



# The National Campaign

to Prevent Teen and Unplanned Pregnancy

## FAMILY PLANNING PROVISIONS IN CURRENT FEDERAL LAW & HEALTH REFORM PROPOSALS

Congress has a long history of recognizing the value of family planning services by consistently and explicitly including family planning as a core part of publicly-funded health programs. In most cases, family planning<sup>1</sup> is included within the framework of preventive services. This robust record means that including family planning as part of health reform would simply be extending a long-standing commitment to this set of preventive services, which is separate and distinct from abortion. The following is actual language pertaining to family planning in existing law and in the various health reform bills currently under consideration in Congress:

### FAMILY PLANNING PROVISIONS IN CURRENT LAW

<p style="text-align: center;"><b>MEDICAID</b></p>	<p>Since 1972, family planning services have been required covered services under Medicaid, and are one of the few services for which cost sharing is prohibited.</p> <ul style="list-style-type: none"> <li>➤ <a href="#">42 USC §1396d(a)(4)</a>: “The term “medical assistance” means payment of part or all of the cost of the following care and services... (C) <b>family planning services and supplies</b> furnished (directly or under arrangements with others) to individuals of child-bearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies...”</li> </ul> <p>In fact, as an incentive to further encourage states to make family planning services widely available to Medicaid beneficiaries, the 1972 amendments also established a special matching rate of 90% for family planning services and supplies.</p> <ul style="list-style-type: none"> <li>➤ <a href="#">42 USC §1396b(a)(5)</a>: “an amount equal to 90 per centum of the funds expended during such quarter which are attributable to the offering, arranging, furnishing (directly or on a contract basis) of family planning services and supplies;”</li> </ul>
<p style="text-align: center;"><b>FEDERALLY QUALIFIED HEALTH CENTERS</b></p>	<p>Federally qualified health centers—including community health centers, migrant health centers, healthcare for the homeless programs, and public housing primary care programs—are required to provide family planning services as part of their mandatory primary care services.</p> <ul style="list-style-type: none"> <li>➤ <a href="#">42 USC § 254b(b)(1)</a>: “1) Required primary health services (A) In general—The term “required primary health services” means— (i) basic health services which, for purposes of this section, shall consist of... (III) preventive health services, including— (aa) prenatal and perinatal services; (bb) appropriate cancer screening; (cc) well-child services; (dd) immunizations against vaccine-preventable diseases; (ee) screenings for elevated blood lead levels, communicable diseases, and cholesterol; (ff) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care; (gg) <b>voluntary family planning services</b>; and (hh) preventive dental services;...”</li> </ul>

<p style="text-align: center;"><b>FEDERAL EMPLOYEES HEALTH BENEFITS PLAN (FEHBP)</b></p>	<p>In 1998, Congress passed legislation that requires contraceptive coverage for federal employees who are insured through FEHBP.</p> <ul style="list-style-type: none"> <li>➤ <a href="#">PL 105-277, Sec.656</a>: “None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.”</li> </ul>
<p style="text-align: center;"><b>TEMPORARY ASSISTANCE FOR NEEDY FAMILIES</b></p>	<p>Pre-pregnancy family planning services are the only medical service for which such funds may be used.</p> <ul style="list-style-type: none"> <li>➤ <a href="#">42 USC § 608(a)(6)</a>: “(6) No medical services. (A) In general—A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide medical services. (B) <b>Exception for prepregnancy family planning services</b>—As used in subparagraph (A), the term ‘medical services’ does not include prepregnancy family planning services.”</li> </ul>
<p style="text-align: center;"><b>INDIAN HEALTH SERVICE</b></p>	<p>Family planning services are part of its required health promotion services.</p> <ul style="list-style-type: none"> <li>➤ <a href="#">25 USC § 1603(k)(5)</a> : “(k) “Health promotion” includes— (1) cessation of tobacco smoking, (2) reduction in the misuse of alcohol and drugs, (3) improvement of nutrition, (4) improvement in physical fitness, (5) <b>family planning</b>, (6) control of stress, and (7) pregnancy and infant care (including prevention of fetal alcohol syndrome).”</li> </ul>
<p style="text-align: center;"><b>SOCIAL SERVICES BLOCK GRANT</b></p>	<p>Family planning services, rehabilitation services, and initial drug and alcohol detoxification services are the only medical services for which Social Services Block Grant funds may be used.</p> <ul style="list-style-type: none"> <li>➤ <a href="#">42 USC § 1397d(a)(4)</a>: “(a) Except as provided in subsection (b) of this section, grants made under this subchapter may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subchapter— ...(4) for the provision of medical care (other than <b>family planning services</b>,...”</li> </ul>
<p style="text-align: center;"><b>CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)</b></p>	<p>CHAMPUS guarantees women of the armed forces primary and preventive care including comprehensive obstetrical and gynecological care for the prevention of pregnancy.</p> <ul style="list-style-type: none"> <li>➤ <a href="#">10 USC § 1074d(b)(3)</a>: “(b) Definition.— In this section, the term “primary and preventive health care services for women” means health care services, including related counseling services, provided to women with respect to the following: (1) Cervical cancer screening. (2) Breast cancer screening. (3) Comprehensive obstetrical and gynecological care, including care related to pregnancy and the <b>prevention of pregnancy</b>. (4) Infertility and sexually transmitted diseases, including prevention. (5) Menopause, including hormone replacement therapy and counseling regarding the benefits and risks of hormone replacement therapy. (6) Physical or psychological conditions arising out of acts of sexual violence. (7) Gynecological cancers. (8) Colon cancer screening...”</li> </ul>

## FAMILY PLANNING PROVISIONS IN HEALTH REFORM

Version	Bill Language	Implications for Family Planning
<a href="#"><u>H.R. 3200</u></a>	<a href="#"><u>Sec. 1714. State eligibility option for family planning services.</u></a>	<p>The following provision would allow states to expand eligibility for family planning services under Medicaid up to the same eligibility level of its pregnancy-related care.</p>
	<a href="#"><u>Sec. 122 Essential Benefits Package Defined</u></a>	<p>The legislation defines preventive services as “(8) Preventive services, <i>including</i> those services recommended with a grade of A or B by the Task Force on Clinical Preventive Services...” It does not explicitly prohibit the Secretary from defining other services such as family planning, which has been defined as a preventive service elsewhere in federal statute.</p>
<a href="#"><u>Senate Finance Chairman’s Mark</u></a>	<a href="#"><u>Stabenow C3 Amendment - To give states the option of including family planning as part of their Medicaid programs</u></a>	<p>The following provision would allow states to expand eligibility for family planning services under Medicaid up to the same eligibility level of its pregnancy-related care.</p>
<a href="#"><u>Senate HELP Committee</u></a>	<a href="#"><u>Mikulski Amendment - To provide for improvements in women’s health.</u></a>	<p>Sec. 2709 – Coverage of Preventive Women’s Health Services would define an additional category of additional covered preventive services and screenings “as provided for in guidelines supported by the Health Resources and Services Administration (HRSA).” To date, HRSA has not created guidelines on women’s health, but it would likely consider family planning within those guidelines.</p>

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i Federal law has not referenced specific types of family planning or contraceptive services, except where it explicitly states that all forms of FDA-approved contraceptive drugs and devices must be covered.