

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITY OF CHICAGO,

Plaintiff,

vs.

Case No. 1:20-cv-1566

ALEX M. AZAR, II, in his official capacity
as Secretary of the United States
Department of Health and Human
Services, et al.,

Defendants.

DECLARATION OF DR. ALLISON ARWADY

I, Dr. Allison Arwady, declare under penalty of perjury as prescribed in 28 U.S.C.

§ 1746:

1. The facts contained in this declaration are known personally to me and, if called as a witness, I could and would testify competently thereto under oath. I submit this sworn declaration in support of the City of Chicago's motion for a preliminary injunction or, in the alternative, expedited summary judgment.

2. I started at the Chicago Department of Public Health (CDPH) in 2015 and served as Chief Medical Officer before being confirmed by the City Council as Commissioner in January, 2020. As Chief Medical Officer, I oversaw the disease control, environmental health, emergency preparedness, and behavioral health divisions. I have worked on disease outbreaks, immunization promotion, tuberculosis response, lead poisoning prevention, substance misuse, and more. Prior to CDPH, I worked for the U.S. Centers for Disease Control and Prevention as an Epidemic Intelligence Service officer. In that role, I focused on outbreak response, including international work on Ebola and Middle East Respiratory Syndrome. While based at the Illinois

Department of Public Health, I responded to disease outbreaks across the state. I have a bachelor's degree from Harvard University, a master's degree in public health from Columbia University, and I completed medical school and clinical training at Yale University. I am a board-certified internal medicine physician and pediatrician and continue to see primary care patients weekly.

The City of Chicago

3. Chicago, located in Cook County, is the largest city in Illinois and the third largest city in the United States.

4. The United States Census Bureau's statistics are the best available means for determining the population of Chicago and its demographic characteristics. Those statistics are available at <https://www.census.gov/quickfacts/chicagocityillinois>.

5. According to 2019 Census estimates, Chicago has nearly 2.7 million residents. Of those residents, 88%, or 2.38 million people, are under the age of 65. 6.9% of Chicago's population, or around 186,000 people, have a disability.

6. 2019 Census estimates for the proportion of Chicago's population without health insurance are unavailable. According to 2018 Census estimates, 11.9% of Chicago's population under the age of 65, or around 283,000 people, lack health insurance. Those same estimates show that 19.5% of Chicago's population, or around 526,500 people, live in poverty.

7. The Bureau of Labor Statistics reports that, in February 2020, the Chicago-Joliet-Naperville, Illinois metropolitan statistical area had 123,900 unemployed individuals.¹

¹ *Economy at a Glance, Chicago-Joliet-Naperville, IL*, U.S. Bureau of Labor Statistics, https://www.bls.gov/eag/eag.il_chicago_md.htm (last visited June 14, 2020).

8. As a major American city, Chicago provides a wide range of services on behalf of its residents, including, as relevant here, health services, public assistance through human and social services, and emergency medical care.

The City's Health Infrastructure

9. Chicago has a Department of Public Health that generally seeks to promote and improve the health of city residents. The Department has an annual budget of around \$221 million and is staffed by over 600 full-time employees.²

10. The Chicago Department of Public Health operates free clinics. Specifically, the Department operates five clinics that provide free vaccinations;³ five clinics that provide mental-health services at no cost for uninsured and underinsured Chicago residents;⁴ and three clinics that provide free testing and treatment for sexually transmitted infections.⁵ The City also provides certain at-home or in-field health programs, such as nursing home support for pregnant women and newborn babies and directly observed therapy for tuberculosis. Collectively, these clinics and services serve thousands of uninsured and underinsured city residents and, in particular, provide services that may not be covered by non-ACA-compliant health coverage.

² *2020 Budget Overview*, City of Chicago 126, https://www.chicago.gov/content/dam/city/depts/obm/supp_info/2020Budget/2020BudgetOverview.pdf.

³ *Walk-In Immunization Clinics*, City of Chicago, https://www.chicago.gov/city/en/depts/cdph/supp_info/health-protection/immunizations_walk-inclinics.html.

⁴ *Mental Health Centers*, City of Chicago, https://www.cityofchicago.org/city/en/depts/cdph/supp_info/behavioral-health/mental_health_centers.html.

⁵ *STI/HIV Testing and STI Treatment*, City of Chicago, https://www.cityofchicago.org/city/en/depts/cdph/provdrs/health_services/svcs/get_yourself_evaluatedforstihiv aids.html.

11. Each of these clinics faces greater demand when there is an increase in either the health needs of Chicago residents or in the number of uninsured or underinsured individuals who cannot obtain those services or other forms of health care elsewhere.

