



TEXAS WOMEN'S HEALTHCARE COALITION | 2017

# WOMEN'S PREVENTIVE HEALTHCARE AND THE 85<sup>TH</sup> LEGISLATURE



# INTRODUCTION

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With the end of the 85<sup>th</sup> Texas Legislature, it's time to look back on both the successes and the missed opportunities for women's preventive health care this session.

Texas entered the 2017 legislative session facing a tough budget climate, as well as a House and Senate with widely divergent priorities. This was a session of contentious debates, budget restrictions, and legislative roadblocks.

Amid this often-challenging climate, the Legislature ultimately opted to fund the state's women's health programs at the same level as the previous biennium, and at a higher level than actual 2016/2017 expenditures. This represented a substantial victory for women's healthcare stakeholders. The Legislature also pushed through several positive bills and riders, including measures that: improve data collection for the state's women's health programs; study auto-enrolling young women from CHIP/Medicaid into the Healthy Texas Women (HTW) program; require the Health and Human Services Commission (HHSC) to develop a strategic plan to increase access to long-acting reversible contraception (LARC); and look at different ways to address the state's high maternal mortality rates. Unfortunately, this session also had its disappointments, including Governor Abbott's decision to veto a bill that would have continued the Women's Health Advisory Committee (WHAC).

Big changes are on the horizon for the state's women's health and family planning safety net. In July 2017, HHSC applied for a federal Section 1115 Demonstration Waiver to support the HTW program, and the budget assumes a substantial portion of the state's funding in 2019 will come from this state/federal partnership. The receipt of a waiver could have a significant impact on the funding, eligibility, and services of our state's women's health programs, and will remain a key issue to watch as the state moves into the interim.

Amid these changes and challenges, the Texas Women's Healthcare Coalition (TWHC) remains committed to ensuring access to preventive healthcare – including contraception – for all Texas women. We commend all the legislative champions and stakeholders who helped advocate for strong policies for Texas women and their families. We will use the lessons learned this session as we look ahead to the special session in July and the legislative interim.



# THE LEAD-UP TO THE 85<sup>TH</sup> LEGISLATIVE SESSION

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Leading up to the 85<sup>th</sup> Legislature, the state's family planning safety net was undergoing substantial program changes. Following recommendations of the Texas Sunset Commission, the state opted in 2015 to consolidate and modify its women's health programs. The Expanded Primary Health Program and the Texas Women's Health Program were combined into a brand-new program known as Healthy Texas Women (HTW). The Department of State Health Services (DSHS) Family Planning Services program was moved to HHSC and renamed the Family Planning Program (FPP). Both HTW and FPP underwent changes from their predecessor programs, and officially launched in July 2016, just five months before the start of the session.

In addition to adjusting to the launch of these new programs, Texas was also grappling with a number of other challenges facing the state. The threat of Zika transmission – particularly concentrated in Houston and the Rio Grande Valley – has underscored the importance of ensuring that women have access to the information and health services they need. Two studies that came out in 2016 exposed the high rates of maternal mortality and morbidity in Texas, with African American women disproportionately at risk. Though many factors contribute to maternal mortality, we know increasing access to family planning is one of the most important and effective strategies for improving maternal and infant health outcomes. Family planning services help women avoid the health risks associated with unintended pregnancies, help women receive essential screenings, and help connect women with needed healthcare resources.



Given these major challenges facing Texas women and the programs that serve them, it was more important than ever going into the 85<sup>th</sup> Legislature that Texas prioritize women's preventive healthcare access.

The Texas Women's Healthcare Coalition entered legislative session with five main policy priorities:

- Ensure funding for women's preventive healthcare, including contraception, can fully meet the growing need among low-income, uninsured women.
- Identify areas with a shortage of qualified family planning providers and develop strategies to increase provider participation in the state's women's health programs.
- Ensure women have access to the full range of FDA-approved contraceptives of their choice, including the most effective forms of contraception – implants and intrauterine devices (IUDs).
- Increase continuity of care for women by eliminating barriers to preventive healthcare access.
- Maximize the ability of the women's healthcare safety net to reach more women and save Texas taxpayer dollars.

This session, our state made progress on some of these priorities, but fell far short on others. Significant work remains to ensure that the 1.8 million women in need of preventive healthcare in our state are able to access it.

