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Alliance Defending Freedom's Annual Report on Publicly Available Audits of Planned Parenthood Affiliates and State Family Planning Programs

July 23, 2014

Preface

On October 26, 2011, Alliance Defending Freedom[1] submitted its original report. *Summary of State Audits of Planned Parenthood Affiliated Providers Showing Waste, Abuse, and Potential Fraud*, to the Oversight and Investigations Subcommittee of the U.S. House of Representatives Energy and Commerce Committee. On February 7, 2012, the updated and supplemented initial report was released to the public, and on April 10, 2013, Alliance Defending Freedom published its second annual report, *Planned Parenthood's Waste, Abuse, and Potential Fraud: Alliance Defending Freedom's 2013 Report on Federal and State Audits of Planned Parenthood Affiliates and State Family Planning Programs*.

This third annual report documents Alliance Defending Freedom's research in identifying waste, abuse, and potential fraud of American taxpayer dollars by Planned Parenthood Federation of America (PPFA), its sixty-eight separately incorporated affiliates, and other abortion and family planning facilities, particularly with respect to federal and state Title XIX-Medicaid reimbursements. Updates in this 2014 edition include new Planned Parenthood audits in California, Louisiana, Maine, Washington State, and Wisconsin; new federal audits of state family planning programs in California, Iowa, Missouri, Nebraska, and Oklahoma; another unsealed False Claims Act lawsuit against Planned Parenthood; and more complete information on Planned Parenthood and other abortion and family planning facilities' other financial malfeasance.

Alliance Defending Freedom's research strongly suggests that Planned Parenthood and its affiliates are engaged in a pattern of practices designed to maximize their bottom-line revenues through billings to complex, well-funded federal and state programs that are understaffed and rely on the integrity of the provider for program compliance.[2]

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[1] Alliance Defending Freedom is an alliance-building legal ministry advocating for religious liberty, the sanctity of life, and marriage and family.

[2] Over the last ten years (FY 2004 - FY2013), Planned Parenthood affiliates received over $4 billion in taxpayer dollars. According to their own annual reports, Planned Parenthood has received government funding in the following amounts from 2002-2013:

A large and growing number of federal and state audits have documented that improper practices by Planned Parenthood and state family planning agencies have already resulted in losses to the American taxpayer of more than $115 million, as a minimum, in Title XIX-Medicaid and other healthcare funding programs. This figure is supported by a recent U.S. Government Accountability Office (GAO) report

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FY 2002: $240.9 million	FY 2006: $305.3 million	FY 2010: $487.4 million
FY 2003: $254.4 million	FY 2007: $336.7 million	FY 2011: $538.5 million
FY 2004: $265.2 million	FY 2008: $349.6 million	FY 2012: $542.4 million
FY 2005: $272.7 million	FY 2009: $363.2 million	FY 2013: $540.6 million

FY 2013 is the first year since FY 2002 that Planned Parenthood's self-reported government funding has decreased.

However, the U.S. Government Accountability Office (GAO), counting only a fraction of direct federal funding from self-reported expenditures, calculated Planned Parenthood's government funding and expenditures from 2002-2009 as $657.1 million, with International Planned Parenthood Federation receiving $3.9 million. *See* U.S. GOVERNMENT ACCOUNTABILITY OFFICE, FEDERAL FUNDS: FISCAL YEARS 2002-2009 OBLIGATIONS, DISBURSEMENTS, AND EXPENDITURES FOR SELECTED ORGANIZATIONS INVOLVED IN HEALTH-RELATED ACTIVITIES (GAO-10-533R) (2010), at Table 7, *available at* http://www.gao.gov/new.items/d10533r.pdf; *see also id.* at Tables 10, 16, 18. For the same time period, Planned Parenthood's annual reports report total government funding of $2.388 billion – leaving only a fraction of Planned Parenthood's funding audited by GAO, the federal government's "watchdog."

Moreover, in FY 2012 alone, Planned Parenthood spent millions of dollars to elect politicians who support abortion and who defend and shield Planned Parenthood from any serious audit or investigation or other congressional oversight – including $12 million for President Barack Obama's reelection alone. *See, e.g.*, Alicia Mundy, *Planned Parenthood PAC Airs Radio Ad for Obama*, WALL ST. J. (Oct. 31, 2012), *available at* http://blogs.wsj.com/washwire/2012/10/31/planned-parenthood-pac-airs-radio-ad-for-obama/.

Through the fourth quarter of 2013, Planned Parenthood's campaign contributions top $30 million ($30,129,374, not including contributions under $200 or "accounting measures and more exotic contribution types"). INFLUENCE EXPLORER, PLANNED PARENTHOOD, HTTP://INFLUENCEEXPLORER.COM/ORGANIZATION/PLANNED-PARENTHOOD/A3BF2B2A33A84534A706A2D04C52DE95. Also through the fourth quarter of 2013, Planned Parenthood has spent over $11 million on lobbying efforts ($11,025,514). *Id.* For other general information on political influence, *see also, e.g.*, INFLUENCE EXPLORER, ADVISORY COMMITTEE DATA FOR PLANNED PARENTHOOD, http://data.influenceexplorer.com/faca/#YWZmaWxpYXRpb249UGxhbm5lZCUyQlBhcmVudGhvb2Q= (noting that four Planned Parenthood employees have sat on U.S. Department of Health and Human Services committees).

For the 2014 elections, Planned Parenthood has already announced plans to spend $3 million in Texas alone, on races such as Sens. Wendy Davis for governor and Leticia Van de Putte for lieutenant governor. *See* Peggy Fikac & David Saleh Rauf, *Planned Parenthood Aiming to Spend $3 Million on Texas Elections in 2014*, HOUSTON CHRONICLE (July 19, 2014), available at http://www.houstonchronicle.com/news/politics/texas/article/Planned-Parenthood-aiming-to-spend-3-million-on-5633359.php.

estimating that $14.4 billion of federal Medicaid expenditures for fiscal year 2013 were improper payments.[3] Yet it is troubling that all the audits conducted to date have been relatively superficial; thus far none has examined more than a small subsection of a provider's billings. Thus, the total amount of waste is likely many times the documented $115 million. Clinics that provide Title XIX-Medicaid and other subsidized family planning services must be held accountable for their expenditure of taxpayer dollars through comprehensive audits of their entire clinic networks and by congressional oversight. American tax dollars should be used responsibly and for the common good.

More and more members of Congress are taking notice of Planned Parenthood's abuse of taxpayer dollars. A February 21, 2013, letter from Representative Diane Black (R-TN) and Representative Pete Olson (R-TX) and signed by seventy other Members of Congress was directed to the Comptroller General of the United States requesting that the U.S. Government Accountability Office (GAO) conduct a comprehensive audit of the receipt and use of federal taxpayer dollars – more than $540 million in FY 2013 – by Planned Parenthood Federation of America and its related entities. On August 5, 2013, Members of Congress announced that GAO had accepted the request and had opened an investigation into Planned Parenthood, the Guttmacher Institute, and other prominent family planning organizations.

This recent congressional request follows the September 15, 2011, request by U.S. Representative Cliff Stearns, then Chairman of the Oversight and Investigations Subcommittee of the United States House of Representatives Energy and Commerce Committee, to PPFA President Cecile Richards for documents relating to "institutional practices and policies [of PPFA and its affiliates] . . . and its handling of federal funding," and particularly as regards its compliance with federal

[3] U.S. GOVERNMENT ACCOUNTABILITY OFFICE, MEDICAID PROGRAM INTEGRITY: INCREASED OVERSIGHT NEEDED TO ENSURE INTEGRITY OF GROWING MANAGED CARE EXPENDITURES (GAO-14-341) (2014), at 2 (citing a figure calculated by the Centers for Medicare & Medicaid Services (CMS), the federal agency within the Department of Health and Human Services (HHS) that oversees Medicaid).

restrictions on the funding of abortion.[4] The subcommittee demanded that Planned Parenthood produce its documents relating to audits, abortion funding, and sexual abuse reporting policies.

In response to this investigation, seven former Planned Parenthood employees, including clinic directors and an "abortion doctor," wrote to the U.S. House Energy and Commerce Committee supporting the investigation, "not only . . . with respect to the use of tax dollars but also . . . to serve the best interest of women . . . ."[5] In addition to attesting to their knowledge of Planned Parenthood's use of abortion as a method of family planning, biased abortion counseling, and failure to report statutory rape, coerced abortion, and human trafficking, these seven former Planned Parenthood employees stated that "PPFA failed to properly account for and maintain separation between government funds prohibited from use for elective abortions and [other, unrestricted] funds . . . ."[6] Further, "PPFA failed to engage in appropriate financial controls and billing practices to ensure compliance with applicable state and federal laws." The former employees expressed concern that the "American people . . . are underwriting the growth of Planned Parenthood and its potent outreach to the young and the poor," even as the organization acted and "operated as a law unto itself . . . exempt[] from the normal standards of accountability . . . ."

Coupled with this report, the recent letter from seventy-two Members of Congress and GAO investigation, the Oversight and Investigation letter and

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[4] Letter from Cliff Stearns, Chairman, U.S. House of Representatives Energy and Commerce Committee Subcommittee on Oversight and Investigations, to Cecile Richards, President, Planned Parenthood Federation of America (Sept. 15, 2011) (on file with Alliance Defending Freedom and available at http://www.scribd.com/doc/66564569/Stearns-Planned-Parenthood).

[5] Letter from Catherine Adair et al., former employees of Planned Parenthood affiliates, to Fred Upton, Chairman, U.S. House of Representatives Energy and Commerce Committee, & Henry Waxman, Ranking Member, U.S. House of Representatives Energy and Commerce Committee (Dec. 7, 2011) (on file with Alliance Defending Freedom and available at http://www.sba-list.org/sites/default/files/content/shared/12.7.11_former_employees_of_planned_parenthood_letter_to_congress_0.pdf.

[6] This form of waste, abuse, and potential fraud was also documented in the HHS-OIG audit of Tapestry Health Systems, Inc., described below in the Audits of Other Nonprofit Abortion and Family Planning Facilities section.

investigation, and the former employees' letter calling for a "check and balance" on Planned Parenthood, highlight the need for meaningful Congressional oversight in order to have any hope of achieving transparency, integrity, and accountability in all federal family planning programs, including Title V, Title X, Title XIX, and Title XX programs, and particularly for Planned Parenthood, which receives more than half a billion dollars of these funds each year, to be held accountable for the federal taxpayer dollars it expends.

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EXECUTIVE SUMMARY

This report outlines Alliance Defending Freedom's research in identifying waste, abuse, and potential fraud by Planned Parenthood affiliates and other abortion providers, particularly with respect to federal and state Title XIX-Medicaid reimbursements.

The weight of evidence indicates that waste by Planned Parenthood affiliates may be widespread, and suggests that such policies may be the result of, at a minimum, a policy of benign neglect over billing practices organization-wide by Planned Parenthood Federation of America's headquarters in New York City.

The publicly available audits summarized herein, as well as confidential sources who have inside knowledge of Planned Parenthood's operations, strongly suggest that Planned Parenthood affiliates systematically take advantage of "overbilling" opportunities to maximize revenues in complex, well-funded federal and state programs that are understaffed and rely on the integrity of the provider for program compliance.[7]

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[7] The lack of oversight of these state-run healthcare programs is supported by GAO's September 2011 report to congressional committees, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, DRUG PRICING: MANUFACTURER DISCOUNTS IN THE 340B PROGRAM OFFER BENEFITS, BUT FEDERAL OVERSIGHT NEEDS IMPROVEMENT (GAO-11-836) (2011)). This report concluded that the Health Resources and Services Administration (HRSA, within the Department of Health and Human Services, HHS) oversight of the 340B drug program was inadequate and that, "[t]o ensure appropriate use of the 340B program, GAO recommend[ed] that HRSA take steps to strengthen oversight regarding program participation and compliance with program requirements." HRSA agreed with GAO's recommendations that HRSA strengthen its compliance enforcement and not rely solely on self-policing by covered entities.

Nonetheless, Planned Parenthood Federation of America and dozens of its affiliates objected strenuously to a proposed Center for Medicare and Medicaid Services rule that would limit the number of entities that could purchase pharmaceuticals at reduced prices to 340B entities and intermediate care and nursing facilities. Planned Parenthood advocated for 340B-ineligible "safety net providers" to receive nominal pricing, as well, stating that many of its own clinics were not 340B-eligible and would be forced to close if asked to pay list price for pharmaceuticals. *See, e.g.*, Letter from Jacqueline K. Payne, Director of Government Relations, to Leslie V. Norwalk, Acting Administrator, Centers for Medicare and Medicaid Services (Feb. 20, 2007) (as a comment Medicaid Prescription Drugs Average Manufacture Price, 71 Fed. Reg. 77174 (Dec. 22, 2006)) (on file with Alliance Defending Freedom).

There are forty-four known external audits or other reviews of Planned Parenthood affiliates' financial data and practices: two in California, one in Connecticut, one in Illinois, two in Louisiana, one in Maine, seven in New York State, one in Texas, three in Washington State, and twenty-six in Wisconsin. Nearly all of the audits have found overbilling, and all are summarized below.

These forty-four audits found numerous improper practices resulting in significant Title XIX-Medicaid overpayments of over $8 million to Planned Parenthood affiliates for family planning and reproductive health services claims. In combination with the $4.3 million settlement in the *Reynolds* False Claims Act lawsuit, auditors and investigators have specifically identified **Planned Parenthood affiliates as the source of at least $12.6 million in waste, abuse, and potentially fraudulent overbilling** of taxpayers. Former Planned Parenthood employees and others allege many millions more.

Furthermore, **fifty-one federal audits of state family planning programs by HHS-OIG found over $107 million in overbilling.** The federal audits detailed "unbundling" billing schemes related to pre-abortion examinations, counseling visits, and other services performed in conjunction with an abortion; and improper billing for the abortions themselves.[8] In New York alone during one four-year audit

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The audit further determined that between thirteen and nineteen of the twenty-nine covered entities audited were actually generating revenue through the 340B program, rather than merely covering the costs of the drugs as planned.

[8] One federal audit (Review of Clinic and Practitioner Claims Billed as Family Planning Services Under the New York State Medicaid Program, A-02-07-01037, Nov. 2008) noted that 27 of the 119 claims in the sample were abortion procedures, and one provider was responsible for 25 of them. Based on the procedure codes used, the auditors believed that this provider billed for at least 3,900 abortions during the audit claim, but only reviewed the 25 claims in the sample. Some were associated with no order at all; some orders had expired or had been signed only by a Registered Nurse (RN), without countersignature by a clinician. This practice is often associated with HOPE (Hormones with Optional Pelvic Exam) visits.

Another federal audit (Review of Abortion-Related Laboratory Claims Billed as Family Planning Under the New York State Medicaid Program, A-02-05-01009, July 2007) found that 98 out of the 100 sample claims, of a universe of 633,968 abortion-related claims, were improper. One laboratory provider, which specialized in examining abortion-related specimens, had submitted ninety-five of the ninety-eight improper claims. Forty-two involved abortion-related laboratory tests for which no federal funding is available, e.g., period, it appeared that *hundreds of thousands* of abortion-related claims were billed unlawfully to Medicaid.

Two of these federal audits specifically identified Planned Parenthood – and only Planned Parenthood – as the problem in state family planning program overbilling.

Seven of the federal HHS-OIG audits were of New York State and found federal overpayments in excess of $32 million[9] to the New York State Medicaid family planning program. These audits likely led to the seven state audits of New York Planned Parenthood affiliates; thirteen months after the federal audit of New York State that identified "especially Planned Parenthoods" as incorrectly claiming services as family planning,[10] New York State released its first known audit report of

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tests performed on the aborted fetus and tests performed before the abortion to assess the risk to the patient, such as complete blood counts, electrolytes, and blood typing. The remaining fifty-six improper claims related to abortion-related laboratory tests that are allowable at the applicable federal medical assistance percentage rate, but not at the enhanced ninety-percent federal financial participation (FFP) rate, e.g., pap smears, urinalysis, and tests for pregnancy and sexually transmitted diseases.

