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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**THE STATE OF CALIFORNIA; THE  
STATE OF DELAWARE; THE STATE OF  
MARYLAND; THE STATE OF NEW  
YORK; THE COMMONWEALTH OF  
VIRGINIA,**

Plaintiffs,

v.

**ALEX M. AZAR, II, IN HIS OFFICIAL  
CAPACITY AS SECRETARY OF THE U.S.  
DEPARTMENT OF HEALTH & HUMAN  
SERVICES; U.S. DEPARTMENT OF  
HEALTH AND HUMAN SERVICES; R.  
ALEXANDER ACOSTA, IN HIS OFFICIAL  
CAPACITY AS SECRETARY OF THE U.S.  
DEPARTMENT OF LABOR; U.S.  
DEPARTMENT OF LABOR; STEVEN  
MNUCHIN, IN HIS OFFICIAL CAPACITY AS  
SECRETARY OF THE U.S. DEPARTMENT OF  
THE TREASURY; U.S. DEPARTMENT OF  
THE TREASURY; DOES 1-100,**

Defendants,

and,

**THE LITTLE SISTERS OF THE POOR,  
JEANNE JUGAN RESIDENCE; MARCH  
FOR LIFE EDUCATION AND DEFENSE  
FUND,**

Defendant-Intervenors.

4:17-cv-05783-HSG

**DECLARATION OF JENNIFER WELCH**

1 I, JENNIFER WELCH, declare:

2 1. I am the President and CEO of Planned Parenthood of Illinois (PPIL). I have been  
3 President and CEO since May 2017. I have a thirty year career in public service in government  
4 and nonprofit leadership. In my professional opinion, the two Final Rules published by the  
5 Department of Health and Human Services, Treasury and Labor on November 15, 2018, entitled  
6 “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services  
7 Under the Affordable Care Act,” and “Moral Exemptions and Accommodations for Coverage of  
8 Certain Preventive Services Under the Affordable Care Act,” will cause a strain on public  
9 funding for contraceptive care in the State of Illinois, including on the Illinois Medicaid and  
10 Title X programs.

11 2. I declare under penalty of perjury that the following is true and correct and of my  
12 own personal knowledge. This declaration is based on my professional knowledge, my  
13 knowledge of PPIL’s operations, and my review of the Final Rule. If called and sworn as a  
14 witness, I could and would testify competently to the information contained in this declaration.

15 3. PPIL’s mission is to provide and promote compassion, comprehensive  
16 reproductive health care, education, and rights. PPIL’s work is dedicated to creating access for  
17 all to quality reproductive health care without judgment and with respect. PPIL operates 17  
18 health centers throughout Illinois. It served more than 68,000 patients in 2017. In many Central  
19 Illinois communities, PPIL is the only provider of long-acting reversible contraceptives. For  
20 many of our patients, Planned Parenthood is the only health care provider they see all year – and  
21 we take that responsibility seriously. Our goal is to treat every person who comes through our  
22 doors with compassion, dignity, and respect while giving them the care they need — no matter  
23 their background, identity, or income.

24 **Access to Contraceptive Coverage in Illinois**

25 4. Illinois law requires all individual or group health insurance policies amended,  
26 delivered, issued, or renewed in Illinois to provide contraceptive coverage which matches the  
27 federal guarantee provided by the Affordable Care Act (Public Health Service Act 2713(c)).  
28 Illinois Insurance Code, 215 Ill. Comp. Stat. § 5/356z.4. The law specifically requires coverage

1 for all contraceptive drugs, devices, and other products approved by the United States Food and  
2 Drug Administration, including all over-the-counter contraceptive drugs, devices and products.

3 *Id.* This coverage must be provided without cost-sharing and must provide for the dispensing of  
4 12 months' worth of contraceptives at one time. *Id.* The law also requires coverage of voluntary  
5 sterilization procedures and contraceptive services, patient education and counseling, and  
6 follow-up services. *Id.* This law, however, does not cover women – or covered dependents – who  
7 have coverage through an employer that uses a self-insured plan. Therefore, Illinois women in  
8 self-insured employer-sponsored health insurance plans are at risk of losing contraceptive  
9 coverage if their employer uses the new accommodations or exemptions in the Final Rule.