# FUNDING FOR WOMEN’S HEALTH SERVICES

The 85<sup>th</sup> Legislature began with dire budget forecasts. Due to a combination of tax cuts, the demands of state highway funding, and drops in oil prices, revenue estimates were \$3 billion below those from 2016/2017. Many legislators were loath to tap into the state’s Economic Stabilization (Rainy Day) Fund, which is projected to reach \$11.9 billion by the end of fiscal year 2019. Though lawmakers ultimately used a small portion of the Rainy Day Fund, they confined their expenditures to a narrow set of priorities, including state facilities repair.

Many health and human services programs saw cuts as a result of this tight fiscal climate. However, women’s health and family planning were among the areas singled out by HHSC and key legislators as important to protect. In its Legislative Appropriations Request, HHSC requested level funding from the previous biennium, as well as an additional \$20 million over the biennium for the FPP.

The TWHC advocated strongly for the additional funds for the FPP. This program plays a crucial role in our state, and providers throughout the state report that this program is in high demand. Ultimately, however, the Legislature did not adopt the additional request for \$20 million for the FPP.

However, the Legislature did appropriate level funding for the state’s women’s health programs as compared to the previous biennium’s appropriations. According to the Legislative Budget Board (LBB), this amount represents a \$30.9 million increase over the state’s expenditures for 2016/2017. However, the gap in expenditures between the two biennia is likely to be significantly smaller than the LBB’s estimate, as 2016/2017 expenditures reflect the launch of HTW and FPP before services had fully ramped up.

## WOMEN’S HEALTH PROGRAM APPROPRIATIONS: 2016-17 AND 2018-19

	DSHS FP	EPHC	TWHP	BCCS	“Women’s health services”	TOTAL
<b>2016 -17</b> \$ millions/biennium	\$41.6	\$100	\$69.3	\$23.7	\$50	\$284.6
	Strategy D.1.1 Women’s Health Program: HTW, FPP, BCCS					TOTAL
<b>2018 -19</b> \$ millions/biennium	\$284.6					\$284.6

As part of the sunset consolidation, all three of the state’s women’s health programs—Healthy Texas Women (HTW), FPP, and Breast and Cervical Cancer Services (BCCS)—have been grouped under one budget strategy, “Women’s Health Program.” As such, the budget does not indicate how much of the overall funding will go to each of the three programs within the strategy. HHSC has indicated its intent to double the amount of funding for FPP over 2016/2017 appropriations and has stated in public meetings that there may be flexibility to direct funding towards the sub-strategies with the greatest demand. Throughout budget discussions, the TWHC emphasized the enormous demand for FPP and the importance of ensuring that FPP receives adequate funding during the biennium. During the interim, the TWHC will continue to advocate that the state meet the funding and program demands of both HTW and FPP.

Particularly in such a belt-tightening legislative session, the appropriation of level funding for the state’s women’s health programs represented a major victory, resulting from the work of many legislative champions and stakeholders. However, it will be critical to closely track the continuing development of the state’s programs, particularly given major federal decisions discussed below.

# MAJOR CHANGES TO FEDERAL FUNDING: 1115 FAMILY PLANNING WAIVER

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Included in the General Appropriations Act for 2018/2019 is a rider that could have a significant impact on the state's women's health programs. HHSC Rider 161 assumes the state will apply for a federal Medicaid 1115 Demonstration Waiver to help fund the HTW program. The rider assumes that in FY 2019 the state will appropriate \$10 million in general revenue (GR) and receive \$90 million in federal matching funds for this purpose.

In keeping with the direction of this rider, HHSC submitted a federal waiver application to the Centers for Medicare and Medicaid Services (CMS) in June 2017. If approved, the waiver will allow Texas to receive federal matching funds to support the HTW program. Texas previously had such an 1115 waiver to support its Medicaid Women's Health Program, but Texas lost federal funding when the state opted to exclude abortion providers and affiliates from the program. CMS noted that federal Medicaid statute requires allowing all qualified provider to participate in such a program. HHSC is seeking to reinstate the waiver with the new HTW program, while maintaining its prohibition on the participation of abortion providers and affiliates. HHSC has proposed September 1, 2018 as the effective date for a five-year waiver program.

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Texas continues to struggle to ensure an adequate provider network to serve the hundreds of thousands of women in Texas in need of preventive health services.