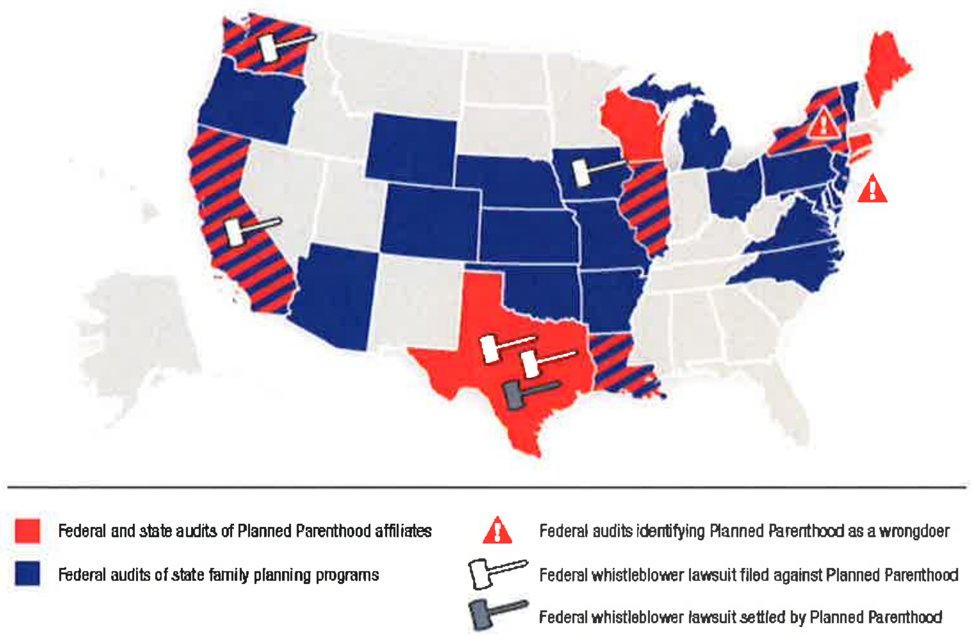
FFP is the federal portion of the shared federal-state contributions to the Medicaid program; the precise share is determined by the federal medical assistance percentage (FMAP). *See generally* Title XIX of the Social Security Act. In New York, the FMAP was 50% from January 1, 2000, through March 31, 2003, and 52.95% from April 1, 2003, through December 31, 2003. However, Social Security Act § 1903(a)(5) and 42 C.F.R. §§ 433.10, 433.15 provide for an enhanced 90% FFP for family planning services, which are defined in the Centers for Medicare & Medicaid Services (CMS) State Medicaid Manual. While a state may determine the specific services and supplies to be covered as Medicaid family planning services, such procedures and items must adhere to certain CMS guidelines. CMS State Medicaid Manual § 4270 also provides that an abortion may not be claimed as a family planning service. Further, based on the Supplemental Appropriations and Recession Act of 1981, P.L. No. 97-12 and 42 C.F.R. § 441.203, federal funds may only be used for an abortion in cases where the life of the mother is endangered. Therefore, many laboratory services related to an abortion are ineligible for federal funding. However, FFP is available at the applicable FMAP for the costs of certain services associated with the provision of a non-federally funded abortion if the same services would have been provided to a pregnant woman not seeking an abortion, CMS State Medicaid Manual § 4432, but these services will not be reimbursable at the enhanced ninety-percent rate, CMS Financial Management Review Guide Number 20, Family Planning Services, Medicaid State Operations Letter 91-9.

[9] The true amount may be $35,381,352 or even higher, as HHS-OIG set aside certain amounts in question for further review, and as the scope of the audits was limited.

[10] Other audits may single out Planned Parenthood affiliates, as well, without referring to them by name. For example, in the November 2008 New York State audit A-02-07-01037, HHS-OIG found that New York improperly received enhanced ninety-percent federal

a Planned Parenthood affiliate.[11] **In defense to a 2009 audit's findings of gross overbilling, one Planned Parenthood affiliate objected to the draft audit report, claiming that it was "unfair" for the State to request repayment or documentation "four to five years after the fact."[12]**

COMBINED MAP OF FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS, -AND- FEDERAL AND STATE AUDITS OF PLANNED PARENTHOOD AFFILIATES



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reimbursement for 102 out of 119 sample claims. Of these, 96 were for services unrelated to family planning, and 33 were for services for which no reimbursement was available - including 27 abortion procedures, and 4 services performed in conjunction with an abortion. HHS-OIG found that one provider was responsible for twenty-five of the twenty-seven abortion claims; this provider billed at least 3,900 abortion claims during the audit period.

[11] It is logical to presume that New York State, after being audited and charged over $32 million, would attempt to recover this loss from the Planned Parenthood family planning clinics that would have been a primary source of the overpayments. One of the 2008 federal audits of New York State (Review of Federal Medicaid Claims Made for Beneficiaries in the Family Planning Benefit Program in New York State, A-02-07-01001, May 2008) specifically noted Planned Parenthood (and only Planned Parenthood) as a major offender in incorrectly claiming services as family planning: "[M]any provider officials (especially Planned Parenthoods) stated that they billed most of their claims to Medicaid as related to 'family planning.'"

[12] Family Planning Chargeback to Managed Care Network Providers, 09-1415, June 10, 2009.

The scope of each audit detailed or listed herein was very limited, examining only a fraction of the types of claims and only for a limited window of time, which varied by audit. Yet nearly every known audit of Planned Parenthood affiliates has found overbilling. Thus, in order to understand the scope of what monies may be regained through audits of Planned Parenthood and other family planning / abortion clinics and of state family planning programs, it is useful to calculate the average amount of overbilling by year found in the audits conducted to date. Of the forty-four audits of Planned Parenthood, the audited dates are known for thirty-nine audits. Of these audits, as much as $5,213,645.92 was overbilled in one audited year in a single audit; the average overbilled amount per audited year in a single audit was $95,329.44. Of the fifty-one audits of state family planning programs, the audited dates are known for fifty audits. Of these audits, as much as $4,410,900.70 was overbilled in one audited year; the average overbilled amount per audited year in a single audit was $701,305.28. And more audits of Planned Parenthood and of state family planning programs are forthcoming, as well.[13]

[13] *See, e.g.*, documents responsive to an open records request, on file with Alliance Defending Freedom; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF INSPECTOR GENERAL, WORK PLAN FOR FISCAL YEAR 2014, at Part III Medicaid Reviews, *available at* https://oig.hhs.gov/reports-and-publications/archives/workplan/2013/WP03-Mcaid.pdf.

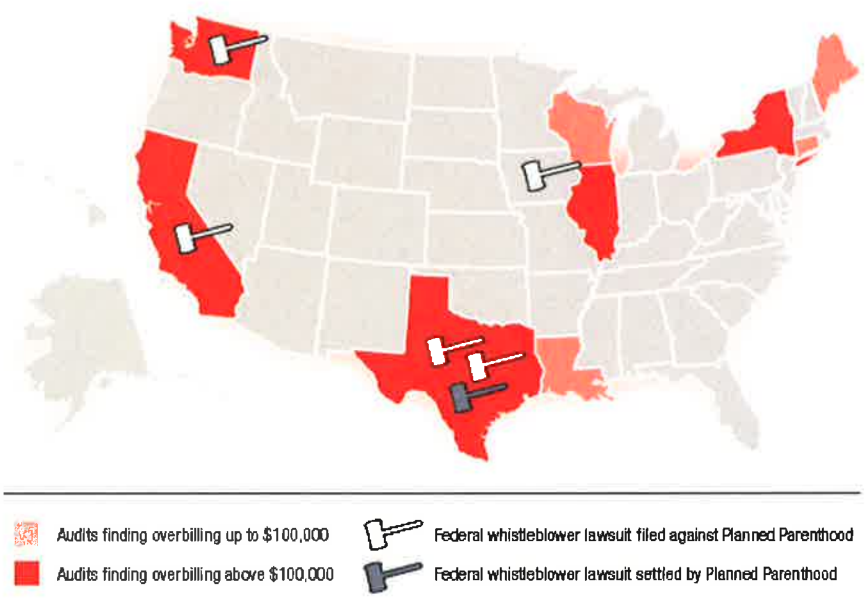
TYPES OF UNLAWFUL BILLING IDENTIFIED IN AUDITS

1. Billing and being reimbursed by Title XIX agencies for medications and/or services provided in connection with an abortion procedure in violation of the Hyde Amendment (a process known as "unbundling");
2. Dispensing prescription drugs, including oral contraceptives, without an authorizing order by a physician or other approved healthcare practitioner;
3. Dispensing prescription drugs, including oral contraceptives, to patients who have moved or have not been seen by the clinic for more than a year;
4. Billing in excess of actual acquisition cost or other statutorily approved cost for contraceptive barrier products, oral contraceptives, and emergency contraceptive-Plan B (i.e., § 340B drugs) products;
5. Billing for services that were not medically necessary;
6. Billing for services that were not actually rendered;
7. Duplicate billing for examinations and products, including billing included products and services as fee for service;
8. Incorrectly coding and billing services;
9. Inadequate record-keeping, including lacking documentation to support the service billed and paid and not signing medical entries; and
10. Failing to pay the bills for which an affiliate had already been reimbursed with taxpayer funds.

AUDITS OF PLANNED PARENTHOOD AFFILIATES

There are forty-four known external audits or other reviews of Planned Parenthood affiliates' financial data and practices in nine states: two in California, one in Connecticut, one in Illinois, two in Louisiana, one in Maine, seven in New York State, one in Texas, three in Washington State, and twenty-six in Wisconsin. Each audit is very limited in scope in terms of location, time frame, and type of service examined; yet nearly every known government audit of Planned Parenthood affiliates has found overbilling.

FEDERAL AND STATE AUDITS OF PLANNED PARENTHOOD AFFILIATES



In total, these audits have uncovered at least $8,367,505.96 in waste, abuse, and potential fraud:

- California (2 audits of 2 affiliates): $5,213,645.92[14]
- Connecticut: $18,791
- Illinois: $387,000
- Louisiana: (2 audits of 1 affiliate): $6,147.18

[14] The total may well be more, as the audit results are only known for one of the two audits.

- Maine: $33,294.83
- New York (7 audits of 4 affiliates): $1,615,083.25
- Texas: $409,675.10 - $529,707.97
- Washington (3 audits of 2 or 3 affiliates[15]): $640,595.88
- Wisconsin (26 audits of 1 affiliate): $43,272.80

The audited dates are known for thirty-nine audits. Of these audits, as much as $5,213,645.92 was overbilled in one audited year in a single audit; the average overbilled amount per audited year in a single, limited audit was $95,329.44.

Planned Parenthood has sixty-eight affiliates,[16] and fourteen affiliates, or approximately twenty-one percent, have been audited. But others have been accused of financial fraud and worse.

In 2008, former Florida PPFA affiliate Planned Parenthood of South Palm Beach and Broward Counties faced allegations of "terrible mismanagement and possibly fraud" related to nearly $450,000 (only slightly less than the $500,000 the affiliate received in government funding in 2005, and about one-sixth of the total budget), an allegedly plagiarized 2006 annual report, and sexual harassment by a former CEO.[17]

At Planned Parenthood of Southwest Michigan (PPSWMI), a May 2010 audit revealed bank statements accumulated for up to six months before being reconciled, and personal expenses such as household bills being paid as company expenses. PPSWMI Director of Finance Rene Davis was responsible for these problems and personally took about $5,000 from company funds – not her first offense – but was promoted to Chief Operating Officer.[18]

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[15] The number of affiliates is unknown because Alliance Defending Freedom has not yet been able to obtain the final report of an audit referenced in government documentation, and thus does not know which affiliate(s) the audit covered.

[16] *See* PLANNED PARENTHOOD LOCAL & STATE OFFICES, http://www.plannedparenthood.org/about-us/local-state-offices/. This number is down from the seventy-one affiliates as of the most recent Alliance Defending Freedom audit report.

[17] *See Planned Parenthood Cuts Ties with 5 Clinics*, MIAMI HERALD (July 2, 2008).

[18] *See* Steven Ertelt, *Michigan Planned Parenthood Exec Stole 5K from Abortion Biz*, LIFENEWS.COM, Dec. 22, 2010, http://www.lifenews.com/2010/12/22/state-5763/.

In Louisiana, the local Planned Parenthood affiliate conducted a self-audit in which they determined that one of their nurses had been writing and issuing prescriptions without proper authority due to not having the proper collaborative agreement paperwork filed, and voluntarily paid the Louisiana Department of Health and Hospitals $33,739.13 in November 2013.[19]

In Texas and Vermont, Planned Parenthood affiliates have been hit with fines for campaign finance violations. In Texas, the Texas Ethics Commission fined Planned Parenthood of North Texas Action Fund Political Committee's campaign treasurer $3,000 for failing to report or making mistakes in reporting tens of thousands of dollars it spent to support Wendy Davis and other candidates in 2008. The action fund accepted the fine without protest.[20] In Vermont, Planned Parenthood of Northern New England Action Fund agreed to pay a $30,000 fine to the Vermont Office of the Attorney General for failing to comply with political committee reporting requirements relating to $119,437 it spent in the 2010 gubernatorial election. It had failed to register its Action Fund as a political action committee and file contribution reports, as well as accepting contributions bigger than the $2,000 limit per donor.[21]

Planned Parenthood affiliates have also been fined or settled in cases involving wrongful death / medical malpractice,[22] failure to report child sexual abuse and rape,[23] and regulatory violations.[24]

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[19] Documentation on file with Alliance Defending Freedom. Alliance Defending Freedom is working to obtain full audit records.

[20] *See* Mark Lisheron, *Planned Parenthood of North Texas PAC Fined $3,000 for Campaign Finance Violations*, TEXAS WATCHDOG, Aug. 26, 2010, http://www.texaswatchdog.org/2010/08/planned-parenthood-of-north-texas-fined-3000-for-campaign/1282834605.column.

[21] *See, e.g.*, WCAX News, *Planned Parenthood PAC to Pay Fine for Vt. Campaign Finance Violations*, WCAX.COM, Nov. 21, 2013, http://www.wcax.com/story/24011171/planned-parenthood-pac-to-pay-fine-for-vt-campaign-finance-violations; Steven Ertelt, *Planned Parenthood Abortion Biz Pays $30,000 Fine for Violating Campaign Finance Laws*, LIFENEWS.COM, Nov. 19, 2013, http://www.lifenews.com/2013/11/19/planned-parenthood-abortion-biz-pays-30000-fine-for-violating-campaign-finance-laws/.

[22] For example, Planned Parenthood settled a wrongful death lawsuit in the case of one 2012 death for $2 million. *See* Steven Ertelt, *Planned Parenthood Must Pay $2 Million Settlement After Killing Woman in Abortion*, LIFENEWS.COM, Feb. 7, 2014,

Over the last ten years (Planned Parenthood fiscal years 2004-2013), the average annual government funding received by Planned Parenthood and its affiliates has been $400,160,000. If the service-limited audits conducted thus far were expanded and replicated in all Planned Parenthood affiliates, the overbillings due the government fisc would likely be in the millions or even higher.

California Audits

Two audits have been conducted of Planned Parenthood affiliates in California; the scope and results are known for one.

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http://www.lifenews.com/2014/02/07/planned-parenthood-pays-2-million-settlement-after-killing-black-teen-in-abortion/.

[23] *See, e.g., Roe v. Planned Parenthood of Southwest Ohio Region*. (in which a Planned Parenthood affiliate settled a case involving their abortion on and coverup of a 14-year-old girl impregnated by her 22-year-old soccer coach); Brett Harvey, *Ohio Cases Put Molesters and Planned Parenthood on Notice*, TOWNHALL.COM, Oct. 5, 2012, http://townhall.com/columnists/brettharvey/2012/10/05/ohio_cases_put_molesters_and_planned_parenthood_on_notice/page/full.

[24] For example, Planned Parenthood of Delaware, Inc. (PPDE), was fined $3,060 for violations including employee exposure to contaminated needles. An abortionist formerly employed there, Timothy Liveright, was fined $1,500 by the Delaware Board of Medical Licensure and Discipline for misconduct including sexual harassment and failure to keep proper records. Other allegations against PPDE by "radically pro-abortion" former PPDE nurses include failure even to wipe off bloody tables between patients, over-sedation, perforation during abortion, not wearing gloves or other protective gear, failure to obtain consent for procedures, and incorrect labwork. They report that Liveright slapped a patient, placed patients on "operating tables still wet with the blood from the previous patient," refused to wear sterilized gloves during procedures, sang "hymns about sin to girls during the painful dilation phase of an abortion," played "Peek-A-Boo" with patients, "rushed abortions," allowed "sedated patients to wander down [the street] dazed and confused," and once left sedated patients in the middle of an abortion procedure waiting for hours in order to handle a mechanical issue with his private airplane. *See, e.g.*, John Jalsevac, *Planned Parenthood Clinic Investigated After Multiple Botched Abortions, STD Scare*, LIFESITENEWS, Apr. 18, 2013, http://www.lifesitenews.com/news/planned-parenthood-clinic-investigated-after-multiple-botched-abortions-std; Dave Andrusko, *Former Planned Parenthood Abortionist Reprimanded and Fined for Behavior at Wilmington Abortion Clinic*, NATIONAL RIGHT TO LIFE NEWS TODAY, Jan. 8, 2014, http://www.nationalrighttolifenews.org/news/2014/01/former-planned-parenthood-abortionist-reprimanded-and-fined-for-behavior-at-wilmington-abortion-clinic/; *see also* Steven Ertelt, *Planned Parenthood Abortion Practitioner Loses Medical License*, LIFENEWS.COM, July 28, 2011, http://www.lifenews.com/2011/07/28/planned-parenthood-abortion-practitioner-loses-medical-license/.

