



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Prevention and Community Health
Post Office Box 47830
Olympia, Washington 98504-7830

July 30, 2019

Mr. David Johnson
Operations and Management Officer
Office of Population Affairs
1101 Wootton Parkway, Suite 700
Rockville, Maryland 20852

RE: Washington State Department of Health, Grant NO. FPHPA006462-01-00

Dear Mr. Johnson:

The Washington State Department of Health has partnered for over 40 years with HHS and our family planning network members to provide critical family planning services to millions of Washingtonians through the Title X family planning program. We have worked to carry out Title X's statutory purpose of making comprehensive voluntary family planning services readily available to all persons desiring such services, in strict compliance with the Title X statute. And we intend to continue this work for years to come. Unfortunately, HHS recently issued rules under which the Department and its subgrantees would be prevented from providing the full range of family planning and reproductive health care services that our patients need and deserve. These recent events have forced the Department to change how we participate in the Title X program moving forward. I write now to inform you of these changes.

The rules would require the Department to violate our state's Reproductive Privacy Act by discriminating against women's exercise of their fundamental rights. And the rules would prohibit Title X providers in Washington State from caring for their patients according to their medical training, judgment, and professional and ethical obligations.

The State of Washington firmly believes that these rules are illegal, and won a preliminary injunction blocking them from taking effect so that we could continue delivering comprehensive services to our patients within the Title X program. While the Ninth Circuit later stayed that injunction, the stay is currently being reviewed by the Ninth Circuit en banc.

Despite the ongoing legal challenges, HHS Deputy Assistant Secretary Diane Foley recently issued guidance stating that compliance with the rules, except the physical separation requirements, was required as of July 15, 2019.

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Because of the Final Rule's harmful requirements and uncertain legal status, the Department has been compelled to make the following changes. Prior to July 15, 2019, the Department stopped using federal funds to reimburse its subgrantees for services provided on or after that date.

The Department is using state funds to support its network members as they continue to provide comprehensive family planning and reproductive health care services to their patients. Administrative steps to further document these temporary changes are anticipated in due course, unless intervening events dictate otherwise. The Department will maintain this status until the injunction is reinstated or final resolution of its legal challenge.

The Department hopes that these changes prove short-lived and its partnership with HHS resumes as it stood for decades. Please contact me if you need any additional information.

Sincerely,



Lacy M. Fehrenbach, MPH, CPH
Grantee Authorizing Official

cc: Alia Fry, Project Officer