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An 1115 waiver could have a significant impact on the funding, services, and structure of the state's women's health programs. During both legislative discussions and the comment period for HHSC's proposal, the TWHC expressed several concerns related to the state's application. Among our top priorities is addressing provider capacity. Although the state has made important investments in women's healthcare in recent years, Texas continues to struggle to ensure an adequate provider network to serve the hundreds of thousands of women in Texas in need of preventive health services.

According to the state's 2017 Savings and Performance Report for the Texas Women's Health Program (TWHP), there has been a significant drop between 2011 and 2015 in the average number of clients receiving services. As the report notes, there was also a decline during this period in the number of providers seeing large numbers of clients.<sup>i</sup>

The effect of this decline in high-volume providers can be seen in the decline in services provided in this program. The Savings and Performance Report indicates that there was a dramatic drop in the provision of injections, oral contraception, condoms, and other forms of contraception in TWHP. Moreover, data from HHSC indicate that there has been a significant decline in the total number of clients served across the state's women's health programs in recent years.<sup>ii</sup>

These findings indicate that the state's women's health programs have much more work to do to build adequate provider capacity in Texas.

Demand for family planning services is as high as ever, and is particularly apparent among FPP providers. Many FPP contractors report that they ran out of funds early in the fiscal year, which may be, in part, because the FPP now covers more expensive services like mammograms for older women. Even so, it is clear that FPP has been underfunded and that women depending on this program may not have access to services for months out of the year. The high demand for FPP services underscores the importance of ensuring that the receipt of 1115 waiver funds for HTW does not result in any decline in funding for FPP.

Regardless of whether the state receives an 1115 waiver, the TWHC believes it is essential that our state's women's health programs meet national standards for Quality Family Planning services as recommended by the Centers for Disease Control and Prevention.<sup>iii</sup> These recommendations have been informed by the experience of family planning providers and women's healthcare experts across the country, and can serve as an important standard for Texas' own family planning safety net.



A key aspect of providing quality services is providing the full range of contraceptive methods, including LARC. A new waiver is an opportunity to explore innovative policies that other states have used to increase access to LARC. Texas would particularly benefit from identifying ways to increase access to on-site and same-day LARC.

Any change to HTW should preserve and improve core services and benefits, including coverage of hypertension, diabetes, and post-partum depression. HHSC should also ensure that the program maintains and increases current eligibility criteria, and streamlines access to care.

Although the desire to maximize federal funding sources is understandable, the state must also ensure that services, eligibility, and funding are maintained, regardless of CMS's decision. On both the House and Senate floors, legislators indicated that their intent is to maintain the level of services, benefits, and eligibility for our state's current programs. These remarks have been reassuring. However, numerous questions remain about the impact of applying for a waiver, and the TWHC will continue to closely monitor the state's application and advocate for policy decisions that ultimately increase access to care.

<sup>i</sup> Texas Health and Human Services Commission. *Final Report of the Former Texas Women's Health Program: Fiscal Year 2015 Savings and Performance: House Bill 1, 84<sup>th</sup> Legislature, Regular Session, 2015 (Article II, Health and Human Services Commission, Rider 41)*. March 2017.

<sup>ii</sup> Texas Health and Human Services Commission. *HHS Women's Health Update*. May 15, 2017.

<sup>iii</sup> Gavin L, Pazol K. Update: *Providing Quality Family Planning Services — Recommendations from CDC and the U.S. Office of Population Affairs*, 2015. *MMWR Morb Mortal Wkly Rep* 2016;65:231–234.

# POSITIVE BILLS AND RIDERS IMPACTING WOMEN'S HEALTHCARE

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This was a challenging legislative session for many policy areas. Conflicting priorities between the House and Senate led to a number of contentious moments, and this resulted in far fewer bills achieving passage than in previous sessions. Amid this climate, however, were a handful of bright spots for women's healthcare.

**HHSC Rider 209**, authored by Representative Sarah Davis (R-West University Place), directs HHSC to study the cost-effectiveness of automatically enrolling into HTW those female clients who age out of CHIP or the Children's Medicaid Program. If it proves feasible and cost effective, HHSC may consider implementing auto-enrollment. Eighteen - and nineteen-year-olds represent the population of teenagers with the highest rates of teen pregnancy. Automatically enrolling these clients into HTW would help improve continuity of care for young women as they become ineligible for CHIP or Medicaid, which would help reduce teen pregnancy rates and improve health outcomes for young adults. A legislatively-required study is an important first step towards enacting this common-sense policy solution.