California Audit I – San Diego and Riverside Counties, 2004

A 2004 State of California audit of Planned Parenthood of San Diego and Riverside Counties (PPSDRC) revealed payment in excess of cost for contraceptive barrier products, oral contraceptives, and Plan B products, totaling $5,213,645.92.

The California Health and Human Services Agency, Department of Health Services conducted the audit of paid claims from July 1, 2002, to June 30, 2003 for Codes X1500 (contraceptive barrier products) and X7706 (oral contraceptives), and February 2, 2003, to May 30, 2004 for Code X7722 (Plan B products).

The audit found that during the audit review period, PPSDRC did not comply with the published billing requirements. It found a total payment in excess of cost during the audit period of $5,213,645.92:

Billing Code	**Code Description**	**Amount Paid**	**Provider's Cost**	**Payments in Excess of Cost**
X1500	contraceptive barrier products	$35,117.30	$12,318.71	$22,798.59
X7706	oral contraceptives	$5,030,347.00	$859,569.10	$4,170,777.90
X7722	Plan B products	$1,119,351.53	$99,282.10	$1,020.069.43
Total		**$6,184,815.83**	**$971,169.91**	**$5,213,645.92**

In the case of oral contraceptives and Plan B products, Planned Parenthood Affiliates of California (PPAC) claimed that it had a longstanding relationship with manufacturers that allowed them to purchase these products at deeply discounted rates, i.e., "nominal prices." By then billing Medi-Cal at a "usual and customary rate," which is higher than what PPAC had paid for the Plan B product, but somewhat lower than the normal retail price for the product, PPAC defended its improper practices by deeming that PPAC was "sharing the profits" of the "nominal price" arrangements with the State of California. No such "nominal pricing" arrangement existed with respect to condoms. The health department rejected this justification and required repayment of amounts billed over acquisition cost.

California Audit II – Golden Gate, 2010

The Internal Revenue Service's criminal division audited the former PPFA affiliate Planned Parenthood Golden Gate (PPGG) in 2010, finding, at a minimum, "inaccurate information."[25] This audit was reportedly instigated by a former employee who lodged a complaint about an improper relationship between PPGG and its political arm, and also about PPGG's financial practices.

For the tax year ending June 30, 2009, for example, PPGG filed three separate sets of numbers with the IRS, showing losses between $1.9 and $2.8 million. In a 2004 accreditation review of PPGG by PPFA, PPGG failed five of PPFA's nine indicators of financial health. And in 2010, the California Attorney General's office charitable trusts division warned PPGG Action Fund, PPGG's political advocacy and public policy arm, for not having filed copies of its tax documents with that office for at least ten years.[26]

Thirty PPGG medical personnel additionally sent a "letter of concern" to PPGG and PPFA management, detailing numerous problems including "misappropriation and mismanagement" of funds.[27]

Connecticut Audit

The U.S. HHS-OIG conducted an audit[28] of Planned Parenthood of Connecticut Inc. & Subsidiar., finding $18,791 of overbilling.

Illinois Audit

As the result of an audit[29] conducted by the Illinois Department of Healthcare and Family Services's Inspector General, Planned Parenthood of Illinois (PPIL) and its medical director, Caroline Hoke, agreed to repay the state $367,000 to settle

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[25] Alliance Defending Freedom is working to obtain full audit records. *See also* Katharine Mieszkowski, *IRS Looking into Planned Parenthood Golden Gate After Complaint*, THE BAY CITIZEN, Sept. 2, 2010, *available at* https://www.baycitizen.org/news/health/irs-looking-planned-parenthood-after/.

[26] *See, e.g.*, Katharine Mieszkowski, *Internal Concerns About Fiscal Health and Tax Documents Suggest Long-Term Disarray*, THE BAY CITIZEN, Aug. 12, 2010, *available at* https://www.baycitizen.org/news/health/financial-docs-raise-questions-about/.

[27] *See id.*

[28] A-01-99-59104, released Aug. 1999. *See* U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF INSPECTOR GENERAL, SEMIANNUAL REPORT OCTOBER 1, 1999 – MARCH 31, 2000 (2000), at D-8, *available at* https://oig.hhs.gov/publications/docs/semiannual/2000/00ssemi.pdf. Alliance Defending Freedom is working to obtain full audit records.

[29] This audit, case number 1074160, was conducted of the period January 1, 2006, to December 31, 2007.

findings of overbilling Medicaid and failure to document services allegedly provided, primarily contraceptives.[30] Separately, Planned Parenthood's Westside Clinic agreed to pay the state $20,000 for its portion of the overbilling. Hoke had been banned from reimbursement by and threatened with termination from the Medicaid program since May 2010, when these overbillings were uncovered.[31]

Specifically, this audit found 641 missing records, 31 instances of billing for non-covered services, and 10 instances of billing for services actually performed by someone else, as well as improper procedure codes.

During the fiscal year ending June 30, 2011 (the most recent fiscal year for which data is available), PPIL received approximately half its $25 million revenue from Medicaid. In 2009, Hoke received over $3 million from Medicaid – the second-highest amount of 30,000 physicians – but in 2011 received nothing. However, the other PPIL providers have seen their reimbursements grow accordingly – in fiscal year 2009, fifty-two other PPIL providers received $2.8 million in reimbursements, but in 2011, a total of sixty-two providers received $7 million.[32]

Louisiana Audits

Two known government audits of Planned Parenthood have been completed in Louisiana.

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[30] *See* Andrew L. Wang, *Planned Parenthood Settles with Illinois on Medicaid Payments*, MODERN HEALTHCARE, Sept. 6, 2012, http://www.modernhealthcare.com/article/20120906/INFO/309069993; Andrew L. Wang, *Medicaid Probes Planned Parenthood Fees*, CRAIN'S CHICAGO BUSINESS, July 9, 2012, http://www.chicagobusiness.com/article/20120707/ISSUE01/307079977/medicaid-probes-planned-parenthood-fees.

[31] *See* Andrew L. Wang, *Planned Parenthood Settles with Illinois on Medicaid Payments*, MODERN HEALTHCARE, Sept. 6, 2012, http://www.modernhealthcare.com/article/20120906/INFO/309069993.

[32] *See* Andrew L. Wang, *Medicaid Probes Planned Parenthood Fees*, CRAIN'S CHICAGO BUSINESS, July 9, 2012, http://www.chicagobusiness.com/article/20120707/ISSUE01/307079977/medicaid-probes-planned-parenthood-fees.

Louisiana Audit I

As the result of an audit conducted by the Louisiana Department of Health and Hospitals (DHH), one Planned Parenthood clinic repaid $6,147.18 to DHH to settle findings of improper billings.[33]

Louisiana Audit II – 2014

In response to Louisiana Senate Concurrent Resolution No. 57 and House Resolution No. 105, 2013 Regular Session, Louisiana's Legislative Auditor reviewed Planned Parenthood Gulf Coast's billings during calendar year 2012. In a report issued February 19, 2014, the Legislative Auditor found that overall, they could find no evidence that PPGC's billings were not allowable, and that they had no evidence of PPGC pressuring clients into abortion.[34]

Maine Audit

As the result of an audit conducted by the Maine Department of Health and Human Services of Planned Parenthood of Northern New England (PPNNE), PPNNE agreed to repay the state $33,294.83 to settle findings of Levonorgestrel IUDs billed for nearly double their actual acquisition cost under one particular procedure code.[35]

New York Audits

The seven New York State audits of New York Planned Parenthood affiliates were likely conducted due to seven federal audits of New York Medicaid family

[33] Specifically, the clinic had billed clinic services under the laboratory Medicaid provider code and vice versa. Alliance Defending Freedom is working to obtain full audit records.
[34] Audit report on file with Alliance Defending Freedom. However, Louisiana sources report that Planned Parenthood is not currently performing abortions in Louisiana, making allegations of abortion referrals more difficult to track.
[35] *See* Letter from Herbert F. Downs, Director of Audit, Maine Department of Health and Human Services, to Michael Barewicz, Associate Vice President, Planned Parenthood of Northern New England (June 21, 2012) (on file with Alliance Defending Freedom). The original audit finding was $90,169.27 in overbillings. Letter from Michael Bishop, Auditor II, Program Integrity, Financial Services – Audit, Maine Department of Health and Human Services, to Michael Barewicz, Associate Vice President, Planned Parenthood of Northern New England (Dec. 14, 2010) (on file with Alliance Defending Freedom). Alliance Defending Freedom is working to obtain full records on the audit process.

planning program claims. The first known New York State audit of New York Planned Parenthood affiliates was released thirteen months after a federal audit identified "especially Planned Parenthoods" as incorrectly claiming services as family planning, as detailed in the Federal Audits of State Family Planning Programs and Other Organizations section below.

In sum, the seven New York State audits of New York Planned Parenthood affiliates uncovered overpayments of at least $1,615,083.25.

New York Audit I – New York City, January 2009

A January 2009 audit[36] of Planned Parenthood of New York City, Inc. (PPNYC) / Margaret Sanger Center resulted in PPNYC electing to repay the amount of $207,809.00.

New York Audit II - Hudson Peconic, June 2009

A June 2009 audit[37] of Medicaid payments for family planning and reproductive health services paid to Planned Parenthood Hudson Peconic, Inc. (PPHP) on behalf of Medicaid beneficiaries while they were enrolled in Community Choice Health Plan and Health Insurance Plan of New York found significant overpayments for family planning and reproductive health services claims, resulting in an overpayment of $15,723.91, inclusive of interest.

The New York State Office of the Medicaid Inspector General (OMIG) conducted this audit to ensure that PPHP was in compliance with 18 NYCRR § 515.2, which addresses unacceptable practices under the medical assistance program, and § 540.6, which addresses recovery of third-party reimbursement and repayment to the medical assistance program.

OMIG found overpayments of $12,173.63 for family planning and reproductive health services claims during the audit period; as a result, § 515.2 and

[36] Audit # 08-3045. Alliance Defending Freedom is working to obtain full audit records.
[37] The audit (Family Planning Chargeback to Managed Care Network Providers, 09-1415, June 10, 2009) was conducted of the period Jan. 1, 2004, through Dec. 31, 2004.

§ 540.6 requirements were violated. Inclusive of $3,550.28 in interest, 18 NYCRR § 518.4, the repayments total $15,723.91.

In PPHP's April 23, 2009, response to OMIG's March 23, 2009, draft report, it indicated (1) that PPHP considered it unfair to request repayment or documentation "four to five years after the fact"; (2) that it considered the Electronic Medicaid Eligibility Verification System (EMEVS) to be inaccurate for verifying that clients are enrolled in a managed care plan; and (3) an expression of doubt as to why Medicaid would pay the fee for service claim if the client was a managed care member. OMIG responded to each of these concerns.

New York Audit III – New York City, June 2009

A June 2009 audit[38] of payments to PPNYC / Margaret Sanger Center for diagnostic and treatment center services paid by Medicaid found five improper practices, with sample overpayments of $7,960.01 and total overpayments of at least $1,254,603.00.

OMIG conducted this audit to ensure that (1) Medicaid reimbursable services were rendered for the dates billed; (2) appropriate rate or procedure codes were billed for the services rendered; (3) patient-related records contained the documentation required by the regulations; and (4) claims for payment were submitted in accordance with the DOH regulations and the Provider Manuals for Clinics.

During the audit period, $11,818,856.30 was paid for services rendered to 21,413 patients. The review consisted of a random sample of 100 patients with Medicaid payments of $53,977.99.

OMIG found five improper practices:

1. Missing documentation: In thirty-four instances pertaining to twenty patients, the services were not documented as required by 18 NYCRR §§ 504.3, 517.3, 540.7(a)(8), resulting in a sample overpayment of $3,629.63.

[38] The audit (06-6696) was conducted of the period Jan. 1, 2004, through Dec. 31, 2005.

2. Inadequate documentation of HIV pre-test counseling visit: In thirty-three instances pertaining to twenty-seven patients, the justification for the service billed was incomplete in the record, and the case record form was not completed as required by 18 NYCRR § 504.3(a), 517.3, 540.7(a)(8); Department of Health Memorandum 93-26 – HIV Primary Care Provider Agreement – Attachment I, resulting in an overpayment of $2,973.96.
3. Visit billed for managed care client within network: In nine instances pertaining to four patients, PPNYC billed Medicaid for services provided to patients enrolled in PPNYC's HMO network, contrary to 18 NYCRR § 360-7.2; MMIS Provider Manual for Clinics § 2.1.9, resulting in an overpayment of $1,109.38. (MMIS is a computerized payment and information reporting system that is used to process and pay Medicaid claims.)
4. Medical entry not signed: In one instance, the practitioner did not sign the entry in the medical record as required by 10 NYCRR § 751.7(f), resulting in an overpayment of $164.02.
5. Incorrect rate code billed: In six instances pertaining to five patients, the incorrect rate code was billed, contrary to 18 NYCRR §§ 504.3(e), 504.3(h); MMIS Provider Manual for Clinics § 2.1.14, resulting in a higher reimbursement than indicated in the fee schedule for the proper rate code and an overpayment of $83.02.

The total sample overpayment for this audit was $7,960.01.

Using statistical sampling methodology to extrapolate from the sample findings to the universe of cases, 18 NYCRR § 519.18, the mean per unit point estimate of the amount overpaid was $1,704,477.00, and the lower confidence limit, with a ninety-five percent confidence interval, was $1,254,603.00.

New York Audit IV – New York City, December 2009

A December 2009 audit[39] of Medicaid payments for family planning and reproductive health services paid to PPNYC/Margaret Sanger Center on behalf of Medicaid beneficiaries while they were enrolled in VidaCare Inc. SNP found overpayments, inclusive of interest, of $886.26.

The audit found that PPNYC had improperly billed Medicaid $719.55 for family planning and reproductive health services that were rendered to VidaCare enrollees; as a result, 18 NYCRR § 515.2 and § 540.6 requirements were violated. OMIG then calculated $166.71 in interest, resulting in $886.26 in required restitution.

PPNYC was invited to respond to the draft report but did not do so within thirty days.

New York Audits V-VII – February/May 2010

Three February/May 2010 audits[40] of Planned Parenthood affiliates in New York found six categories of overbilling, resulting in a total overpayment of $136,061.08, inclusive of interest.

The Prenatal Care Assistance Program (PCAP) is a comprehensive prenatal care program that offers complete pregnancy care and other services to women. Facilities that enter into a contract with DOH to become a PCAP provider agree to provide these services, directly or indirectly, to pregnant women who are eligible for Medicaid and are reimbursed via all-inclusive, enhanced PCAP rates established by DOH. The provider agrees to establish procedures, internally and externally, to ensure that ancillary services such as lab and ultrasound procedures related to prenatal care are not billed directly to Medicaid.

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[39] The audit (Family Planning Chargeback to Managed Care Network Providers, 09-4845, Dec. 16, 2009) was conducted of the period Jan. 1, 2005, through Dec. 31, 2005.

[40] The audits of PPHP (Prenatal Care Assistance Program, 2009Z33-136W, May 27, 2010), Planned Parenthood of Nassau County, Inc. (PPNC) (Prenatal Care Assistance Program, 2009Z33-083W, May 27, 2010), and Planned Parenthood of South Central New York, Inc. (PPSCNY) (Prenatal Care Assistance Program, 2009Z33-048O, Feb. 24, 2010) were conducted of the period Jan. 1, 2006, through Dec. 31, 2008.

OMIG reviewed PPHP billings for PCAP patients to ensure that (1) clinic services were billed appropriately and in accordance with DOH rules and regulations, and provider billing guidelines; and (2) other Medicaid-enrolled providers who performed PCAP-covered services did not bill Medicaid.