12. The Chicago Department of Public Health also partners with, and provides funding to, community-based health centers to offer a wide array of medical services, including for uninsured and underinsured patients.⁶

13. The higher the uninsured and underinsured rate, the more that the clinics operated by the Chicago Department of Public Health and its community-based partners will necessarily have to provide forms of free or reduced-cost care to patients.⁷ In that event, Chicago either must provide the Department and its partners with more funding, or the Department and its partners must decrease the services that they provide.

14. The Department of Public Health also conducts citywide surveillance and response efforts for communicable and vaccine-preventable diseases, including 31 employees and around \$3.5 million for communicable disease, 32 employees and around \$11.5 million for vaccine-preventable disease, 44 employees and around \$28.5 million for emergency preparedness, and 25 employees and around \$5 million for epidemiology and IT/informatics.⁸

⁶ *Health Services*, City of Chicago, https://www.cityofchicago.org/city/en/depts/cdph/provdrs/health_services.html.

⁷ See, e.g., John Holahan & Bowen Garnett, *The Cost of Uncompensated Care With and Without Health Reform*, Urban Inst. 4 (Mar. 2010), <https://www.urban.org/sites/default/files/publication/28431/412045-The-Cost-of-Uncompensated-Care-with-and-without-Health-Reform.PDF> (A higher “number of uninsured and ... amount of uncompensated care ... will translate into increased pressure on state and local government to finance the growing cost of the uninsured.”); Erin F. Taylor et al., *Community Approaches to Providing Care for the Uninsured*, 25 Health Aff. 173, 173 (2006), <https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.25.w173> (“Increases in the number of uninsured people often strain local safety nets and health systems.”).

⁸ 2020 Chicago Budget Overview at 126-28.

15. The Department of Public Health also partners with all hospitals and healthcare organizations in the City of Chicago through the Healthcare System Preparedness Program, which supports the Chicago Health System Coalition for Preparedness and Response.⁹ This program includes coordination of all thirty five acute care and specialty hospitals, 110 long term care facilities, 50 dialysis centers, all Federally Qualified Healthcare Centers, and other organizations that provide health care services within the City.

16. This program includes safety net hospitals which, as part of their participation, demonstrate their ability to react to patient surges and complete accreditation requirements. Safety net hospitals provide healthcare for individuals regardless of their insurance status or ability to pay, and typically serve a higher proportion of uninsured, low-income, and other vulnerable individuals than do other hospitals.

17. Chicago's partnership with these hospitals includes financial support such as situational awareness communication, support for data collection and reporting, disaster exercises, clinical trainings, and providing supplies, such as personal protective equipment, mechanical ventilators, and radios. In particular, this program benefits patients during surge events, like the novel coronavirus pandemic.

18. The Chicago Fire Department provides ambulance transportation services to its residents, including its uninsured and underinsured residents. The Department receives around \$94 million in annual funding for emergency medical services, employing more than 800 people to provide those services.¹⁰

⁹ *Healthcare System Preparedness Program*, City of Chicago, https://www.chicago.gov/city/en/depts/cdph/supp_info/health-protection/healthcare-system-preparedness-program.html (last visited June 14, 2020).

¹⁰ *2020 Chicago Budget Overview* at 120.

19. Based on my review of the Department's records, the Department's paramedics provide ambulance-transportation services approximately 250,000 times per year, with over 260,000 in 2019.

20. The Chicago Fire Department provides ambulance services regardless of the patient's income or insurance status. Chicago generally seeks reimbursement for ambulance services from the patient or, if applicable, the patient's insurer.¹¹

21. However, Chicago usually does not receive full reimbursement for ambulance services from its uninsured and underinsured residents. Based on my review of the Department's records, in 2018, for example, the Chicago Fire Department provided ambulance services to 60,007 patients for whom no insurance was identified. Chicago charged these patients \$63,717,638 for ambulance services but collected just \$1,028,713—a loss of \$62,688,925. These numbers increased in 2019, during which the Chicago Fire Department provided ambulance services to 61,377 patients for whom no insurance was identified. Chicago charged these patients \$65,970,368 for ambulance services but collected just \$1,564,799—a loss of \$64,958,819.¹²

22. In Chicago's experience, the uninsured and underinsured disproportionately rely on ambulance service for transport to the emergency department.¹³ A higher number of

¹¹ *Ambulance Bills*, City of Chicago, https://www.cityofchicago.org/city/en/depts/fin/supp_info/revenue/ambulance_bills.html (last visited June 14, 2020).

¹² Because efforts to collect for 2019 are ongoing, these figures may change with time.