Another positive rider is **Rider 54**, which requires a Savings and Performance report for the state's women's health programs. A version of this rider has existed since the 81<sup>st</sup> Legislature, but several positive modifications were made to the rider this session. In addition to the information formerly required, Representative Gene Wu (D-Houston) authored language to require the report to include information on the total number of unduplicated patients served; the total number of providers by geographic region; the total number of unduplicated patients served, detailed by provider; the count of women in HTW and FPP receiving LARC; and the service utilization by procedure code. The report will now be provided annually, and must meet federal reporting requirements for specificity, accuracy, and completeness. The rider previously required corrective action if the number of women enrolled or service utilization fell 10 percent below 2011. However, the rider now requires corrective action only if those metrics fall 10 percent in comparison to the prior two fiscal years.

Another important rider is Representative Gina Hinojosa's (D-Austin) **Rider 198**, which requires HHSC to develop a five-year strategic plan to reduce barriers to LARC access for Medicaid recipients and those who may be eligible for HTW, FPP, or CHIP-Perinatal. The strategic plan would address reimbursement and billing barriers and methods for developing public and private partnerships to increase public and provider training, education, and awareness.

Several bills were also filed this session to address the state's high maternal mortality rates. **HB 2466** by Representative Sarah Davis allows mothers to receive maternal depression screenings during CHIP and Medicaid well-child visits. Several riders and bills require greater accuracy and detail on pregnancy-related deaths. The Legislature missed a major opportunity when it failed to extend the Maternal Mortality and Morbidity Task Force, but the Governor has included the Task Force's extension as one of his special session priorities.



# MISSED OPPORTUNITIES FOR WOMEN'S HEALTHCARE

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This session also saw a number of missed opportunities for women's healthcare. A major setback this session was the Governor's last-minute **veto of SB 790** by Senator Borris Miles (D-Houston), the companion to **HB 279** by Representative Donna Howard (D-Austin). This bill would have extended the Women's Health Advisory Committee (WHAC) until September 2019. The WHAC has provided critical guidance in the development of the state's new women's health programs, and its work was far from done. Particularly with the prospect of the state applying for an 1115 waiver for family planning and other women's health services, it is more important than ever to have a public forum that allows family planning providers and other stakeholders to monitor and influence the continuing development of the state's women's health programs. Though the veto of SB 790 is a setback, the TWHC will continue to advocate with the Legislature and with HHSC to promote robust stakeholder forums.

Another bill TWHC strongly supported was Representative Davis's **HB 1161** and its companion **HB 940** by Representative Howard. This bill would have required health providers to ensure that women are able to obtain a 12-month supply of prescription contraception at one time. Running out of birth control pills is among the primary reasons women discontinue oral contraceptive use, and many women struggle to maintain consistent contraceptive use when they are forced to return to the pharmacy every month to receive their next supply. A common-sense solution for increasing continuation of birth control and reducing unintended pregnancies is enabling women to receive a bigger supply at one time. HB 1161 was reported favorably out of Committee, but was never voted out of Calendars. The TWHC will work during the interim to collect data and build additional support for this policy.





# LOOKING AHEAD TO THE SPECIAL SESSION AND THE LEGISLATIVE INTERIM

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The Texas Regular 85<sup>th</sup> Session may be over, but the state will be entering a special session on July 18th. Governor Abbott has stipulated that after priority sunset legislation has been passed, the Legislature can consider 19 additional items the Governor has deemed priorities. Among these 19 items is an agenda item to extend the Maternal Mortality and Morbidity Task Force. Preventive healthcare plays a critical role in reducing maternal mortality rates. The TWHC will work during the special session to advocate that the Legislature support policies that improve women's access to preventive care, inter-conception care, and postpartum care.

Additionally, the TWHC will be closely monitoring and commenting on the progress of the state's application for an 1115 waiver. CMS completed its preliminary review of the state's application on July 5<sup>th</sup>, and a public comment period will be open until August 4<sup>th</sup>. TWHC will be working diligently to ensure our women's health programs are maintained and strengthened, and that the voices and concerns of TWHC members are heard.