The audits uncovered six improper practices:

	PPHP	PPNC	PPSCNY
Multiple initial prenatal care visits[41]	$0[42]	$0	$0
Initial, follow-up, and postpartum services billed incorrectly after delivery[43]	$162.96[44]	$0	$24.30
Laboratory services billed fee for service that are included in the PCAP rate[45]	$3,117.75[46]	$169.55	$291.77
Ultrasound services and diagnostic procedure services billed fee for services that are included in the PCAP rate – facility billed[47]	$25,802.60[48]	$0	$4,272.09

[41] Initial visits receive the highest PCAP clinic reimbursement, and only one initial visit may be billed per patient per pregnancy, PCAP Billing Guidelines Booklet, May 2005.

[42] The audit found multiple PCAP recipients for whom more than one initial visit was billed, resulting in no overpayment. Alliance Defending Freedom is working to get further information to determine how billings for multiple initial visits would not result in overpayment.

[43] Only one postpartum visit may be billed; if additional visits are needed, claims should be submitted with the clinic's general medicine rate codes, PCAP Billing Guidelines Booklet, May 2005.

[44] The audit found PCAP initial and follow-up visits reduced to the lower postpartum visit rate or, in some instances with multiple postpartum visits, reduced to the general medicine clinic rate.

[45] The PCAP services are comprehensive and cover services provided both at the clinic and at other locations, 10 NYCRR 85.40(i)(1)(ii)(iii); Medicaid Provider Manual for Physicians, Policy Guidelines, Section II, Physician Services, PCAP Billing Guidelines Booklet, May 2005.

[46] PPHP billed laboratory services ordered during PCAP visits in addition to the PCAP clinic rates, resulting in duplicate payments.

[47] Ultrasounds, whether performed at a PCAP facility or not, should not be billed fee for service by facilities due to the comprehensive nature of PCAP, PCAP Billing Guidelines Booklet, May 2005; PCAP Medicaid Policy Guidelines Manual, January 2007; DOH Medicaid Update, September 2008, Vol. 24, No. 10.

[48] The audit identified obstetrical ultrasounds and diagnostic procedures performed within 30 days of a PCAP visit, excluding any procedures associated with visits to other facilities or non-obstetrical providers, resulting in duplicate billing.

Ultrasound services and diagnostic procedure services billed fee for services that are included in the PCAP rate – physician billed[49]	$68,105.40[50]	$9,045.00	$3,804.56
Vitamin and iron supplement services billed fee for service that are included in the PCAP rate[51]	$3,995.86	$1,315.62	$1,895.16
Total	**$112,490.31[52]**	**$12,031.29[53]**	**$11,539.48[54]**

Combined, the three audits found total overpayments of $136,061.08.

Texas Audit

A 2009 audit[55] of the 501(c)(3) and Texas Department of State Health Services (DSHS) contractor Planned Parenthood Center of El Paso (PPCEP) revealed numerous instances of subcontractors remaining unpaid for services rendered, despite the fact that the amounts had been included in PPCEP's requests for DSHS reimbursement. The total amount of the outstanding billings was likely between $409,675.10 and $529,707.97.

Founded in 1937 and personally visited by Planned Parenthood founder Margaret Sanger, PPCEP closed its seven centers on June 30, 2009, for financial

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[49] Ultrasounds, whether performed at a PCAP facility or not, should not be billed fee for service by physicians due to the comprehensive nature of PCAP, DOH Medicaid Update, September 2008, Vol. 24, No. 10; 18 NYCRR 518.3(a).

[50] Using the same procedures as with claims improperly filed by facilities, the audit identified obstetrical ultrasounds and diagnostic procedures that were billed in duplicate.

[51] Vitamin and iron supplements as defined by drug therapeutic codes are included in the PCAP reimbursement and should not be billed fee for service, New York State Department of Health, PCAP Services Description, March 2003; the PCAP provider is responsible for providing these services.

[52] The total base amount of overpayment is $108,494.45. OMIG then calculated interest on this amount totaling $3,995.86, 18 NYCRR §§ 518.4, 518.1(c). The total amount of overpayment and restitution is therefore $112,490.31.

[53] The total amount of restitution due was $10,530.17 without interest; after $1,501.12 in interest was added, the total was $12,031.29.

[54] The total amount of restitution due was $10,287.88 without interest; after $1,251.60 in interest was added, the total was $11,539.48.

[55] The audit (Attestation – Agreed-Upon Procedures Report on Planned Parenthood Center of El Paso, 09-56-00001-SP-19 Aug. 31, 2009) was conducted July 20-24, 2009.

reasons,[56] and filed for bankruptcy. Due to published reports of this closure, DSHS became concerned about the availability of PPCEP resources and records, and DSHS General Counsel requested that the Texas Health and Human Services Commission (HHSC), OIG conduct an audit of PPCEP.

This summer 2009 audit was to determine if PPCEP was in compliance with its payments to subcontractors for services rendered. Its goals were to determine:

1. The validity of allegations that PPCEP's subcontractors had not been paid for services rendered;
2. Whether such amounts or payments were rendered pursuant to a contract executed between DSHS and PPCEP; and
3. Whether DSHS had reimbursed PPCEP for the amounts that were alleged by the subcontractor to be unpaid (this was to be tied to the DSHS contract number).
4. Finally, if subcontractors were determined to be unpaid for services rendered, then OIG was to test a random sample of the expenditures that comprised the unpaid billings in order to ensure that they were allowable and in compliance with federal and state regulations and contract requirements.

During the audit, OIG collected both PPCEP's subcontractor billings and PPCEP's own accounts payable balances for subcontractors.

OIG determined that PPCEP was not in compliance with the applicable DSHS contracts, since it had requested DSHS reimbursement for subcontractor billings it had never paid. Subcontractors identified the outstanding billings as totaling $529,707.97; PPCEP's records indicated a total of $409,675.10. However, neither amount was verifiable due to the incomplete condition of PPCEP's accounting records, and issues with patient confidentiality. Further, PPCEP had issued checks to subcontractors against the outstanding payable balances, as opposed to paying

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[56] *See Financially Troubled Planned Parenthood of El Paso Closes Doors*, LIFESITENEWS.COM, July 1, 2009, http://www.lifesitenews.com/news/financially-troubled-planned-parenthood-of-el-paso-closes-doors.

specific subcontractor invoice numbers. PPCEP's own records listed most subcontractor billings as more than 90 days overdue. State sources were unsure if the overbilling would ever be repaid.

Washington State Audits

There are three known Washington State audits of Planned Parenthood affiliates. In sum, they uncovered overpayments of at least $640,595.88, inclusive of interest.

Washington Audit I

In 2000 and 2001, an audit of a Planned Parenthood clinic uncovered "inflated billings"; a lengthy analysis and negotiation process resulted in an untenable and apparently illicit agreement.[57]

Washington Audit II – Inland Northwest, 2007-2009

A 2007-2009 audit[58] of the Planned Parenthood of the Inland Northwest (PPINW) affiliate[59] found numerous instances of overbilling or other irregularities, resulting in an overpayment of $629,142.88, inclusive of interest.

The audit began after Washington Department of Social and Health Services grew suspicious of the frequency of clinic visits by Medicaid patients.[60] It was conducted by the Medical Audit Unit, Office of Payment Review and Audit, within the Department of Social and Health Services (DSHS) to determine provider compliance with applicable federal, state, and departmental regulations[61] relative to claims paid

[57] Email from Myra S. Davis, Medical Assistance Administration Rules and Publications, to Heidi Robbins Brown, Deputy Assistant Secretary, Medical Assistance Administration, Washington Department of Social and Health Services (Sept. 17, 2004, 11:56 PDT) (on file with Alliance Defending Freedom). No more is known about the audit at this time, but Alliance Defending Freedom is working to obtain full audit records.
[58] The audit (MA 07-13, July 20, 2009) was conducted May 8-10, 2007.
[59] Doing business as Planned Parenthood of Spokane.
[60] *See* John Stucke, *Audit: Planned Parenthood Overbilled Medicaid*, THE SPOKESMAN-REVIEW, Aug. 12, 2009, http://www.spokesman.com/stories/2009/aug/12/audit-clinic-overbilled-medicaid/.
[61] Specifically, compliance with regulations stated in the Revised Code of Washington (RCW), Washington Administrative Code (WAC), the provider's Core Provider Agreement

from Mar. 15, 2004, to Feb. 26, 2007, for services provided under the Health & Recovery Services Administration (HRSA) programs.[62] A total of 267,840 procedures, totaling $7,697,613.86, met these criteria.

The audit conducted (1) probability sampling of 308 randomly selected procedures, totaling $26,117.32, which were then extrapolated to the total number of procedures; (2) a claim-by-claim audit of the 25 procedures with the highest reimbursement, totaling $11,728.50; and (3) an on-site documentation review. Thus, a total of 333 procedures were audited.

The audit found:

1. In seventeen instances, prescription drugs were dispensed without an authorizing order.[63] In ten audited instances, the dispenser did not have a current, valid authorizing order (prescription) to dispense and bill for the prescription drug on the date of service, for example, where the prescription was outdated. In seven audited instances, there was no valid authorizing order at all to dispense the prescription drug billed; for instance, in one case there was no documentation from the office visit of the medication being prescribed, and additionally, a licensed clinician had not signed the exam form.
2. In sixteen instances, documentation was missing or did not support the level of evaluation and management (E/M) service billed and paid by HRSA. There was one instance of incorrect coding, fourteen instances in which the visit was to pick up medication and there were no chart notes to substantiate that a face-to face office visit with a licensed clinical staff

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with DSHS, the Schedule of Maximum Allowances, Billing Instructions, and Numbered Memoranda.

[62] Procedures paid at $0 and Medicare crossover claims were excluded.

[63] In some cases, oral contraceptives were dispensed to patients with no order at all; some orders had expired or had been signed only by a Registered Nurse (RN), without countersignature by a licensed clinician or medical doctor. This practice is often associated with HOPE (Hormonal Option without Pelvic Examination) visits. Typically, in a HOPE examination, a non-licensed staff person takes a patient's blood pressure and obtains a brief medical history and, in lieu of a physical examination by a licensed clinician or medical doctor, thereupon provides the patient with contraceptives.

member occurred, and one instance in which there was no chart note or other signed documentation to substantiate a billed pregnancy test visit.

3. In thirteen instances, PPINW billed HRSA for more than the acquisition cost of the contraceptive supply, i.e., condom, contrary to the fee schedule.
4. In one instance, PPINW billed for a pregnancy test that was not medically necessary. The patient had been receiving contraceptive "shot[s]" and was not due for another, and on her HOPE (Hormones with Optional Pelvic Exam) form had indicated that there was no need for a test; no other chart note or documentation supported the test.
5. In one instance, PPINW billed separately for a medication included in a bundled service for an abortion that was covered under a different contract with the provider and a different provider number, thus engaging in "unbundling" and billing for medication not covered by the Family Planning or Take Charge programs.
6. In two instances, the Registered Nurse (RN) wrote an oral contraceptive order for a new patient without countersignature by a clinician, contrary to the Department of Health Nursing Commission's Telehealth/Telenursing guidelines for Registered Nurses that require a prior patient-practitioner relationship for such an order.
7. In those same two cases, the RN did not identify the order as following the standing order protocol, so it was unclear where the order originated. The order could have originated over the telephone or by fax.

Overpayments associated with the probability sample totaled $1,743.59; extrapolated to the universe of 267,840 procedures, totaling $7,697,613.86, the calculated overpayment was $628,692.88. Overpayments associated with the claim-by-claim audit of the highest reimbursed twenty-five claims totaled $450.00. The total overpayment was $629,142.88.

PPINW was directed to comply with all federal, state, and departmental regulations, rules, and billing instructions provided under the Medical Assistance program; continued violations could result in suspension or termination of their eligibility to receive services. Further, PPINW was instructed to repay $629,142.88, plus interest. PPINW settled with the state for $345,000.[64]

Washington Audit III – Great Northwest

In May 2012, Planned Parenthood of the Great Northwest (PPGNW) reimbursed the Medicaid program $11,453 as a result of a sample audit[65] conducted by the Washington Medicaid Fraud Control Unit (MCFU) as the result of complaints from concerned citizens alleging "questionable billing practices." Additionally, one portion of the audit that related to a particular type of contraceptive billing was provided to the U.S. Attorney's office for independent investigation.

Wisconsin Audits

In response to an open records request submitted by Alliance Defending Freedom and allies with Pro-Life Wisconsin, the State of Wisconsin released twenty-six audits it conducted of Planned Parenthood of Wisconsin from 2006-2012. In many cases Planned Parenthood of Wisconsin's individual clinics were contacted separately, and these were considered different audits; such audits have been grouped in this report. In sum, these twenty-six audits uncovered total potential overpayments of at least $43,272.80. All but the last audit were conducted and released under the administration of Wisconsin Governor Jim Doyle, a pro-choice Democrat.

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[64] *See* Kevin Graman, *Spokane's Planned Parenthood Fined by State*, THE SPOKESMAN-REVIEW, Oct. 29, 2010, http://www.spokesman.com/stories/2010/oct/29/spokanes-planned-parenthood-fined-state/.
[65] Audit # 09-04-08, of Yakima County. Alliance Defending Freedom is working to obtain full audit records.

Wisconsin Audits I-IV - August 2006

August 2006 audits[66] of payments to Planned Parenthood of Wisconsin clinics for physician office visits found that Planned Parenthood was billing for non-covered services, with total overpayments of $1,990.16.

The Wisconsin Department of Health and Family Services conducted these audits to ensure that billed office visits were legitimately covered. CPT Guidelines provide that an Evaluation and Management Service may be billed along with a Preventive Medicine Service only if a significant, separately identifiable Evaluation and Management Service was provided by the same physician on the same date; an insignificant problem encountered in the process of the Preventive Medicine Service should not be reported. Planned Parenthood was billing for both such "visits."

The audits found a total overpayment of $1,990.16:

- # 2006 37543 (Milwaukee - West Wisconsin Avenue): $450.39
- # 2006 50088 (Kenosha): $1,276.31
- # 2006 96759 (Milwaukee - North Jackson Street): $135.18
- # 2006 98176 (Milwaukee - North Jackson Street): $128.28

The audits recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, and that Medicaid seek repayment for undocumented claims.

Wisconsin Audit V - September 2006

A September 2006 audit[67] of payments to Planned Parenthood of Wisconsin found that Planned Parenthood was billing for duplicate and incorrect services, with overpayments of $74.28.

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[66] The audits of Planned Parenthood of Wisconsin clinics in Kenosha (2006 50088), Milwaukee – North Jackson Street (2006 96759 and 2006 98176), and Milwaukee - West Wisconsin Avenue (2006 37543) were conducted of the period Jan. 1, 2003, through Sep. 30, 2003.

[67] The audit (2006 05090) was conducted of the period Jan. 1, 2005, through Dec. 31, 2005.

The Wisconsin Department of Health and Family Services conducted this audit of providers that billed for services that were also performed and billed by another provider. Planned Parenthood was billing both for complete procedures, and then again separately for the professional or technical component of the same procedure, when only the professional or technical component should have been billed.

The audit recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, and that Medicaid seek repayment.

Wisconsin Audits VI-XIII - July 2007

July 2007 audits[68] of payments to Planned Parenthood of Wisconsin clinics for physician office visits found that Planned Parenthood was billing for non-covered services, with total potential overpayments of $5,819.91.

The Wisconsin Department of Health and Family Services conducted these audits to ensure that billed office visits were legitimately covered. CPT Guidelines provide that an Evaluation and Management Service may be billed along with a Preventive Medicine Service only if a significant, separately identifiable Evaluation and Management Service was provided by the same physician on the same date; an insignificant problem encountered in the process of the Preventive Medicine Service should not be reported. Planned Parenthood was billing for both such "visits."

The audits found a total potential overpayment of $5,819.91:

- # 2007 03883 (Appleton): $368.51
- # 2007 27407 (Madison): $467.02
- # 2007 29154 (Sheboygan): $381.99
- # 2007 49325 (Waukesha): $404.59
- # 2007 66774 (Milwaukee): $2,533.46

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[68] The audits of Planned Parenthood of Wisconsin clinics in Appleton (2007 03883), Chippewa Falls (2007 70591), Fond du Lac (2007 86622), Kenosha (2007 88039), Madison (2007 27407), Milwaukee (2007 66774), Sheboygan (2007 29154), and Waukesha (2007 49325), were conducted of the period Oct. 1, 2003, through Sep. 30, 2005.