10 5. The State of Illinois also ensures access to contraceptive coverage to Illinois  
11 women through its Medical Assistance (“Medicaid”) program. Illinois Public Aid Code, 305 Ill.  
12 Comp. Stat. § 5/5-5. Illinois women with incomes up to 138% of the federal poverty level are  
13 eligible for Illinois’ Medicaid program. Illinois Public Aid Code, 305 Ill. Comp. Stat. § 5/5-2.  
14 Illinois’ Medicaid program provides coverage for “reproductive health care that is otherwise  
15 legal in Illinois.” Illinois Public Aid Code, 305 Ill. Comp. Stat. § 5/5-5.

16 6. The State of Illinois also provides contraceptive coverage through the Illinois  
17 Department of Public Health (IDPH) Family Planning Program. IDPH is a grantee in the federal  
18 Title X National Family Planning Program, administered by the U.S. Department of Health and  
19 Human Services. As of October 2018, IDPH provided funding to more than 66 sites throughout  
20 Illinois, including health departments, hospital-based clinics, single services not-for-profit  
21 agencies, federally qualified health centers, and community-based organizations for the  
22 provision of family planning services, including contraceptives. U.S. Department of Health &  
23 Human Services, Office of Population Affairs, “Title X Family Planning Directory,” Oct. 2018,  
24 [https://www.hhs.gov/opa/sites/default/files/Title-X-Family-Planning-Directory-  
25 October2018.pdf](https://www.hhs.gov/opa/sites/default/files/Title-X-Family-Planning-Directory-October2018.pdf).

### 26 **Contraceptive Care Provided by PPIL is Largely Funded by Public Programs**

27 7. PPIL is a participant in the Title X National Family Planning Program,  
28 administered by the U.S. Department of Health and Human Services. As a direct grantee of that

1 program, PPIL provides no-cost family planning and related preventive health care to individuals  
2 with incomes up to 250% of the federal poverty level. For individuals with incomes above  
3 250% of the federal poverty level, PPIL provides services for a sliding scale fee. PPIL receives  
4 federal funding to reimburse the costs for individuals who receive family planning services  
5 pursuant to Title X. PPIL served more than 40% of all Illinois patients that access family  
6 planning support from a Title X health center. The vast majority of young people that access  
7 sexually transmitted infections treatment and additional services at PPIL rely on public health  
8 coverage programs to afford care. Without the ability to access Medicaid or Title X subsidies,  
9 young people will face additional barriers to obtaining the preventive care they need to stay  
10 healthy.

11 8. PPIL also receives reimbursement from the State of Illinois for services provided  
12 to individuals enrolled in the Illinois Medicaid program. Planned Parenthood of Illinois  
13 participates in Illinois Medicaid and is contracted with the Illinois Department of Healthcare and  
14 Family Services (HFS) and Illinois Medicaid Managed Care Organizations (MCOs). Last fiscal  
15 year, almost 23,000 of PPIL patients were Illinois Medicaid recipients, accounting for 34% of all  
16 the patients we served. Like any other provider, Planned Parenthood submits insurance claims  
17 for services rendered to Medicaid patients and is reimbursed at the Illinois Medicaid fee  
18 schedule for contracted services with IHFS and MCOs. For example, if a woman comes in to  
19 get a pap smear or birth control, our PPIL health center will apply for reimbursement to  
20 Medicaid for those services. Patients come to Planned Parenthood for a variety of reasons, one  
21 reason could be that we accept Medicaid. Many providers don't accept Medicaid because the  
22 reimbursement rates are very low.

23 9. PPIL also serves patients with commercial insurance, employer sponsored  
24 insurance, and individuals without any coverage. More than 22,000 PPIL patients seen last year  
25 had third party (commercial) insurance, accounting for 33% of all patients served, a very similar  
26 percentage as those we serve with public insurance.