The legislative interim will be an important time for women's health and family planning stakeholders throughout the state to identify the strengths and challenges facing our state's women's healthcare safety net. As our state grapples with the threat of Zika, high maternal mortality rates, and uncertainty at the federal level, it is more important than ever to work collaboratively on policy solutions. The TWHC will continue to hold regular meetings and events and keep community members informed through newsletters, webinars, presentations, op-eds, and white papers.

We are grateful to all the legislators who supported women's healthcare this session, and all the members and partners of the TWHC who have remained committed to ensuring access to preventive care – including contraception – for all Texas women. There is much more work to do.





## Our Mission

**The Texas Women's Healthcare Coalition is a coalition of organizations promoting access to preventive healthcare for all Texas women.**

*TWHC is working toward the vision of a state where every woman has access to the preventive and preconception care that will help her stay healthy and prepare for healthy, planned pregnancies.*

### 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  
 Women's Health & Family Planning Association of Texas  
 Texans Care for Children  
 Center for Public Policy Priorities  
 Healthy Futures of Texas

### General Members

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



## Summary: 85<sup>th</sup> Texas Legislative Session

### Budget Comparison: Appropriations for 2016/2017 and 2018/2019 Biennium

	DSHS FP	EPHC	TWHP	BCCS	"Women's health services"	TOTAL
<b>2016 -17</b> \$ millions/biennium	\$41.6	\$100	\$69.3	\$23.7	\$50	\$284.6*
	Strategy D.1.1 Women's Health Programs: HTW, FPP, BCCS**					TOTAL
<b>2018 -19</b> \$ millions/biennium	\$284.6					\$284.6

\*According to the Legislative Budget Board, 2018/2019 Appropriations represent a \$30.9 million (All Funds) increase over FY 2016/2017 Expenditures.

\*\*In the 2018/2019 budget, Healthy Texas Women (HTW), the Family Planning Program (FPP), and Breast and Cervical Cancer Services (BCCS) have been grouped under the Women's Health Program Strategy. The budget does not indicate how much of the overall funding will go to each sub-strategy.

### State Budget Riders Related to Women's Preventive Healthcare

#### New Rider Language – Department of State Health Services (DSHS)

**39. Accuracy of Death Certificate of Pregnant Person or Person Recently Pregnant.** DSHS will use \$100,000 of appropriated funds for the Vital Records Project (TXEver) to develop and implement an electronic process for determining whether a person was pregnant at the time of death or was pregnant at any time in the year preceding the person's death to ensure the accuracy of that person's death certificate.

#### New Rider Language – Health and Human Services Commission (HHSC)

**51. Breast and Cervical Cancer Services Program: Providers.** HHSC Rider 51 is a continuation of former DSHS Rider 72. No funds appropriated in BCCS may be expended to compensate providers that would be ineligible to receive funding pursuant to Texas Administrative Code §392.607: BCCS Applicant Requirements. If HHSC is unable to locate a sufficient number of eligible providers offering services in a permanent setting in a certain region, the agency may compensate other local providers for the provision of services.

*"Permanent setting" is a new addition, enabling an otherwise ineligible provider to be compensated if the only available eligible provider is a mobile unit.*

**54. Women's Health Programs: Savings and Performance Reporting.** Rider 54 is a continuation of former Rider 41. HHSC must submit an annual report (previously biannual) to the LBB and Governor's office. The original requirements of the former Rider 41 remain, but with the following underlined additions:

- Enrollment levels of targeted low-income women and service utilization by geographic region, including total number of unduplicated patients served, delivery system, and age from the prior two fiscal years.
- Savings or expenditures in the Medicaid program that are attributable to enrollment levels.
- Descriptions of all outreach activities undertaken for the reporting period.
- The total number of providers, by geographic region, enrolled in the Healthy Texas Women Program and Family Planning Program networks, and providers from legacy Women's Health Programs (including Texas Women's Health Program) not to include duplications of providers or ancillary providers.
- The average and median numbers of program clients, and the total number of unduplicated patients served, detailed by provider.
- The count of women in the Healthy Texas Women Program and the Family Planning Program receiving a long-acting reversible contraceptive.
- The service utilization by procedure code. The annual report submitted as required above must satisfy federal reporting requirements that mandate the most specific, accurate, and complete coding and reporting for the highest level of specificity.