- # 2007 70591 (Chippewa Falls): $277.31
- # 2007 86622 (Fond du Lac): $613.19
- # 2007 88039 (Kenosha): $773.84

The Planned Parenthood clinics were invited to submit rebuttal documentation to demonstrate that the claims were legitimate, but the clinics in Madison, Milwaukee, and Waukesha, at least, did not do so within thirty days as required.

The audits recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, and that Medicaid seek repayment for undocumented claims.

Wisconsin Audit XIV - October 2010

An October 2010 audit[69] of payments to Planned Parenthood of Wisconsin found that Planned Parenthood was billing for duplicate services, with potential overpayments of at least $1,864.42.

The Wisconsin Department of Health and Family Services noted that the quantities billed by Planned Parenthood were excessive relative to the standard usage, or the dollar amount billed was inconsistent with the quantity billed. All the claims related to contraceptive implants and patches.

The audit recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, that Planned Parenthood review and complete an attached report and include a copy of each physician clinic note, and that Medicaid seek repayment.

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[69] The audit (2010 53629) was conducted of the period Jan. 1, 2009, through Dec. 31, 2009.

Wisconsin Audits XV-XXV - December 2010

December 2010 audits[70] of payments to Planned Parenthood of Wisconsin clinics found that Planned Parenthood was billing for duplicate services, with total potential overpayments of $31,319.77.

The Wisconsin Department of Health and Family Services conducted these audits to identify claims billed by Planned Parenthood for the same code, to the same recipient. The audits found that Planned Parenthood was likely billing multiple times for each listed intrauterine contraception device (IUD).

The audits found a total potential overpayment of $31,319.77:

- # 2010 15792 (Madison): $800.00
- # 2010 38805 (Milwaukee - West Wisconsin Avenue): $5,139.71
- # 2010 55068 (Kenosha): $1,968.71
- # 2010 75330 (Beaver Dam): $2,096.00
- # 2010 22240 (Racine): $13,270.11
- # 2010 34897 (Green Bay): $468.71
- # 2010 39809 (Waukesha): $2,198.13
- # 2010 40664 (Shewano): $700.00
- # 2010 46459 (Chippewa Falls): $3,200.00
- # 2010 58443 (Fond du Lac): $1,100.00
- # 2010 84963 (Milwaukee - South 7th Street): $378.40

The Planned Parenthood clinics were invited to submit rebuttal documentation to demonstrate that the claims were legitimate, but the clinics in Beaver Dam, Chippewa Falls, Fond du Lac, Kenosha, Milwaukee - South 7th Street, Milwaukee - West Wisconsin Avenue, Racine, Shewano, and Waukesha, at least, did not do so within thirty days as required.

[70] The audits of Planned Parenthood clinics in Beaver Dam (2010 75330), Chippewa Falls (2010 46459), Fond du Lac (2010 58443), Green Bay (2010 34897), Kenosha (2010 55068), Madison (2010 15792), Milwaukee - South 7th Street (2010 84963), Milwaukee - West Wisconsin Avenue (2010 38805), Racine (2010 22240), Shawano (2010 40664), and Waukesha (2010 39809) were conducted of the period Jan. 1, 2007, through Dec. 31, 2009.

The audits recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, that Planned Parenthood review and complete an attached report and include a copy of each physician clinic note and invoice for the product, and that Medicaid seek repayment.

Wisconsin Audit XXVI - August 2012

An August 2012 audit[71] of payments to Planned Parenthood of Wisconsin found that Planned Parenthood was billing for duplicate services, with overpayments of $2,204.26.

The Wisconsin Department of Health and Family Services noted that the quantities billed by Planned Parenthood were excessive relative to the standard usage, or the dollar amount billed was inconsistent with the quantity billed. All the claims related to intrauterine contraception devices (IUDs), progesterone contraceptive injections, vaginal rings, and contraceptive patches.

The audit recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, that Planned Parenthood review and complete an attached report and include a copy of each physician clinic note, and that Medicaid seek repayment.

[71] The audit (2012 18225) was conducted of the period Jan. 1, 2010, through Dec. 31, 2010.

AUDITS OF OTHER NONPROFIT ABORTION AND FAMILY PLANNING FACILITIES

States have also begun to audit abortion and family planning facilities other than Planned Parenthood affiliates.

One such audit examined the financial management systems related to the Title X family planning program of Tapestry Health Systems, Inc., a nonprofit human service organization located in Western Massachusetts.[72] Tapestry engages in: (1) Family Planning/Health Services; (2) Education and Training/Community Support Services; and (3) HIV/AIDS Services. The Family Planning/Health Services division performs physical exams, counseling, testing and referrals to other health service providers. HHS-OIG conducted the audit to determine whether Tapestry had adequate financial management systems to ensure accurate and complete disclosure of the financial results of the Federal Title X award. HHS-OIG found that Tapestry was commingling funds and space, and recommended that Tapestry implement systems that: 1) provide for identification of Title X expenses (which it had not been doing as required); 2) ensure that family planning surplus revenues are used for family planning; 3) provide that requests for Title X funds be related to minimum amounts needed; and 4) ensure that space costs are allocated to all benefiting programs on an equitable basis. In addition, HHS-OIG recommended that Tapestry continue to monitor support of payroll charges to ensure proper allocation of salaries of employees working in family planning. In response, Tapestry claimed that it was grateful that the audit found no cause to question the quality of its services or to request disallowance or return of federal funds. Yet, as HHS-OIG noted in reply, "these conclusions cannot be drawn from this report as this audit did not include a review of services provided by Tapestry or the allowability of claimed costs."

In Maine, Family Planning Association of Maine, Inc. (FPAM), was fined $36,016 by the Maine Department of Health and Human Services for the fiscal year

[72] Audit of Tapestry Health Systems, Inc., Financial Management Systems Related to the Title X Family Planning Program, A-01-00-01504, May 2000.

ending June 30, 2010, for not following the correct cost sharing method, resulting in the misuse of restricted funds.[73] FPAM was further fined $12,075,91 for overbillings relating to IUDs, including twenty billings for removals rather than insertions (thus requiring no IUD), five billings where no IUD was inserted, forty-four billings at approximately 150% of actual acquisition cost, and one billing without proper documentation.[74]

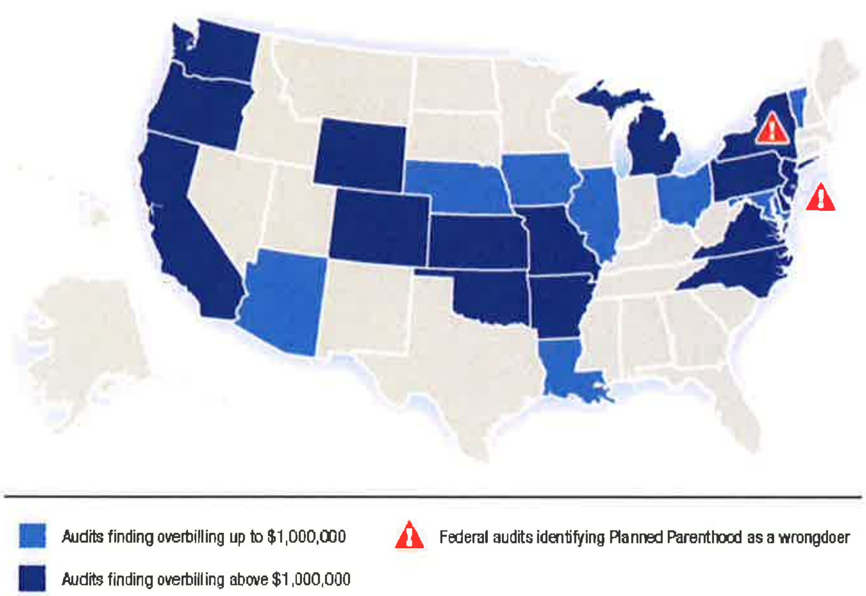
[73] *See* Letter from Herbert F. Downs, Director, Financial Services – Audit, Maine Department of Health and Human Services, to George Hill, Chief Executive Officer, Family Planning Association of Maine, Inc. (Aug. 31, 2012) (on file with Alliance Defending Freedom). Audits of the FPAM fiscal years ending June 30, 2007, 2008, and 2009, did not appear to find any overbilling, but the scope of these audits is not known. *See* Letter from Herbert F. Downs, Director, Financial Services – Audit, Maine Department of Health and Human Services, to George Hill, Chief Executive Officer, Family Planning Association of Maine, Inc. (July 31, 2009) (on file with Alliance Defending Freedom); Letter from Herbert F. Downs, Director, Financial Services – Audit, Maine Department of Health and Human Services, to George Hill, Chief Executive Officer, Family Planning Association of Maine, Inc. (Apr. 25, 2011) (on file with Alliance Defending Freedom). Alliance Defending Freedom is working to obtain full records on the audits.

[74] *See* Letter from Michael Bishop, Auditor II, Program Integrity, Division of Audit, Maine Department of Health and Human Services, to Brenda Chabre, Medical Billing Manager, Family Planning Association (Dec. 1, 2010) (on file with Alliance Defending Freedom). Alliance Defending Freedom is working to obtain full records on the audit process.

FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS

Fifty-one federal audits by HHS-OIG of state family planning programs in twenty-four states found over $107 million in overbilling, at a minimum. The audited dates are known for fifty audits. Of these audits, as much as $4,410,900.70 was overbilled in one audited year; the average overbilled amount per audited year was $701,305.28. The 2010 GAO report and Office of Population Affairs Title X Family Planning Directory of Grantees report reveal that Planned Parenthood receives the lion's share of federal funding for family planning by private organizations under Title X and other programs.[75]

FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS



Two of these audits specifically identified Planned Parenthood – and only Planned Parenthood – as the problem in state family planning program overbilling.

[75] *See* U.S. GOVERNMENT ACCOUNTABILITY OFFICE, FEDERAL FUNDS: FISCAL YEARS 2002-2009 OBLIGATIONS, DISBURSEMENTS, AND EXPENDITURES FOR SELECTED ORGANIZATIONS INVOLVED IN HEALTH-RELATED ACTIVITIES (GAO-10-533R) (2010), at Table 7, *available at* http://www.gao.gov/new.items/d10533r.pdf; OFFICE OF POPULATION AFFAIRS, TITLE X FAMILY PLANNING DIRECTORY OF GRANTEES (2014), *available at* .

(1) In the June 2008 New Jersey audit A-02-06-01010, HHS-OIG determined that the overpayment occurred in part because "many" family planning clinics ("especially Planned Parenthood providers") improperly billed *all* services as family planning, and eligible for 90-percent Federal funding.

(2) In the May 2008 New York State audit A-02-07-01001, HHS-OIG determined that the resultant overpayment occurred in part because some providers – "especially Planned Parenthoods" – incorrectly claimed services as family planning ("[M]any provider officials (especially Planned Parenthoods) stated that they billed most of their claims to Medicaid as related to 'family planning.'"). **Thirteen months later, New York State released its first known audit report of a Planned Parenthood affiliate.**

Additionally, in the November 2008 New York State audit A-02-07-01037, HHS-OIG found that New York improperly received enhanced ninety-percent federal reimbursement for 102 out of 119 sample claims. Of these, 96 were for services unrelated to family planning, and 33 were for services for which no reimbursement was available - including twenty-seven abortion procedures, and four services performed in conjunction with an abortion. HHS-OIG found that one provider was responsible for twenty-five of the twenty-seven abortion claims; this provider billed at least 3,900 abortion claims during the audit period.

In the July 2007 New York State audit A-02-05-01009, HHS-OIG noted that one "laboratory provider [which specialized in examining abortion-related specimens] submitted 95 of the 98 improper sample claims" out of the 100 claims sampled. Forty-two of the improper claims involved abortion-related laboratory tests for which no federal funding is available, e.g., tests performed on the aborted fetus and tests performed before the abortion to assess the risk to the patient, such as complete blood counts, electrolytes, and blood typing.

In the September 2009 New York State audit A-02-09-01015, the 105 sample claims had been submitted by a total of fourteen providers. Six of them coded approximately ninety-nine percent of their claims as family planning during the audit period, improperly claiming, among other things, treatment for sexually transmitted diseases and pre-abortion counseling visits unrelated to family planning services.

	HHS-OIG Audit #	Audited Period	Total Overbilling
Arizona	A-09-04-00027	10/01/1999 – 09/30/2002	$558,093[76]
Arkansas	A-06-11-00022	10/01/2005 – 09/30/2010	$1,906,657[77]
California	A-09-11-02040	10/01/2008 – 09/30/2010	$5,671,216
California	A-09-12-02077	10/01/2008 – 09/30/2010	$627,053
Colorado	A-07-04-01005	10/1999 – 12/2003	$1,587,305
Colorado	A-07-04-01008	07/01/1998 – 06/30/1999	$454,786
Colorado	A-07-11-01095	10/01/2005 – 09/30/2009	$617,999
Colorado	A-07-11-01096	10/01/2005 – 09/30/2009	$1,975,800
Colorado	A-07-11-01097	10/01/2005 – 09/30/2009	$2,295
Delaware	A-03-03-00220	10/2000 – 06/2004	$2,916,288[78]
Illinois	A-05-10-00053	10/01/2007 – 09/30/2009	$869,273
Iowa	A-07-12-03178	10/01/2010 – 09/30/2011	$8,291[79]
Kansas	A-07-09-04146	07/01/2005 – 06/30/2009	$589,355

[76] HHS-OIG recommended that the Medicaid agency work with CMS to determine the eligibility of $558,093 in payments. However, another HHS-OIG audit, A-03-06-00200, included this figure in its entirety in its total amount of claimed unallowable family planning costs.
[77] Further, HHS-OIG recommended that the State agency "work with CMS to determine the allowable portion of the [additional] $929,019 in family planning Federal share that it received for allocated sterilization costs."
[78] Alternatively, Delaware could provide support for the family planning service costs claimed.
[79] This overpayment relates to services provided to just 28 women, or an average of over $296 per woman.

Kansas	A-07-10-04156	07/01/2005 – 06/30/2009	$2,447,414
Kansas	A-07-10-04157	07/01/2005 – 06/30/2009	$151,526
Kansas	A-07-10-04162	07/01/2005 – 06/30/2009	$485,982
Louisiana	A-06-10-00075	*[80]	*[81]
Louisiana	A-06-10-00076	10/01/2007 – 09/30/2009	$0
Maryland	A-03-03-00218	07/2000 – 03/2004	$228,643
Michigan	A-05-08-00064	10/01/2005 – 09/30/2007	$1,000,519
Michigan	A-05-09-00050	10/01/2005 – 09/30/2007	$838
Missouri	A-07-04-01004	10/01/2000 – 09/30/2003	$0
Missouri	A-07-04-01012	10/01/1995 – 09/30/2001[82]	$6,467,583
Missouri	A-07-12-01117	01/01/2009 – 09/30/2011	$2,373,541[83]
Missouri	A-07-12-01118	01/01/2009 – 12/31/2010	$487,351

[80] Key: * - audited dates or overbilling figures unknown
[81] Alliance Defending Freedom is working to obtain records on this audit.
[82] These were retroactive claims that were submitted in the quarter ending March 31, 2001.
[83] The audit found overpayments of $1,480,516 and recommended that this amount be refunded to the federal government, and also recommended that the state agency review costs for family planning sterilization procedures for reporting periods after the audited period. The state agency found and pledged to additionally refund $893,025.

Missouri	A-07-12-01121	01/01/2009 – 12/31/2010	$862,398
Nebraska	A-07-11-02759	01/01/2009 – 03/31/2009[84]	$43,948
New Jersey	A-02-05-01016	07/01/1997 – 03/31/2002	$314,446[85]
New Jersey	A-02-05-01019	02/01/2001 – 01/31/2005	$2,219,746
New Jersey	A-02-06-01010[86]	02/01/2001 – 01/31/2005	$597,496
New Jersey	A-02-06-01020	02/01/2001 – 01/31/2005	$162,548
New York	A-02-05-01001	01/01/2000 – 12/31/2003	$1,566,740
New York	A-02-05-01009	01/01/2000 – 12/31/2003	$3,235,640[87]
New York	A-02-05-01018	01/01/2000 – 12/31/2003	$6,132,366[88]
New York	A-02-06-01007	01/01/2000 – 06/30/2005	$2,603,128
New York	A-02-07-01001[89]	10/01/2002 – 06/30/2006	$918,816

[84] The review period for reviewing internal controls was October 1, 2008, to March 31, 2010, but expenditure testing was conducted only for the selected quarter, January 1, 2009, to March 31, 2009. Based on the audit, it is likely that $43,948 of the claims were not allowable.