¹³ See, e.g., Benjamin T. Squire et al., *At-Risk Populations and the Critically Ill Rely Disproportionately on Ambulance Transport to Emergency Departments*, 56(4) *Annals of Emergency Med.* 341, 347 (2010), <https://www.ncbi.nlm.nih.gov/pubmed/20554351>; see also Zachary F. Meisel et al., *Variations in Ambulance Use in the United States: The Role of Health Insurance*, 18(10) *Acad. Emergency Med.* 1036, 1041 (2011), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3196627/pdf/nihms314403.pdf> (“EMS use is higher among those who historically have had difficulty accessing routine medical care, specifically poor and uninsured patients.”).

uninsured and underinsured individuals or an increase in acute health needs will therefore result in more ambulance transports for which Chicago does not receive reimbursement and thus must make up for the shortfall in its budget.

The Novel Coronavirus Pandemic in Chicago

23. As of June 14, 2020, over 49,000 people have been confirmed to have been diagnosed with the novel coronavirus in the City of Chicago, and over 2,300 people have been confirmed to have died from it.¹⁴

24. Chicago has been subject to the State of Illinois's stay at home orders and has issued its own coronavirus-related guidance, which generally provides that City residents "should practice physical distancing, wear a face covering and wash their hands often."¹⁵ The Department of Public Health has issued several COVID 19-related Executives Orders and guidance available on the City's website,¹⁶ as well as disseminated guidance to health care providers through the Department of Public Health's Health Alert Network.

25. As a result of the economic crisis caused by the novel coronavirus, the Chicago-Joliet-Naperville area's unemployment rate spiked to 640,300 in April 2020, an increase of 516,400, or roughly ~416%.¹⁷ More recent statistics are unavailable, but given national trends, that rate has likely remained high.

¹⁴ *Coronavirus Response Center*, City of Chicago, <https://www.chicago.gov/city/en/sites/covid-19/home.html> (last updated June 14, 2020).

¹⁵ *Latest Guidance*, City of Chicago, <https://www.chicago.gov/city/en/sites/covid-19/home/latest-guidance.html> (last visited June 14, 2020). As of June 14, 2020, Chicago was in Phase 3, which permits certain additional industries to reopen cautiously, following specific safety guidelines. *Phase III Cautiously Reopen: Industry Guidelines for Reopening*, City of Chicago, <https://www.chicago.gov/city/en/sites/covid-19/home/reopening-business-portal.html> (last visited June 14, 2020).

¹⁶ *Id.*

¹⁷ *Economy at a Glance*.

26. Similarly, while more recent uninsured rate statistics are unavailable, the uninsured rate described above is now likely much higher, given that many individuals who have lost their employment have also lost their employer-provided health insurance as a result.¹⁸

27. At the same time, the pandemic has necessarily created a new and widespread need for health care services.

The City's Response to the Pandemic

28. In response to the novel coronavirus, Chicago has mounted a comprehensive effort to connect city residents to necessary health, food, housing, financial, and other resources.¹⁹

29. Specifically, Chicago has directed its uninsured and underinsured residents to its clinics and other community health centers to receive necessary health services during the pandemic.²⁰ Where in-person services are not possible or are unnecessary, Chicago is committed to using telemedicine and technology to continue the health services it provides directly to Chicago residents (*e.g.*, mental health services, nursing home services, and WIC support).

30. Chicago also supports seven coronavirus testing sites within the City, operated by the nonprofit CORE Foundation, and which are available to symptomatic residents, asymptomatic residents with known exposure to the novel coronavirus, and asymptomatic frontline workers.²¹ The City provides the funding for all testing kits and lab work for these sites.

¹⁸ Selena Simmons-Duffin, *Millions Of Americans Have Lost Health Insurance As Unemployment Soars*, NPR (May 24, 2020), <https://www.npr.org/2020/05/13/855096156/millions-of-americans-have-lost-health-insurance-as-unemployment-soars>.

¹⁹ See *Coronavirus Response Center*.

²⁰ *Managing Your Health*, City of Chicago, <https://www.chicago.gov/city/en/sites/covid-19/home/managing-your-health.html?#tab-shouldtest>.

²¹ *Managing Your Health*.

31. The Department of Public Health operates a mobile app, Chi COVID Coach, which “allows people who have coronavirus questions—or symptoms—to connect with trained public health employees who can answer questions about symptoms, quarantine, testing locations and more.”²² It has also established a call center and email address to take questions from the public.²³

32. Although Chicago advises that individuals isolate themselves at home and receive telephonic medical care, individuals who believe they have contracted the novel coronavirus and/or are in medical distress sometimes use ambulance services to receive necessary care.²⁴ If those individuals are uninsured or underinsured, the City will provide transport but, for the reasons explained above, is unlikely to receive reimbursement for the expense.