It is the intent of the Legislature that if the findings of the report show a reduction in women enrolled or of service utilization of greater than 10 percent relative to the prior two fiscal years [*previously since calendar year 2011*], the agency shall, within existing resources, undertake corrective measures to expand provider capacity and/or client outreach and enrollment efforts.

**161. Funding for Healthy Texas Women Program.** Funds appropriated in Strategy D.1.1, Women's Health Program, include \$10,000,000 in General Revenue Funds and \$90,000,000 in Federal Funds in fiscal year 2019 for the Healthy Texas Women program (HTW). These amounts assume HHSC will seek approval to receive federal matching funds for the program and those funds will be available beginning in fiscal year 2019. In the event federal matching funds do not become available or are available in a lesser amount in fiscal year 2019, HHSC shall seek direction from the Legislative Budget Board prior to making any reductions to program funding or service levels.

*In May 2017, HHSC announced its intent to apply to the Centers for Medicare and Medicaid Services (CMS) for a new 1115 Demonstration Waiver for HTW. September 1, 2018 is the proposed effective date for a five-year waiver program ending August 31, 2023. The public comment period for the state's proposal ended on June 12<sup>th</sup>, 2017.*

**189. Reporting of Postpartum Depression Data.** No later than February 1, 2019, HHSC shall submit a report on the screening and treatment of postpartum depression to the Legislative Budget Board, the Texas Maternal Mortality and Morbidity Task Force, and each House and Senate committee with legislative authority over the operation or financing of public health programs.

**193. Postpartum Depression Services.** HHSC shall seek federal funds for the screening and treatment of postpartum depression pursuant to the 21st Century Cures Act.

*Rider 193 is a provision from SB 1929 by Senator Lois Kolkhorst, which failed to pass.*

**195. Prioritization of Behavioral Health Treatment for Pregnant Women.** HHSC shall seek to educate and inform the public and behavioral health service providers that pregnant women and women with dependent children are a priority population for services funded through the Substance Abuse Prevention and Treatment Block Grant.

**198. Access to Long-Acting Reversible Contraception Strategic Plan.** HHSC shall develop a five-year strategic plan to reduce barriers for Medicaid recipients and those who may be eligible for HTW, the Family Planning Program (FPP), or CHIP Perinatal to access long-acting reversible contraception (LARC). The strategic plan must be submitted to the Legislative Budget Board and Governor by November 1, 2018.

**209. Auto-Enrollment in the Healthy Texas Women Program.** HHSC must submit a report to the Legislative Budget Board no later than July 1, 2018, on the cost-effectiveness and projected savings of automatically enrolling into HTW those female clients who age out of CHIP or the Children's Medicaid Program. If feasible and cost effective, HHSC, with Legislative Budget Board approval, may consider automatic enrollment of eligible women who meet the criteria identified above into HTW, if not eligible for other programs providing women's health services.

**212. Texas Medicaid Pre-term Births and Low Birthweight Births.** HHSC shall study and report on opportunities for cost savings to the Texas Medicaid program from increasing the minimum legal age to access tobacco and electronic nicotine delivery system products from 18 to 21 years. The report shall include, but is not limited to, estimates related to the prevention of pre-term births (PTB) and low birthweight births (LBW) attributable to smoking and the cost of treating PTB and LBW.

**216. Office of Minority Health Statistics and Engagement.** In addition to other cultural competency trainings and community development, the Office of Minority Health Statistics and Engagement, in coordination with the Task Force on Maternal Mortality and Morbidity, shall study and review trends, rates, or disparities in pregnancy-related deaths and evaluate options for reducing maternal mortality, including focusing on reducing postpartum depression among economically disadvantaged women.

*Rider 216 includes study provisions from SB 1929, which failed to pass.*

**222. Alternatives to Abortion.** HHSC is authorized to transfer and expend up to a total of \$38,300,000 from any appropriated funds for the 2018-19 biennium for the Alternatives to Abortion program, if HHSC determines that there is a demand based on program utilization. Any funds transferred to Alternatives to Abortion shall be spent on direct client services.

**Sec. 6.25. Limitation on Abortion Funding.** To the extent allowed by federal and state law, money appropriated by the state may not be distributed to any individual or entity that performs abortions; is commonly owned, managed, or controlled by an entity that performs abortions; or is a franchise or affiliate of an entity that performs abortions. This provision does not apply to hospitals.