[85] Additionally, HHS-OIG set aside $4,346,987 in unsupported claims for resolution.

[86] This is one of the two audits that named Planned Parenthood as a wrongdoer.

[87] This amount was considered overbilled but would be reviewed by CMS and the state because qualified practitioners had not performed a medical review of the sample claims.

[88] This audit did not question the medical necessity of the services or their eligibility for Medicaid reimbursement. Thus, the audit questioned and calculated only the difference between the applicable FMAP and the enhanced ninety-percent federal funding rate, which is either 40% (for the 50% FMAP, 90% - 50%) or 37.05% (for the 52.95% FMAP, 90% - 52.95%). Thus, the actual amount of overbilling may have been even higher.

[89] This audit uncovered improperly billed claims, including, e.g., a fractured ankle billed as family planning, and sterilizations performed without obtaining proper consent. This is one of the two audits that named Planned Parenthood as a wrongdoer.

New York	A-02-07-01037	04/01/2003 – 03/31/2007	$17,151,156
New York	A-02-09-01015	04/01/2007 – 09/30/2008	$3,773,506
North Carolina	A-04-10-01089[90]	10/01/2004 – 09/30/2007	$1,387,378
North Carolina	A-04-10-01091	10/01/2005 – 09/30/2007	$666,826
North Carolina	A-04-10-01092	10/01/2004 – 09/30/2007	$541,513
Ohio	A-05-10-00035	10/01/2007 – 09/30/2009	$320,774
Oklahoma	A-06-09-00097	10/01/2008 – 12/31/2008	$12,703[91]
Oklahoma	A-06-10-00047	01/01/2005 – 12/31/2009	$3,356,074
Oregon	A-09-10-02043	10/01/2006 – 09/30/2009	$1,487,974
Oregon	A-09-11-02010	10/01/2006 – 09/30/2009	$1,692,956[92]
Pennsylvania	A-03-03-00214	10/2000 – 02/2004	$15,070,548
Vermont	A-01-05-00002	10/01/2003 – 09/30/2004	$323,367
Virginia	A-03-04-00209	04/2001 – 03/2004	$1,388,506
Washington	A-09-09-00049	10/01/2005 – 09/30/2008	$8,458,169
Wyoming	A-07-11-01100	01/01/2006 – 12/31/2010	$1,348,942
TOTAL			**$107,065,472**[93]

[90] This audit uncovered improperly billed pharmacy claims and sterilizations performed without obtaining proper consent.
[91] The Oklahoma Health Care Authority was further directed to work with CMS to determine what portion of an additional $126,613 was unallowable.
[92] Additionally, HHS-OIG set aside 27,405 claims totaling $3,310,404 ($2,979,364 federal share) for resolution for clients for whom the State agency did not verify client incomes and/or social security numbers.
[93] Each audit was very limited in scope as to location, time frame, and type of claim examined. Even with these restrictions, if the overbilling does include the amounts set aside, the total amount of overbilling could be far higher.

Further, HHS-OIG estimated these amounts, where applicable, using the lower limit at the ninety-percent confidence level, and not all audits questioned the medical necessity of services or their eligibility for Medicaid reimbursement, thus questioning and calculating only the difference between the applicable FMAP and the enhanced ninety-percent federal funding rate, rather than zero reimbursement and the ninety-percent federal funding rate.

FEDERAL *QUI TAM* LAWSUITS AGAINST PLANNED PARENTHOOD AFFILIATES

Numerous False Claims Act whistleblower lawsuits around the country have alleged waste, abuse, and potential fraud by Planned Parenthood affiliates. The federal False Claims Act (FCA) forbids government contractors from submitting "false or fraudulent" claims for payment, and authorizes whistleblowers to bring suit against the offenders in order to recover the fraudulently obtained funds. By law, such cases must initially be filed under seal and may not be made public while federal authorities decide whether to join the case. Six such lawsuits against Planned Parenthood affiliates have been made public at this time, and one – *Reynolds v. Planned Parenthood Gulf Coast* – recently led to an agreement by Planned Parenthood to pay $4.3 million or more to settle claims that the U.S. Department of Justice called Medicaid fraud. Planned Parenthood does not mention these abuses in its 2012-2013 annual report's discussion of its "growing litigation docket."[94]

Reynolds v. Planned Parenthood Gulf Coast[95]

American Center for Law and Justice attorneys represented Karen Reynolds, who was employed as a Health Care Assistant at the Lufkin, TX, Planned Parenthood clinic from October 1999 to February 2009 and filed her False Claims Act lawsuit against Planned Parenthood Gulf Coast, formerly known as Planned Parenthood of Houston and Southeast Texas, Inc., in the U.S. District Court for the Eastern District of Texas, Lufkin Division.

Her complaint alleged that Planned Parenthood's clinics were required "to constantly increase their 'pay per visit' goals which were the bills charged to Medicaid for every patient visit." The policies were intended to maximize "the financial payments and grants made by Medicaid, either directly or through Texas' programs." Reynolds' complaint alleged that Planned Parenthood billed Medicaid for services that individual patients did not need or request, and that were not originally attested to by entries made in each individual patient's chart, and then

[94] PLANNED PARENTHOOD FEDERATION OF AMERICA, ANNUAL REPORT 2012-2013, at 4.
[95] No. 9:09-cv-124 (E.D. Tex.).

Planned Parenthood employees altered patients' charts to reflect that all such services had actually been rendered. In July 2013 **Planned Parenthood settled the lawsuit by agreeing to reimburse $4.3 million or more[96] to the federal and State of Texas governments to settle claims that the U.S. Department of Justice called Medicaid fraud**.

U.S. Attorney John M. Bales stated: "We are very pleased to settle this matter for an amount of money that addresses what was, in the Government's view, an abuse of programs that are extremely important to the well-being of many American women. . . . I am particularly grateful to the whistleblower for bringing the matter to our attention."[97]

Johnson v. Planned Parenthood Gulf Coast[98]

Alliance Defending Freedom is representing former Planned Parenthood clinic director Abby Johnson in her federal False Claims Act lawsuit against the same affiliate as Reynolds (Planned Parenthood's Houston and Southeast Texas affiliate, now known as Planned Parenthood Gulf Coast) in July 2010 and unsealed by a federal court in March 2012. This suit alleges that Planned Parenthood knowingly committed Medicaid fraud from 2007 to 2009 by submitting "repeated false, fraudulent, and ineligible claims for Medicaid reimbursements" through the Texas Women's Health Program for products and services not reimbursable by that program.

The lawsuit alleges that Planned Parenthood of Houston and Southeast Texas filed at least 87,075 false, fraudulent, or ineligible claims with the Texas Women's Health Program. As a result, Planned Parenthood wrongfully received and retained reimbursements totaling more than $5.7 million.

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96 Planned Parenthood will pay an additional, unspecified amount for Reynolds' attorneys' fees.
97 *See* Press Release, U.S. Department of Justice, Planned Parenthood Pays $4.3 Million to Settle Allegations of Unnecessary Medical Care (Aug. 16, 2013), *available at* http://www.justice.gov/usao/txe/News/2013/edtx-settlement-plan-081613.html.
98 No. 4:10-cv-03496 (S.D. Tex.).

Johnson's suit alleges that Planned Parenthood officials acknowledged that they had received taxpayer reimbursements to which they were not entitled, and that their policies had resulted in waste, abuse, and potential fraud. When Johnson pressed them about what they were going to do with those funds, she says, a Planned Parenthood official responded, "We're going to hope we don't get caught."

Carroll v. Planned Parenthood Gulf Coast[99]

Patricia M. Carroll, employed as the Accounts Receivable Manager by Planned Parenthood Gulf Coast from October 2007 to October 2012, filed her complaint against the same affiliate as Reynolds and Johnson in December 2012 after noticing that one Planned Parenthood clinic had increased its revenue more than 300%. Carroll alleges in her complaint that she discovered that Planned Parenthood "targeted" incarcerated, primarily minority teens at a school they were ordered to attend for STD and HIV blood tests performed offsite in two separate visits by unqualified non-medical staff and without physician supervision. Since neither school nor prison services are reimbursable by Medicaid, Planned Parenthood employees engaged in "blatant falsification," using Medicaid billing codes (e.g., for "office visit" and "syphilis in-house") to indicate the tests were performed in-clinic by a physician, then altering their clinic scheduling records to make it appear that the patients had actually visited the clinic. The complaint additionally alleges that at least some of the services were not medically necessary due to the duplication off visits, teens already having been tested at the jails or court systems they came from, and the higher-level staff already onsite at the school who could provide the same testing and education at no cost. Carroll also notes HIPAA violations and that Planned Parenthood "endangered" the children's "health and safety." Upon uncovering this duplicity, Carroll locked pending claims so they could not be submitted for payment, and attempted to report the overbillings. After Planned Parenthood Gulf Coast refused to acknowledge the false claims, she contacted Planned Parenthood Federation of America corporate offices in New York,

[99] No. 4:12-cv-03505 (S.D. Tex.).

NY, and Washington, DC. When even the "ethics" attorney she was directed to failed to call her back and instead reported her complaint to the very perpetrators of the fraud, Carroll resigned. In a May 2014 court order requesting more information from Carroll, the presiding judge found that the information already provided by Carroll "allows the court to draw the reasonable inference that Planned Parenthood knowingly filed false claims." The complaint alleges that the false claims were billed "for the sole purpose of generating revenue," and that between 2002 and May 2012, Planned Parenthood received improper reimbursements of approximately $200 per patient for thousands of patients; at least as of the date of Carroll's resignation, Planned Parenthood has refused to admit or reimburse the fraudulent billing.

Gonzalez v. Planned Parenthood of Los Angeles[100]

American Center for Law and Justice represents Victor Gonzalez, employed as Vice President of Finance and Administration (CFO) by Planned Parenthood of Los Angeles (PPLA) from December 2002 to March 2004. His complaint alleges that Planned Parenthood was involved in an ongoing statewide scheme involving all California Planned Parenthood affiliates and officers, to bill Medicaid and other government family planning programs for oral contraceptive pills and contraceptive devices far in excess of reimbursement limits set by federal and state law. The complaint alleges that between 1997 and 2004, Planned Parenthood affiliates in California received improper reimbursements far in excess of $200,000,000.

An internal email from Gonzalez states that PPLA's actual acquisition cost for oral contraceptive pills was $1-2, but that it was charging the government $12-48 per pack – a "hefty markup" "proscribed by DHS regulations." Gonzalez estimates the impact on PPLA alone as approximately $4 million in revenues in a single typical year.[101]

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[100] No. CV 05-8818 AHM (C.D. Cal.).

[101] Email from Victor Gonzalez, Vice President of Finance and Administration, Planned Parenthood of Los Angeles, to Thomas Schulte, Managing Partner, RBZ, LLP (Feb. 20, 2004, 09:45 PST) (on file with Alliance Defending Freedom).

In response to news that California's Department of Health Services would be auditing PPLA's contraceptive purchases, CEO Mark Salo wrote that if Planned Parenthood could only charge the government "only what we paid for the product," "this could kill many of us."[102] PPLA President Martha Swiller replied: "This is bad."[103]

Thayer v. Planned Parenthood of the Heartland[104]

In a federal lawsuit filed in March 2011 by Alliance Defending Freedom attorneys and made public on July 9, 2012, Sue Thayer, former manager of Planned Parenthood's Storm Lake and LeMars clinics, alleged that Planned Parenthood's Iowa affiliate knowingly committed Medicaid fraud from 2002 to 2009 by filing nearly one half million false claims with Medicaid for products and services not legally reimbursable, from which Planned Parenthood received and retained nearly $28 million, and additionally failed to meet acceptable standards of medical practice. If Thayer prevails, Planned Parenthood could be ordered to pay the United States and Iowa as much as $5.5 billion in False Claims Act damages and penalties.

The lawsuit explains that, to enhance revenues, Planned Parenthood implemented a "C-Mail" program that automatically mailed a year's supply of birth control pills to women who had only been seen once at a Planned Parenthood clinic and usually by personnel who were not qualified healthcare professionals. Thereafter, thousands of unrequested birth control pills were mailed to these clients. Planned Parenthood's cost for a 28-day supply of birth control pills mailed to clients was $2.98. In turn, Planned Parenthood was reimbursed $26.32 for the birth control pills by the taxpayers through Medicaid. In some cases, birth control pills were returned to Planned Parenthood by the Postal Service. Instead of crediting

[102] Email from Mark Salo, Chief Executive Officer, Planned Parenthood of San Diego and Riverside Counties, to Jon Dunn, President and Chief Executive Officer, Planned Parenthood of Orange and San Bernardino Counties, et al. (Jan. 26, 2004, 16:00 PST) (on file with Alliance Defending Freedom).
[103] Email from Martha Swiller, President, Planned Parenthood of Los Angeles, to Victor Gonzalez, Vice President of Finance and Administration, Planned Parenthood of Los Angeles, et al. (Jan. 26, 2004, 17:38 PST) (on file with Alliance Defending Freedom).
[104] No. 4:11-cv-00129-JAJ-CFB (S.D. Iowa).

Medicaid or destroying the returned pills, Planned Parenthood resold the same birth control pills and billed Medicaid twice for the same pills.

The suit also claims that Planned Parenthood coerced "voluntary donations" for services and then billed Medicaid for them. In effect, the lawsuit explains, Planned Parenthood both falsely billed Medicaid and took money from low-income women by getting them to pay for services Medicaid was intended to cover in full. Additionally, Planned Parenthood billed Medicaid for services provided in connection with non-reimburseable abortions, engaged in directive counseling to urge women toward abortions, and – like Tapestry Health Systems, as described above – failed to separate abortion activities from its federally funded "options counseling" program.

Finally, Thayer alleges that Planned Parenthood instructed women experiencing post-medical abortion bleeding to go to the hospital and tell medical staff there that they were having a miscarriage, since Planned Parenthood had no doctor on site to assist, didn't want the negative press or client loss associated with bleeding, upset women returning to the clinic, and didn't want the medical community to know it was outsourcing the "messy" part of the work to them. According to Thayer, Planned Parenthood was unconcerned that this policy resulted in doctors treating women based on a false history and diagnosis, putting the women at grave risk,[105] or that it resulted at times in doctors violating the law in submitting Medicaid claims for Hyde Amendment-prohibited abortions, and violating their own conscience in completing abortion procedures.

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[105] The complications associated with medical abortion, including hemorrhage and severe infection, can be far more serious than those associated with surgical abortion or with miscarriage due to the mechanism of the medical abortion drug, mifepristone: (1) mifepristone can cause the blood vessels in the uterus to fail to contract, resulting in the loss of large amounts of blood, even if there is no pregnancy tissue left, and (2) mifepristone can cause a suppression of the immune system, resulting in massive, sometimes fatal infections such as C. Sordellii. *See generally, e.g.*, Margaret M. Gary & Donna J. Harrison, *Analysis of Severe Adverse Events Related to the Use of Mifepristone as an Abortifacient*, 40 THE ANNALS OF PHARMACOTHERAPY 191 (2006); Martha Shuping et al., *Medical Abortion with Mifepristone (RU-486) Compared to Surgical Abortion* (on file with Alliance Defending Freedom).

Bloedow v. Planned Parenthood of the Great Northwest[106]

Alliance Defending Freedom attorneys represent federal False Claims Act whistleblower Jonathan Bloedow, a Washington resident who discovered the alleged frauds through state open records requests and filed suit against Planned Parenthood of the Great Northwest in July 2011. The suit alleges that Planned Parenthood submitted false claims to Washington's Department of Social and Health Services and its Health and Recovery Services Administration (HRSA). HRSA runs the state's Title XIX Medicaid program.

Bloedow charges that Planned Parenthood of the Great Northwest filed at least 25,000 false claims with HRSA for reimbursements in excess of the amount allowed for oral contraceptive pills and at least another 25,000 for reimbursements in excess of the amount allowed for "emergency contraceptive" ("Plan B") pills under the federal government's 340B drug reimbursement program. Total damages could be as much as $377,134,130.

The allegations of Bloedow's complaint are consistent with a 2011 Government Accountability Office report that concluded that HRSA monitoring of the 340B program was "inadequate" and recommended that "HRSA take steps to strengthen oversight regarding program participation and compliance with program requirements."[107]

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[106] No. C11-1192 MJP (W.D. Wash.).