33. Even though Chicago provides certain forms of care to its uninsured and underinsured residents, Chicago is concerned that those residents may be less likely to obtain necessary testing and treatment for the novel coronavirus. In the City’s experience, uninsured and underinsured individuals are more likely to skip or postpone needed care due to cost.²⁵

34. As of May 8, 2020, Chicago has distributed over 7 million pieces of personal protective equipment, including over 4 million gloves and over 3 million masks.²⁶

²² Kelly Bauer, *City’s New Chi COVID Coach App Lets You Sign Up For Vaccine Alerts, Testing Information And More*, Block Club Chi. (Apr. 27, 2020), <https://blockclubchicago.org/2020/04/27/citys-new-chi-covid-coach-app-lets-you-sign-up-for-vaccine-alerts-testing-information-and-more/>.

²³ *Resources*.

²⁴ See Mark Guarino, *This Hospital Was Built for A Pandemic*, Wash. Post (Apr. 9, 2020), <https://www.washingtonpost.com/health/2020/04/09/rush-hospital-coronavirus/>.

²⁵ See, e.g., *The Chicago Health Care Access Puzzle*, City of Chicago 8 (Nov. 2008), https://www.chicago.gov/dam/city/depts/cdph/policy_planning/PP_ChgoHealthCareAccessRpt-1-.pdf.

²⁶ *Health Care Workers*, City of Chicago, <https://www.chicago.gov/city/en/sites/health-care-workers/home.html> (last updated May 8, 2020).

Overall Impact on the City

35. Chicago has a strong interest in ensuring that its residents can obtain adequate medical care. The City would prefer that those residents obtain affordable, ACA-compliant coverage, so that they can seek comprehensive care for all of their medical needs. However, Chicago is committed to caring for its uninsured and underinsured residents.

36. In ordinary times, Chicago is harmed as a whole when its residents feel they cannot obtain necessary medical care. A population that cannot obtain medical care is necessarily sicker, less productive, and less able to participate in the community and civic life.

37. However, amidst the current pandemic, it is an absolute necessity that Chicago residents be able to obtain care, including testing and treatment for the novel coronavirus. The more uninsured and underinsured individuals that do not seek care, the more the novel coronavirus will spread, further harming the City, its budget, its economy, and its well-being.

38. Ultimately, the pandemic has had effects across all of Chicago's programs. Many City agencies and programs are closed or only offering telephonic services as a result of the pandemic, and have had to redirect their personnel and resources and adjust their operations in response. For example, Chicago's clinics that provide vaccinations and treat sexually-transmitted infections have been closed since mid-March, and the staff at those clinics diverted to Chicago's pandemic response. Some City employees have also contracted the novel coronavirus, making it harder for the City to operate effectively.

39. Chicago expects to face a budget shortfall of at least \$700 million, in part as a result of the pandemic.²⁷ That "conservative" figure "depend[s] on how long it takes for

²⁷ Gregory Pratt & John Byrne, *Mayor Lori Lightfoot: Chicago's Coronavirus Budget Shortfall at Least \$700 Million*, Chicago Trib. (June 9, 2020), <https://www.chicagotribune.com/politics/ct->

consumers to regain confidence and whether coronavirus cases surge again.”²⁸ Specifically, Chicago faces hundreds of millions of dollars in lost revenue.²⁹ At the same time, Chicago is facing extraordinary strain on its health, emergency response, and other services.³⁰

40. It is not clear when Chicago, or other cities, will be able to fully reopen, or whether they will need to impose restrictions again in the face of another wave of the novel coronavirus.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: June 15, 2020

Chicago, Illinois


Dr. Allison Arwady

[coronavirus-chicago-budget-shortfall-lori-lightfoot-20200609-d6pb4n7drje6xfe4tzaioesrgu-story.html](#).

²⁸ Fran Spielman, *Estimated 2020 Budget Shortfall Is \$700 Million, Says Mayor, Who Won't Rule Out Property Tax Increase*, Chicago Sun-Times (June 9, 2020), <https://chicago.suntimes.com/city-hall/2020/6/9/21285650/chicago-city-budget-shortfall-700-million-coronavirus-federal-help-lightfoot>.

²⁹ *Id.*

³⁰ Becky Vevea, *How COVID-19 Could Hit Chicago's Budget*, NPR (May 8, 2020), <https://www.npr.org/local/309/2020/05/08/852760731/how-c-o-v-i-d-19-could-hit-chicago-s-budget>.