program enrollment, ensure FPP has adequate funding, and increase provider participation in geographic areas experiencing a shortage of qualified family planning providers.

- As the FPP rules are currently written, there is insufficient detail on the types of services the program will provide. Core benefits such as pregnancy testing and treatment for certain sexually transmitted infections should be clearly outlined within the rules. The TWHC has suggested benefits language in the comments below.
- The Family Planning Program rules currently in statute include a number of provisions that are important for a quality family planning program, and that have been removed from the proposed FPP rules. These include provisions regarding civil rights, freedom from coercion, child abuse reporting, not denying services due to inability to pay, and not requiring consent from a spouse to receive services. The TWHC believes these are crucial components of any family planning program and should be added back in to the FPP rules.
- Healthy Texas Women and the Family Planning Program will work best when enrollment in the two programs is streamlined and the administrative practices of the programs are aligned. For this reason, the TWHC recommends that the calculation for countable income be identical for HTW and FPP. This will simplify transition between the programs and ease the process for clients.
- Child support payments should be excluded from countable income for Healthy Texas Women and the Family Planning program. Excluding child support from countable income will better align HTW and FPP with other healthcare systems, and will ensure that the receipt of child support does not disqualify certain clients from receiving services.
- Neither the FPP nor HTW is considered minimum essential coverage under the Affordable Care Act. Individuals above a certain income who do not enroll in a plan with minimum essential coverage may face a substantial tax penalty. HHSC should therefore take all steps necessary to ensure clients eligible for Medicaid or the health insurance exchange are consistently informed that FPP and HTW participation will not prevent a tax penalty, and enrolled in those programs.

The TWHC thanks the Health and Human Services Commission (HHSC) for their time and consideration of these issues.

#### §382.105. Definitions.

(6) Contraceptive method—~~A broad range of birth control options, approved by the~~ Any United States Food and Drug Administration (FDA)-approved means of pregnancy prevention, ~~with the exception of emergency contraception.~~ **Methods include permanent and temporary methods. A broad range of FDA-approved contraceptive methods must be made available to the client, either directly (preferably on-site) or by referral. All brands of the different contraceptive methods need not be made available; however, each major contraceptive category must be made available.**

#### §382.107. Client Eligibility.

**(d) Providers shall not deny family planning services to eligible clients because of their inability to pay for services. Title XIX (Medicaid) eligibility is determined by the guidelines set by the commission. Individuals who receive Medicaid are eligible for family planning medical, counseling, and educational services.**

#### §382.113. Covered and Non-covered Services.

2300 W. Commerce St. #203 San Antonio, TX 78207  
 Phone 210-223-4589 FAX 210-223-4591 Info@TexasWHC.org [www.TexasWHC.org](http://www.TexasWHC.org)

- (a)(1) health history and physical, **including family planning exam, follow-up visits related to the chosen contraceptive method, and follow-up visits related to sterilization for men and women, including procedures to confirm sterilization;**
- (2) counseling and education, **including counseling on specific methods and use of contraception;**
- (3) laboratory testing, **including pregnancy testing and screening for sexually transmitted infections (STIs), diabetes mellitus, and hypercholesterolemia;**
- (4) provision of a contraceptive method **and removal of temporary contraceptive methods. Methods include male and female sterilization;**
- (5) treatment of certain sexually transmitted infections (STIs);**
- ~~(6)~~ referrals for additional services, as needed;
- ~~(7)~~ immunizations; and
- ~~(8)~~ breast and cervical cancer screening and diagnostic services.
- ~~(9)~~ prenatal services.
- (b) Non-covered services. Services not provided through FPP include:
- ~~(2) counseling on and provision of emergency contraceptives and;~~
- ~~(23)~~ other services that cannot be appropriately billed with a permissible procedure code.

### **§382.125. Confidentiality and Consent.**

(b) Written release authorization. Before an HTW provider may release any information that might identify a particular client, that client must authorize the release in writing, **except reports of child abuse required by Texas Family Code, Chapter 261, and as required or authorized by other law.** If the client is 15 through 17 years of age, inclusive, the client's parent, managing

**(f) Consent. A provider may not require consent for family planning services from the spouse of a married client.**

~~(g)~~ Consent for minors. HTW services must be provided with consent from the minor's parent, managing conservator, or guardian only as authorized by Texas Family Code, Chapter 32, or by federal law or regulations.