### **Former Riders that Were Cut from the 2018/2019 Budget**

**Former HHSC Rider 87. Family Planning Affiliate Requirements.** This rider defined the term “abortion-services affiliate.”

*Though the rider was not included in the 2018/2019 budget, affiliate language remains as part of the Texas Administrative Code for HTW and FPP.*

**Former Sec. 55. Breast and Cervical Cancer Program Services.** In the event that federal funds are less than appropriated to the BCCS Program, it is the intent of the legislature that the Executive Commissioner transfer necessary funds for BCCS prior to suspending services.

**Ongoing Riders – HHSC**

*The following riders have been carried over from the previous biennium, but many have been modified from their previous version.*

**52. Prohibition on Abortions.** No funds shall be used to pay the direct or indirect costs of abortion procedures provided by contractors of HHSC contractors. No funds appropriated for Medicaid Family Planning shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures.

**53. Funding for Medicaid Family Planning and Family Planning Instruction.** No state funds may be used in Medicaid Family Planning to dispense prescription drugs to minors without parental consent. An exemption shall be allowed for non-parents and minors pursuant to Texas Family Code §32.

*This rider formerly exempted only emancipated 16- and 17-year-old parents.*

**55. Payments to Health Centers for the Healthy Texas Women Program.** HHSC will reimburse Federally Qualified Health Centers for family planning services under Strategy D.1.1, Women's Health Program, funding for HTW, using a prospective payment system at a per visit rate, not to exceed three payments during a calendar year.

**56. Prohibition on Abortions: Healthy Texas Women Program and Family Planning Program.** No funds shall be used to pay the direct or indirect costs of abortion procedures provided by HHSC contractors. No funds appropriated to HTW or FPP under Strategy D.1.1, Women's Health Program, shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures.

**57. Consent for Family Planning: Women's Health Services.** Of funds appropriated for FPP, no state funds may be used to dispense prescription drugs to minors without parental consent. An exemption shall be made for non-parents and minors pursuant to Texas Family Code §32.

*Exemption language is new.*

**58. Family Planning Services: Allocation of Funds.** HHSC shall allocate funds appropriated for the FPP using a methodology that prioritizes distribution and reallocation to first award public entities that provide family planning services; secondly, non-public entities that provide comprehensive primary and preventative care as a part of their family planning services; and thirdly, non-public entities that provide family planning services but do not provide comprehensive primary and preventative care. HHSC shall ensure the distribution and allocation methodology for funds for FPP, does not severely limit or eliminate access to services to any region.

**59. Access to Highly Effective Methods of Contraception.** HHSC shall expeditiously implement program policies to increase access to long acting contraceptives. HHSC shall develop provider education and training to increase access to the most effective forms of contraception, including vasectomy but excluding abortifacients or any other drug or device that terminates a pregnancy.

**150. Reporting of Child Abuse.** HHSC may distribute or provide appropriated funds only to recipients who show good-faith efforts to comply with all child abuse reporting guidelines and requirements set forth in Chapter 261 of the Texas Family Code.

## Updates to Legislation

### Legislation that Passed

**HB 2466** (Sarah Davis) Covers maternal depression screenings for a woman during a Medicaid or CHIP covered office visit regardless of whether the mother is also an enrollee. HB 2466 also directs the state to apply for federal funding through the 21<sup>st</sup> Century Cures Act, and includes fields on the application asking pregnant applicants if it is their first pregnancy, and if they want to receive info by text, call, email during pregnancy.

*HB 2466's direction to apply for funding through the 21<sup>st</sup> Century Cures Act was also a provision in SB 1929, which failed to pass.*

*HB 2466's provision to modify the application for pregnant applicants is a provision from HB 1158 by Representative Davis, which failed to pass.*

**HB 3576** (Guerra) Allows for certain demographic and related information to be released to the appropriate requesting federal agency if an individual has or is suspected of having Zika.

**HB 3859** (Frank) Protects a child welfare services provider who decline to provide or facilitate certain services, including contraceptive access for individuals within the child welfare system, due to a sincerely held religious belief.

**SB 1599** (Miles) Requires reporting on the systematic protocol for pregnancy-related deaths and best practices for reporting pregnancy-related deaths to the medical examiner or justice of the peace of each county.