[107] U.S. GOVERNMENT ACCOUNTABILITY OFFICE, DRUG PRICING: MANUFACTURER DISCOUNTS IN THE 340B PROGRAM OFFER BENEFITS, BUT FEDERAL OVERSIGHT NEEDS IMPROVEMENT (GAO-11-836) (2011), at Highlights, 21, *available at* http://www.gao.gov/products/GAO-11-836. As noted *supra* at n.7, Planned Parenthood Federation of America and dozens of its affiliates nonetheless objected strenuously to a proposed Center for Medicare and Medicaid Services rule that would limit the number of entities that could purchase pharmaceuticals at reduced prices to 340B entities and intermediate care and nursing facilities. Planned Parenthood advocated for 340B-ineligible "safety net providers" to receive nominal pricing, as well, stating that many of its own clinics were not 340B-eligible and would be forced to close if asked to pay list price for pharmaceuticals. *See, e.g.*, Letter from Jacqueline K. Payne, Director of Government Relations, to Leslie V. Norwalk, Acting Administrator, Centers for Medicare and Medicaid Services (Feb. 20, 2007) (as a comment Medicaid Prescription Drugs Average Manufacture Price, 71 Fed. Reg. 77174 (Dec. 22, 2006)) (on file with Alliance Defending Freedom).

Further, the Washington Medical Assistance Administration (MAA) uncovered massive overbilling above actual acquisition cost by Planned Parenthood in Washington. In an internal email, MAA summarized the overbilling as follows:

> Data Story:
> - Since sometime in 2001 Family Planning Providers have been routinely billing us for birth control pills at our maximum allowable cost rather than their acquisition cost, **which is required of them by statute as a 340B drug purchaser** (parallel requirements are in our WAC and BI); . . .
> - Planned Parenthood providers are receiving large reimbursements from MAA for birth control pills. Our maximum allowable cost for the pills is $17.00. **They are billing us around $16.95; $16.99 etc for a product that costs them somewhere around 2.50, 2.00 or lower.**
> - **Better enforcement of their statutory requirement to pass the savings on to Medicaid** will result in a major shift in resources from the provider back to the state.
>
> Old History:
> - In 2000 and 2001 this same issue of inflated billings was uncovered at an audit of a Planned Parenthood clinic. . . .
>
> Recent History:
> - Planned Parenthood initiated the recent conversations asserting that MAA has a problem with reimbursement methods for birth control pills; and that they would assume until told otherwise that the difference between their acquisition cost and our maximum allowable cost was to be considered a dispensing fee. **This is a misdirection. There is nothing we can do to relieve them of their obligations under 340B pricing rules and our rules clearly tell 340B purchasers to bill their actual acquisition cost.**[108]

In defense, in a September 24, 2004 meeting between MAA and Planned Parenthood representatives, Planned Parenthood's attorneys argued that "the higher 340B drug reimbursement is necessary to support the other services that PP

108 Email from Myra S. Davis, Medical Assistance Administration Rules and Publications, to Heidi Robbins Brown, Deputy Assistant Secretary, Medical Assistance Administration, Washington Department of Social and Health Services (Sept. 17, 2004, 11:56 PDT) (on file with Alliance Defending Freedom) (emphases supplied).

provides" and that the overbilling could be justified as substantially similar to a dispensing fee. Another Planned Parenthood representative opined that "family planning providers are completely exempt from" pharmacy law; MAA noted that they "interpret it differently."[109] Documents indicate that Planned Parenthood has been caught and warned on this issue on at least two occasions. Yet no further audit or prosecution beyond the two audits detailed *supra* has taken place, despite pressure from the public.[110]

[109] Notes from Meeting regarding Family Planning Policies and 340B Reimbursements (Sept. 24, 2004) (on file with Alliance Defending Freedom).
[110] *See* documents and emails on file with Alliance Defending Freedom.

REPORT ON PLANNED PARENTHOOD AFFILIATES' POTENTIAL MISUSE OF GRANTS FOR BREAST HEALTH TREATMENT AND EDUCATION

On April 3, 2013, Alliance Defending Freedom released a report identifying an additional area of potential waste, abuse, and fraud, this time in connection with the Susan G. Komen breast health foundation's controversial grant program.[111] Over the last several years, this program distributed nearly $3 million in grants to Planned Parenthood affiliates for the primary purpose of providing breast cancer screening and education services to low-income, Medicaid-eligible women. During this controversy and as detailed in the report, Planned Parenthood repeatedly claimed that it used Komen's grant funds to provide mammograms, clinical breast exams, and breast health education for low-income women. However, during the entire length of the grant program, not a single Planned Parenthood facility had mammography equipment on site or performed any mammograms. Nor was any Planned Parenthood clinic capable of or licensed for mammography, since no Planned Parenthood facility was licensed to perform mammograms.

Furthermore, the Komen report determined that, while the services Planned Parenthood did provide to Medicaid-eligible women were underwritten by Komen grants, Planned Parenthood nonetheless apparently sought reimbursement routinely for these same services from Medicaid authorities without reflecting offsets for the amounts received from Komen, as it was required to do. In essence, Planned Parenthood affiliates apparently were "double-dipping": accepting grant money to provide, in part, services they did not provide, then billing the "payor of last resort" Medicaid for the entire amount rather than reducing the bill by the amount already paid for by other insurance or a grant.

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111 ALLIANCE DEFENDING FREEDOM, REPORT ON POTENTIAL FRAUD BY PLANNED PARENTHOOD AFFILIATES RELATING TO GRANTS FROM SUSAN G. KOMEN FOR THE CURE (2013), *available at* http://www.alliancedefendingfreedom.org/content/campaign/2013/Planned-Parenthood/images/ADF/Publications/4-8-2013-Memo-to-Selected-Members-of-Congress-re-PP-Fraud.pdf.

ACTION STEPS FOR INCREASED OVERSIGHT OF PLANNED PARENTHOOD AND STATE FAMILY PLANNING PROGRAMS

Alliance Defending Freedom applauds Representative Diane Black, Representative Pete Olson, and other Members of Congress for their February 21, 2013, letter requesting that GAO conduct a comprehensive audit of the receipt and use of federal taxpayer dollars by Planned Parenthood Federation of America and its related entities, and GAO for accepting the request and opening an investigation into Planned Parenthood, the Guttmacher Institute, and other prominent family planning organizations.

Alliance Defending Freedom now urges congressional oversight committees, state attorneys general, and other relevant federal and state entities to:

1. Vigorously pursue the current GAO investigation seeking, among other things, "up-to-date information regarding federal funding of Planned Parenthood and other specific organizations."
2. Continue and complete the investigation begun in September 2011 by the House Energy and Commerce Committee's Oversight and Investigations Subcommittee into PPFA and its affiliates' use of federal funding and compliance with federal abortion funding restrictions.[112]
3. Empower auditors and state Medicaid Fraud Control Units (MFCUs) to investigate, prosecute, and recover overbilling practices including:
    a. contraceptive overprescription, often through the use of mandatory, opt-out programs such as Pills by Mail, C-Mail, and Quarterly Contraceptive Kits (each containing 3 months of pill or patch, 24 male condoms, 3 female condoms, and 1 emergency contraceptive pill package), which are automatically mailed to Medicaid beneficiaries after Planned Parenthood calculates that

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[112] *See* MEDICAID CONTRACTOR BENEFICIARY AND PROVIDER COMMUNICATIONS MANUAL, 60.3.2.4-CONGRESSIONAL INQUIRIES TIMELINESS (2014), *available at* http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R29COM.pdf (congressional inquiries must be responded to within ten business days of receipt).

75% of the original prescription has been used, leading to stockpiling, and which may be sent to women no longer using these contraceptives or no longer at the original address;

b. billing contraceptives at much higher than actual acquisition cost, often a 900% markup;

c. prescribing and dispensing prescription contraceptives without medical authorization: for patients who have not been seen by a licensed clinician and without the required clinician signature; and

d. miscoding claims in order to maximize revenues, resulting in overbilling and an incorrect medical record that would not provide an accurate history to doctors who see the patient in the future.

4. Insist on greater transparency in reports maintained by federal and state Medicaid authorities on family planning program claims and reimbursements, as well as in the annual audits and quality control reviews required of all non-federal entities that expend $500,000 or more of federal awards in a year.[113]

5. Update state False Claims Act laws according to HHS-OIG guidelines in order to qualify for an incentive under section 1909 of the Social Security Act,[114] and to encourage legitimate whistleblowers to come forward.

6. Update state Medicaid regulations relating to prescription refill frequency and maximum prescription reimbursement amount.

7. Investigate whether Planned Parenthood is double-dipping by billing Medicaid (and thus federal taxpayers) for services that the Susan G. Komen foundation and its donors are already paying it to provide.

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[113] *See* U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL, RECOVERY ACT OVERSIGHT, https://oig.hhs.gov/recovery-act-oversight/.

[114] *See* U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL, STATE FALSE CLAIMS ACT REVIEWS, https://oig.hhs.gov/fraud/state-false-claims-act-reviews/index.asp.

Alliance Defending Freedom offers information on how to detect and address waste, abuse, and potential fraud to any interested government oversight entity. This audit report only adds to the urgency and necessity of such oversight.

APPENDIX: CALCULATIONS

The tables below demonstrate the calculations by which Alliance Defending Freedom determined the averages and other figures above.

Audits of Planned Parenthood Affiliates

State Audit	Audited Years	Total Overbilling	Overbilling by Audited Year
California	1	$5,213,645.92	$5,213,645.92
Connecticut	*	$18,791.00	*
Illinois	2	$387,000.00	$193,500.00
Louisiana	1	$6,147.18	$6,147.18
Louisiana	1	$0	$0
Maine	5.02	$33,294.83	$6,632.44
New York - I	*	$207,809.00	*
New York - II	1	$15,723.91	$15,723.91
New York - III	2	$1,254,603.00	$627,301.50
New York - IV	1	$886.26	$886.26
[New York - V	3	$112,490.31	$37,496.77
[New York - VI	3	$12,031.29	$4,010.43
[New York - VII	3	$11,539.48	$3,846.49
Texas	*	$409,675.10	*
Washington - I	*	*	*
Washington - II	2.96	$629,142.88	$212,548.27
Washington - III	*	$11,453	*
[Wisconsin - I	0.75	$450.39	$600.52
[Wisconsin - II	0.75	$1,276.31	$1,701.75
[Wisconsin - III	0.75	$135.18	$180.24
[Wisconsin - IV	0.75	$128.28	$171.04
Wisconsin - V	1	$74.28	$74.28
[Wisconsin - VI	2	$368.51	$184.26
[Wisconsin - VII	2	$467.02	$233.51
[Wisconsin - VIII	2	$381.99	$191.00
[Wisconsin - IX	2	$404.59	$202.30
[Wisconsin - X	2	$2,533.46	$1,266.73
[Wisconsin - XI	2	$277.31	$138.66
[Wisconsin - XII	2	$613.19	$306.60
[Wisconsin - III	2	$773.84	$386.92
Wisconsin - XIV	1	$1,864.42	$1,864.42
[Wisconsin - XV	3	$800.00	$266.67
[Wisconsin - XVI	3	$5,139.71	$1,713.24
[Wisconsin - XVII	3	$1,968.71	$656.24

[Wisconsin - XVIII	3	$2,096.00	$698.67
[Wisconsin - XIX	3	$13,270.11	$4,423.37
[Wisconsin - XX	3	$468.71	$156.24
[Wisconsin - XXI	3	$2,198.13	$732.71
[Wisconsin - XXII	3	$700.00	$233.33
[Wisconsin - XXIII	3	$3,200.00	$1066.67
[Wisconsin - XXIV	3	$1,100.00	$366.67
[Wisconsin - XXV	3	$378.40	$126.13
Wisconsin - XXVI	1	$2,204.26	$2,204.26
TOTAL	**80.98**	**$8,367,505.96**	**$6,341,885.56**

Total overbilling not including the audits for which audited years are not available:
$7,719,777.86

Average overbilling per audited year, in a single audit:
$7,719,777.86 / 80.98 = <u>$95,329.44</u>

Key:
[- audits of different affiliates or clinics within one state that cover
the same time frame and the same services
* - audited dates or overbilling figures unknown

Federal Audits of State Family Planning Programs and Other Organizations

	Audited Years	Total Overbilling	Overbilling by Audited Year
Arizona	3	$558,093	$186,031.00
Arkansas	5	$1,906,657	$381,331.40
California	2	$5,671,216	$2,835,608.00
California	2	$627,053	$313,526.50
Colorado	4	$1,587,305	$396,826.25
Colorado	1	$454,786	$454,786.00
Colorado	4	$617,999	$154,499.75
Colorado	4	$1,975,800	$493,950.00
Colorado	4	$2,295	$573.75
Delaware	3.75	$2,916,288	$777,676.80
Illinois	2	$869,273	$434,636.50
Iowa	1	$8,291	$8,291.00
Kansas	4	$589,355	$147,338.75
Kansas	4	$2,447,414	$611,853.50
Kansas	4	$151,526	$37,881.50
Kansas	4	$485,982	$121,495.50
Louisiana	*	*	*
Louisiana	2	$0	$0.00
Maryland	3.75	$228,643	$60,971.47
Michigan	2	$1,000,519	$500,259.50
Michigan	2	$838	$419.00
Missouri	3	$0	$0.00
Missouri	6	$6,467,583	$1,077,930.50
Missouri	2.75	$2,373,541	$863,105.82
Missouri	2	$487,351	$243,675.50
Missouri	2	$862,398	$431,199.00
Nebraska	0.25	$43,948	$175,792.00
New Jersey	4.75	$314,446	$66,199.00
New Jersey	4	$2,219,746	$554,936.50
New Jersey	4	$597,496	$149,374.00
New Jersey	4	$162,548	$40,637.00
New York	4	$1,566,740	$391,685.00
New York	4	$3,235,640	$808,910.00
New York	4	$6,132,366	$1,533,091.50
New York	5.5	$2,603,128	$473,296.00
New York	3.75	$918,816	$245,017.60
New York	4	$17,151,156	$4,287,789.00
New York	1.5	$3,773,506	$2,515,670.67

North Carolina	3	$1,387,378	$462,459.33
North Carolina	2	$666,826	$333,413.00
North Carolina	3	$541,513	$180,504.33
Ohio	2	$320,774	$160,387.00
Oklahoma	0.25	$12,703	$50,812.00
Oklahoma	5	$3,356,074	$671,214.80
Oregon	3	$1,487,974	$495,991.33
Oregon	3	$1,692,956	$564,318.67
Pennsylvania	3.41666	$15,070,548	$4,410,900.70
Vermont	1	$323,367	$323,367.00
Virginia	3	$1,388,506	$462,835.33
Washington	3	$8,458,169	$2,819,389.67
Wyoming	5	$1,348,942	$269,788.40
TOTAL	**152.666**	**$107,065,472**	**$32,981,646.82**

Average overbilling per audited year, in a single audit:
$107,065,472 / 152.666 = $701,305.28

Key:
* - audited dates or overbilling figures unknown

Exhibit

B

ALLIANCE DEFENDING
FREEDOM
FOR FAITH. FOR JUSTICE

September 3, 2015

HOW PLANNED PARENTHOOD "CARES" FOR CHILD VICTIMS OF SEXUAL ABUSE:
A Summary of Planned Parenthood Failing to Report Sexual Abuse

Sexual abuse of children is a very real problem across the United States. All 50 states, as well as the District of Columbia and all U.S. territories, have laws requiring reporting of suspected neglect or abuse of children.[1] These reporting laws typically include statutory rape. The two primary objectives behind them are: (1) ensuring the health, safety, and well-being of children, including the prevention of further harm, and (2) conducting a prompt investigation to determine whether or not the conduct is criminal and, if so, holding criminal perpetrators accountable.[2] Prompt investigation of allegations of abuse benefits everyone involved and society as a whole.

Medical professionals are almost always specifically included in statutory lists of mandatory reporters of suspected abuse or neglect of children.[3] Those designated as mandatory reporters are often uniquely positioned to be the first to observe the signs of abuse or neglect of children.[4] For example, the Colorado Department of Human Services Mandatory Reporter training for health care providers specifically advises that a child getting pregnant under the age

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[1] *Mandatory Reporting of Child Abuse and Neglect State Statute Overview*, National Conference of State Legislatures (Dec. 9, 2011), http://www.ncsl.org/research/human-services/child-abuse-and-neglect-reporting-statutes.aspx; *see also Mandatory Reporting of Child Abuse and Neglect 2013 Introduced State Legislation*, National Conference of State Legislatures (Sept. 23, 2014), http://www.ncsl.org/research/human-services/redirect-mandatory-rprtg-of-child-abuse-and-neglect-2013.aspx.