### **§382.128 Freedom of Choice**

**Clients have the right to freely choose family planning methods and sources of services. Clients shall not be coerced to accept services.**

### **§382.129 Abuse Reporting**

**Texas Family Code, Chapter 261, requires child abuse reporting.**

**(1) The department may distribute appropriated funds only to providers that show good faith efforts to comply with all child abuse reporting guidelines and requirements as interpreted by department policy.**

**(2) Additionally, providers must develop an agency specific policy for Human Anti-Trafficking and Intimate Partner Violence to comply with abuse reporting guidelines and requirements as interpreted by department policy.**

### **§382.130 Civil Rights**

**Providers shall make family planning services available without regard to marital status, parenthood, handicap, age, color, religion, sex, ethnicity, or national origin. The provider must comply with Title VI of the Civil Rights Act of 1964 (Public Law 88 – 352); §504 of the Rehabilitation Act of 1973 (Public Law 93 – 112); The Americans with Disabilities Act of 1990 (Public Law 101 – 336), including all amendments to each; and all regulations issued pursuant to these Acts.**

Thank you for your time and consideration, and for your support for women’s preventive healthcare. If you have any questions or we can provide further information, please contact Janet Realini at [JRealini@TexasWHC.org](mailto:JRealini@TexasWHC.org).

Respectfully,



Janet P. Realini, MD, MPH  
Steering Committee Chair, Texas Women’s Healthcare Coalition

Texas Women’s Healthcare Coalition Steering Committee Members

Texas Medical Association  
 District XI (Texas) American Congress of Obstetricians and Gynecologists  
 Texas Academy of Family Physicians  
 Texas Association of Community Health Centers  
 Methodist Healthcare Ministries  
 Teaching Hospitals of Texas  
 Texans Care for Children  
 Center for Public Policy Priorities  
 Healthy Futures of Texas

Texas Women’s Healthcare Coalition General Members

Access Esperanza Clinics Inc.	National Latina Institute for Reproductive Health
Amistad Community Health Center	North Harris Montgomery Advanced Practice Nurse Society
Austin Advanced Practice Nurses	North Texas Alliance to Reduce Teen Pregnancy
Austin Physicians for Social Responsibility	North Texas Nurse Practitioners
AWHONN Texas	Panhandle Nurse Practitioner Association
Brazos Valley Nurse Practitioner Association	People’s Community Clinic
Cardea	Port Arthur Housing Authority
Center for Community Health, UNTHSC	SALVERE (Striving to Achieve Literacy via Education, Research, and Engagement)
Central Texas Nurse Practitioners	San Antonio Metro Health Clinic
Children’s Hospital Association of Texas	San Antonio Nurses in Advanced Practice
Coalition for Nurses in Advanced Practice	Schneider Communications
Coastal Bend Advanced Practice Nurses	South Plains Nurse Practitioner Association
Consortium of Texas Certified Nurse Midwives	South Texas Family Planning & Health Corp.
Department of Ob/Gyn of UNTHSC and the ForHER Institute	Southeast Texas Nurse Practitioner Associates
El Paso Area Advanced Practice Nurse Association	St. David’s Foundation
Fort Worth Region Nurse Practitioners	Susan Wolfe and Associates
Gateway to Care	Texas Association of Obstetricians and Gynecologists
Generation Covenant Healthcare	Texas Campaign to Prevent Teen Pregnancy
Good Neighbor Health Center	Texas Council on Family Violence
Healthy Futures Alliance	Texas Health Institute
Hill Country Advanced Practice Nurses & Physicians	Texas Hospital Association
Assistants Association	Texas Medical Association Alliance
Houston Area Chapter of NAPNAP	Texas Nurse Practitioners
Houston Area Nurse Practitioners	Texas Nurses Association
League of Women Voters of Texas	Texas Pediatric Society
Legacy Community Health Services	Texas Unitarian Universalist Justice Ministry
National Council of Jewish Women—Texas State Policy	University Health System
Advocacy Network	Women’s & Men’s Health Services of the Coastal Bend, Inc.