**SB 1680** (Miles) Establishes a taskforce in the Texas-Mexico border region to raise public awareness on health issues, including diabetes, infant mortality, heart disease, obesity, and cervical cancer.

### Legislation that Did Not Pass

**HB 1158** (Sarah Davis) Would have included fields on a Medicaid application asking pregnant applicants if it is their first pregnancy, and if they want to receive info by text, call, or email during pregnancy.

*Passed out of originating committee, but was knocked off Local and Consent calendar and failed to receive a House floor reading. Provisions of HB 1158 were added as an amendment to HB 2466.*

**HB 1161** (Sarah Davis) Would have allowed health benefit plans that provide coverage for prescription contraceptives to provide a recipient up to a 12-month supply of the covered prescription contraceptive.

*Passed out of originating committee but did not receive a House floor reading*

**HB 2135** (Coleman) Would have provided postpartum depression mental health services as a covered benefit of the CHIP Perinatal program.

*Passed out of originating committee but did not receive a House floor reading*

**HB 2604** (Farrar) Would have implemented a five-year strategic plan regarding postpartum depression screening, referral, treatment, and support services.

*Passed out of originating committee but did not receive a House floor reading*

**SB 790** (Miles) Would have continued the Women's Health Advisory Committee until September 1, 2019.

*Signed in the House and the Senate but vetoed by the Governor*





## Report Card: 85<sup>th</sup> Texas Legislative Session



**Strong  
Progress**



**Moderate  
Progress**



**No Progress**



**Goal: Ensure funding for women's preventive healthcare, including contraception, can fully meet the growing need among low-income, uninsured women.**

### Progress Report

The state's women's health programs (Healthy Texas Women, the Family Planning Program, and Breast and Cervical Cancer Services) have been funded at the same level as the previous biennium. In a particularly tough fiscal climate in which many programs were cut, this represents a substantial victory.

However, data shows that the state is still struggling to meet the needs of Texas women and return to 2011 service levels. The TWHC will closely monitor the Health and Human Services (HHSC) application for the Healthy Texas Women (HTW) 1115 Demonstration Waiver, which could have a significant impact on the funding, services, and structure of the state's women's health programs. The TWHC will also work to ensure the distribution of funding between the state's women's health programs matches the need for services within each program.



**Goal: Identify areas with a shortage of qualified family planning providers and develop strategies to increase provider participation in the state's women's health programs.**

### Progress Report

HHSC Budget Rider 54 requires more comprehensive and timely data related to the women's health programs, which will help the state identify and address areas of greatest need.

The veto of SB 790 by Senator Borris Miles, which would have extended the Women's Health Advisory Committee to September 2019, was a missed opportunity to monitor and improve the development of the state's women's health programs. More work remains to increase the capacity of qualified providers in the state.



**Goal: Ensure women have access to the full range of FDA-approved contraceptives of their choice, including the most effective forms of contraception – implants and intrauterine devices (IUDs).**

#### Progress Report

HHSC Budget Rider 198 requires the development of a five-year strategic plan to reduce barriers for Medicaid recipients and those who may be eligible for HTW, the Family Planning Program (FPP), or CHIP Perinatal to access long-acting reversible contraception (LARC). It will be important during the legislative interim to work with HHSC and stakeholders to promote strategies that reduce barriers to LARC access.



**Goal: Increase continuity of care for women by eliminating barriers to preventive healthcare access.**

#### Progress Report

HHSC Budget Rider 209 requires a report on the potential cost-effectiveness and savings of automatically enrolling eligible women into HTW after they age out of CHIP or the Children's Medicaid Program. This is an important step towards addressing continuity of care for young adults, and the TWHC encourages HHSC to move forward with auto-enrollment.

HB 1161 by Representative Sarah Davis, which would have required health providers to provide a recipient up to a one-year supply of prescription contraception at one time, failed to pass. The Legislature also failed to take steps to fix the CHIP glitch preventing CHIP clients from receiving HTW services. More work remains to ensure women receive and maintain continuous healthcare coverage that improves health outcomes and reduces costs to the state.



**Goal: Maximize the ability of the women's healthcare safety net to reach more women and save Texas taxpayer dollars.**

#### Progress Report

Work remains during the interim to ensure that the state's partnership with the federal government results in an increased number of women able access quality preventive healthcare.