27 **Women May Seek Publicly Funded Contraceptive Care from PPIL and Other Providers if**  
28 **They Cannot Get Coverage Through Their Employer-Sponsored Plan**

1           10.       In my professional experience, women who do not have health insurance coverage  
2 for contraceptives will likely still seek such care from providers like PPIL and other Title X  
3 providers. Part of PPIL's mission is to ensure that all women have access to crucial healthcare,  
4 including contraceptives and family planning services, regardless of their health insurance  
5 coverage or ability to pay. PPIL currently serves approximately 22,000 Illinois individuals who  
6 are uninsured or do not have coverage for contraceptives care. This group represented the final  
7 third of our patients served. PPIL will provide contraceptive care to women who lose coverage  
8 previously provided by their employer-sponsored insurance as a result of the Final Rule. I  
9 expect that the number of Illinois women seeking contraceptive care from PPIL without  
10 coverage for contraceptive care will increase if the Final Rule goes into effect. At least some of  
11 these women seeking contraceptive care will be financially unable to afford doing so and such  
12 services will be publicly funded by the State of Illinois, the federal government, or go  
13 uncompensated.

14           11.       Additionally, PPIL currently serves, and will continue to serve, women who  
15 receive dependent coverage through a spouse or parent who is a policyholder. For those women,  
16 a decision by the policyholder's employer to exclude contraceptive coverage may leave them  
17 without alternatives to coverage. Women whose insurance comes from their spouse or parent's  
18 employer may be limited in their ability to obtain alternative insurance (public or private) that  
19 includes coverage for contraceptive care. These women are likely to continue to seek  
20 contraceptive care from PPIL, only now it may be reimbursed by Title X or other publicly  
21 funded programs, rather than the policyholder's insurance.

22           12.       It is likely that some women who are denied contraceptive coverage by their  
23 employer, or the employer of their spouse or parent, will forgo such insurance and enroll in  
24 Illinois' Medicaid program if their incomes are less than 138% of the federal poverty level. This  
25 shifts the cost of contraceptive care for these women from their employer to the State of Illinois.  
26 In other instances, women with incomes below 250% of the federal poverty level will seek  
27 services compensated by Title X. At least some of these women will seek services from PPIL or  
28 from one of the 66 clinics in the IDPH Family Planning Program. Approximately 101,619

1 women received family planning services from a Title X provider in Illinois in 2017. Family  
2 Planning Annual Report: 2017 National Summary, (Exhibit B-1). Of those, 38% had publicly  
3 funded insurance, 28% had private insurance, and 33% were uninsured. *Id.* at Exhibit B-3a. If  
4 these numbers expand because of a loss of employer-sponsored coverage under the Final Rules,  
5 this will constrain the resources of Title X funding throughout the State of Illinois and put  
6 additional financial burdens on reduced- and no-cost contraceptive services and programs in  
7 Illinois, as well as an emotional and financial strain on the women who are now seeking  
8 contraceptive care without the benefit of employer-sponsored insurance coverage.

9 **Women Who Do Not Seek Contraceptive Care or Services from Planned Parenthood or**  
10 **Other Title X Providers May Experience Unintended Pregnancies**

11 13. Family planning and the use of contraceptives is the most effective way to avoid  
12 unintended pregnancies. If it is more difficult for women to access contraceptives, unintended  
13 pregnancies will naturally increase. In my professional experience, it is likely that women who  
14 lose contraceptive coverage as a result of the Final Rules may not receive contraceptive care and  
15 experience unintended pregnancies. Those unintended pregnancies are likely to increase costs  
16 for Illinois Medicaid and other publicly funded programs. According to one study, 78.3% of  
17 unplanned pregnancies were publicly funded in Illinois, at least in part by with state funds.  
18 Guttmacher Institute, "Public Costs from Unintended Pregnancies and the Role of Public  
19 Insurance Programs in Paying for Pregnancy-Related Care: National and State Estimates for  
20 2010," Feb. 2015, Table 1.

21  
22 Executed on December 18, 2018 in Chicago Illinois.

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25 JENNIFER WELCH  
26 PRESIDENT & CEO  
27 PLANNED PARENTHOOD OF ILLINOIS  
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