[2] The Lewin Group, *Statutory Rape: A Guide to State Laws and Reporting Requirements*, prepared for the Office of the Assistant Secretary for Planning & Evaluation, Dep't of Health & Human Servs., Dec. 15, 2004, at14.

[3] According to Children's Bureau, the laws in 48 states, in addition to U.S. territories, list groups of individuals who are required to report include health-care providers; New Jersey and Wyoming do not provide a specific list of professionals required to report. Children's Bureau, Administration for Children & Families, U.S. Dep't of Health & Human Servs., *Mandatory Reporters of Child Abuse and Neglect* 1 (Nov. 2013), https://www.childwelfare.gov/systemwide/laws_policies/statutes/manda.pdf.

[4] Colorado's Mandatory Training for medical professionals specifically discusses this unique position held by mandatory reporters. The training is currently available at: *Mandatory Reporter Training*, Colo. Office of Children, Youth & Families, Div. of Child Welfare, Child Welfare Training System, http://www.coloradocwts.com/community-training (last visited Sept. 11, 2015).

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of 14 *is a sign of sexual abuse*.[5] This is consistent with studies indicating young girls who become pregnant are frequently victims of sexual abuse, and the fathers of their children are often older men.[6] According to the pro-abortion Guttmacher Institute, less than 2% of adolescents have had sex before their 12th birthday, and only 16% have had sex by the time they are 15.[7] Consequently, young pregnant girls visiting Planned Parenthood should raise red flags for medical providers and should generally be reported to the proper authorities.

Not surprisingly, child victims of sexual predators are frequently brought to abortion facilities like Planned Parenthood by the abuser in an effort to hide criminal sexual abuse. Legal proceedings and undercover investigations demonstrate Planned Parenthood facilities often disregard mandatory sex abuse reporting laws. With the evidence of their crimes covered up, predators are free to continue abusing their child victims.

Planned Parenthood has been directly sued for failure to report sexual abuse or to notify parents of minor children seeking abortions. Criminal proceedings also indicate Planned Parenthood failed to report sexual abuse it should have known about. Because no report was immediately made to the proper authorities, the abuse is permitted to continue. A dozen of these examples are summarized in Exhibit 1, along with some of the supporting court documents.

Recently, documents from the Alabama Department of Public Health revealed that a Planned Parenthood affiliate in Mobile failed to properly report the suspected sexual abuse of a 14-year-old girl. According to the Statement of Deficiencies, the 14-year-old *mother of two* visited Planned Parenthood on April 9, 2014, for an abortion, and then again on August 18, 2014 *for another abortion*.[8] Yet Planned Parenthood apparently saw no red flags and made no report to authorities.[9] This is consistent with numerous cases across the country.

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[5] *Id.* The training clearly advises, consistent with the laws of Colorado and most other states, that: (1) doctors and nurses are mandatory reporters, (2) mandatory reporters are often the first to see "signs of child abuse," (3) mandatory reporters are "integral to the protection of children," and (3) the reports are important for protecting the victim and other children in the home, preventing harm to other children or future harm, providing services and promoting positive change. The training also discusses the confidentiality of reports made and advises, "Without your call, the abuse…may continue."

[6] *See, e.g.*, Mike Males & Kenneth S.Y. Chew, *The Ages of Fathers in California Adolescent Births, 1993*, 86 Am. J. of Pub. Health 565, 565-68 (1996), http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1380562/pdf/amjph00515-0103.pdf; David J. Landry & Jacqueline Darroch Forrest, *How Old are U.S. Fathers?*, 27 Family Planning Perspective 159,161 (1995), http://www.guttmacher.org/pubs/journals/2715995.pdf; Debra Boyer & David Fine, *Sexual Abuse as a Factor in Adolescent Pregnancy and Maltreatment*, 24 Family Planning Perspective 4, 4-11 (1992).

[7] *Fact Sheet: American Teens' Sexual and Reproductive Health*, Guttmacher Institute (May 2014), http://www.guttmacher.org/pubs/FB-ATSRH.html.

[8] Ala. Dep't of Public Health, *Statement of Deficiencies and Plan of Correction* 5 (Nov. 21, 2014), http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CB8QFjAAahUKEwj9vPb67O_HAhWHl4gKHRc7ABg&url=http%3A%2F%2Fdph1.adph.state.al.us%2FDeficienciesReports%2Fplanned%2520parenthood%2520mobile%252011-21-2014.pdf&usg=AFQjCNGt3sSX5itXvT7uXJtgf8j63CIHJw. This form relates to the Planned Parenthood of Alabama, Inc. affiliate located at 717 W. Downtower Loop, Mobile, AL 36609.

[9] *Id.*

Last year, a Planned Parenthood facility in Tempe, Arizona was investigated for failing to report the alleged rape of a minor.[10] Previously, two different Planned Parenthood facilities in Arizona were caught on tape failing to report statutory rape.[11] Another Planned Parenthood facility some years before failed to report the rape of a 13-year-old girl by her 23-year-old foster brother until after she was brought in by the abuser and a *second* abortion was committed just six months after Planned Parenthood performed the first.[12]

In Ohio, a Planned Parenthood facility permitted a soccer coach who had impregnated a 14-year-old to sign off on her abortion without her parents' knowledge or consent.[13] In another case, Planned Parenthood performed an abortion on a girl who was being sexually abused by her father and failed to report the abuse despite the young girl telling Planned Parenthood employees she was being forced to do things she didn't want to do.[14] And in yet another Ohio case, a young girl was sexually abused by her mother's boyfriend.[15] During the extended period of abuse, the girl was brought to Planned Parenthood for an abortion.[16] Apparently no report was made to law enforcement by Planned Parenthood as the abuse continued for years after the abortion.[17]

In Colorado, a civil lawsuit alleged a Planned Parenthood facility failed to inquire about or report the suspected sexual abuse of a 13-year-old child by her stepfather.[18] The abuse began when she was only six years old.[19] When it resulted in the child becoming pregnant at age *thirteen*, the abuser took her to Planned Parenthood in Denver.[20] An abortion was performed without her mother's knowledge or consent, even though parental notice is required by Colorado law.[21] According to the lawsuit, not a single Planned Parenthood employee asked about potential abuse despite knowing that the child was only 13 years old and that sex abuse was evident.[22] After the abortion, the Planned Parenthood facility reportedly sent the child back home where she continued to be abused by this same predator for months.[23] Publicly available court documents filed in that case reveal that Planned Parenthood has a "Don't Ask, Don't Tell" policy

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[10] *Planned Parenthood Under Investigation*, Fox News (Aug. 13, 2014), http://www.foxnews.com/transcript/2014/08/14/planned-parenthood-under-investigation/.

[11] *Phoenix, AZ | Planned Parenthood*, Live Action, http://www.liveaction.org/monalisa/phoenix-az/ (last visited Sept. 11, 2015).

[12] Amended Complaint, *Doe v. Planned Parenthood of Central and Northern Arizona, et al.*, Maricopa Cnty. Super. Ct., Case No. CV 2001-014876, http://www.adfmedia.org/files/DoePPCNA-AmendedComplaint.pdf.

[13] *Roe v. Planned Parenthood Southwest Ohio Region*, 878 N.E.2d 1061 (2007), http://www.adfmedia.org/files/RoeOhioAppellateCourtDecision.pdf.

[14] *Fairbanks v. Planned Parenthood Southwest Ohio Region*, Ct. of Common Pleas, Civil Div., Hamilton Cnty., Ohio, Case No. A0901484.

[15] *Ohio v. Coles*, Case No. CR-478823, 2008 WL 4436872 (Ohio Ct. App. Oct. 2, 2008).

[16] *Id.*

[17] *Id.*

[18] Third Amended Complaint, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains*, Case No. 2014CV31778, Denver Dist. Ct., http://www.adfmedia.org/files/SiskThirdAmendedComplaint.pdf.

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] Deborah Myers, *Planned Parenthood Sued for Doing Abortion on Raped 13-Year-Old, Returning Her to Rapist*, LifeNews.com (July 11, 2014, 10:40 am), http://www.lifenews.com/2014/07/11/planned-parenthood-sued-for-doing-abortion-on-raped-13-year-old-returning-her-to-rapist/.

with regard to children and pregnancies caused by sexual partners/predators.[24] In sworn testimony, one of the Planned Parenthood employees said that being 13-years-old and pregnant was not a "red flag," while another employee testified that she thought there was *nothing they could have "done better."*[25] Planned Parenthood settled the case.[26]

There are other shocking, high-profile examples of Planned Parenthood's failure to report the sexual abuse of minors in California and Connecticut. In one California case, a well-known swimming coach, Andrew King, impregnated a 14-year-old girl who then received an abortion at Planned Parenthood.[27] King went on to sexually molest and abuse at least 20 other girls.[28] In Connecticut, Adam Gault kept a 14-year-old in his home for approximately a year, during which time he impregnated her.[29] She was then taken to Planned Parenthood for an abortion using a fictitious name.[30]

In addition to these real case examples, undercover stings demonstrate Planned Parenthood affiliates repeatedly ignore laws designed to protect children.[31] Live Action has caught Planned Parenthood employees ignoring age disparities between young girls and the men who impregnate them.[32] They also advise the girls not to tell Planned Parenthood the age of the men and teach them how to circumvent parental notification laws.[33] Several years ago, Life Dynamics also conducted undercover calls to National Abortion Federation and Planned Parenthood affiliates with similar disturbing results.[34]

These are just a few examples of Planned Parenthood's failure to report the sexual abuse of minors. Given the difficulty in overseeing Planned Parenthood and obtaining evidence that

[24] *See* Motion to Amend (re: Punitive Damages), *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains*, Denver Dist. Ct., Case No. 2014 CV 21778, http://www.adfmedia.org/files/SiskMtnToAmendRePunitives.pdf; Order Granting Motion to Amend, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778; various deposition transcripts, see, *e.g.*, Deposition of Jamie Skarvan, Dec. 11, 2014, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains*, http://www.adfmedia.org/files/SiskSkarvanTranscriptPages.pdf.

[25] Deposition of Jamie Skarvan, Dec. 11, 2014, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains*, http://www.adfmedia.org/files/SiskSkarvanTranscriptPages.pdf.

[26] http://www.adfmedia.org/News/PRDetail/9717.

[27] Prosecution's Statement in Aggravation at 10, *People of the State of California v. Andrew King*, Santa Clara Cnty. Super. Ct., Case Nos. CC942933, CC939000, http://www.adfmedia.org/files/KingSentencingStatement.pdf.

[28] *Id.*

[29] Affidavit in support of Arrest Warrant at 5, *State of Connecticut v. Adam Gault*, Hartford, Case No. HHD-CR007-0612969-T, http://www.adfmedia.org/files/GaultAffidavit.pdf.

[30] *Id.* at 6.

[31] *See, e.g., Phoenix, AZ | Planned Parenthood*, Live Action, http://www.liveaction.org/monalisa/phoenix-az/ (last visited Sept. 11, 2015).

[32] *Id.*

[33] Ben Johnson, *Vindicated: Live Action busted Indy Planned Parenthood for covering up statutory rape in 2008*, LifeSiteNews.com (Nov. 26, 2013), http://www.lifesitenews.com/news/vindicated-live-action-busted-indy-planned-parenthood-for-covering-up-statu. Several videos of these undercover operations can be viewed at: *Sexual Abuse Coverup at Planned Parenthood*, Live Action, http://www.liveaction.org/monalisa/ (last visited Sept. 11, 2015).

[34] Life Dynamics maintains copies of the recorded calls and transcripts from its investigation on its website, as well as an excellent report on this subject including examples from Planned Parenthood, some of which are included in Exhibit 1, and other abortion facilities. Mark Crutcher, *Child Predators: Exposing the Partnership Between Planned Parenthood, the National Abortion Federation and Men Who Sexually Abuse Underage Girls*, Life Dynamics, http://www.childpredators.com/the-child-predator-report/ (last visited Sept. 11, 2015).

would reveal its failure to report sexual abuse of minors, the inescapable conclusion is that this cover up of sexual abuse happens regularly.

EXHIBIT 1

SUMMARY OF DOCUMENTED CASES INVOLVING PLANNED PARENTHOOD AND SEXUAL ABUSE OF MINORS[35]

ARIZONA:

DOE V. PLANNED PARENTHOOD OF CENTRAL AND NORTHERN ARIZONA, ET AL.,
Maricopa County Superior Court, Case No. CV 2001-014876- CIVIL CASE

Court documents revealed that a 12-year-old girl who had been placed in foster care was impregnated by her 23-year-old foster brother, Shawn Stevens. Stevens himself took the child to Planned Parenthood of Central and Northern Arizona (PPCNA) for an abortion eight days *before* her 13th birthday. The facility failed to report the sexual abuse to authorities, consequently, the sexual abuse continued. Six months later, Stevens brought the girl back to PPCNA for another abortion. Five days *after* the *second abortion*, PPCNA notified the authorities. The girl later filed a lawsuit alleging that PPCNA's failure to timely report the sexual abuse to authorities essentially resulted in the continued abuse and subsequent abortion.[36] The civil case was ultimately settled.

STATE OF ARIZONA V. TYLER KOST– CRIMINAL CASE
Pinal County Superior Court, Case No. CR201400949

The allegations in this ongoing case indicate that Planned Parenthood of Arizona's Tempe facility failed to report an alleged sexual assault of a 15-year-old girl by Tyler Kost. According to the police report, the girl's mother (who was present at Planned Parenthood with her daughter) advised investigators that the Planned Parenthood employee told them that it wasn't worth the "hassle" to report the sexual assault. The assault was allegedly intentionally miscoded as a consensual encounter. Kost was subsequently charged with numerous counts of sexual assault against numerous minor victims (but the credibility of some of the witnesses has been called into question). Four of the counts which name additional minor victims are alleged to have occurred *after* the alleged incident at Planned Parenthood.[37]

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[35] Each of these examples resulted in *actual* litigation, either civil or criminal as noted by the case captions, and has been verified through various court documents, public records, court staff and/or law enforcement sources. Some of the court documents that articulate the allegations of each case are attached to this report for convenience. The facts of each of these cases are also discussed in various media articles available on the internet, and some are included in the comprehensive Life Dynamics report documenting numerous actual cases of abortion providers failing to report sexual abuse of minors. Mark Crutcher & Renee Hobbs, *The Cover-Up of Child Sexual Abuse: Part Two: Actual Cases*, Life Dynamics (2014), http://www.childpredators.com/cases/.

[36] *See, e.g.*, Amended Complaint, *Doe v. Planned Parenthood of Central and Northern Arizona, et al.*, Maricopa Cnty. Super. Ct., Case No. CV 2001-014876: ; Court Docket Sheet

[37] *See, e.g.*, Kost Supervening Indictment & Complaint; Pinal County Sheriff's Office Probable Cause Statement, *State of Arizona v. Tyler Kost*, Pinal Cnty. Super. Ct., Case No. CR201400949; May 13, 2014 Letter from Pinal County Sheriff Paul Babeu to Arizona Attorney General Tom Horne.

CALIFORNIA:

PEOPLE OF THE STATE OF CALIFORNIA V. ANDREW KING – CRIMINAL CASE
Santa Clara County Superior Court, Case Nos. CC942933, CC939000

Andrew King, a well-known girls' swim coach who worked with nationally ranked swimmers, is now incarcerated as a result of his sexual abuse of scores of young girls over a period of decades. One criminal case was brought against King on behalf of a twelve-year old victim molested by him in 2008, and a second criminal case was brought on behalf of two of his earlier victims. The prosecution's sentencing statement to the court also details numerous other young victims of King dating back to the 1970s. It states King impregnated a 14-year-old girl who then went to Planned Parenthood for an abortion. Planned Parenthood evidently made no report of suspected sexual abuse to law enforcement or child protective services. After one of King's victims went to the authorities, an investigation ensued. Only then did law enforcement learn that King had, over the years, sexually molested numerous minor girls he had coached.[38]

PEOPLE OF THE STATE OF CALIFORNIA V. GARY W. CROSS- CRIMINAL CASE
Calif. Supreme Court, Case No. S139791

Gary Cross was criminally charged and convicted for sexually assaulting his 13-year-old step-daughter. In an effort to conceal his crimes, Cross took her to a California Planned Parenthood facility where a pregnancy test was administered. Staff there apparently did not report to authorities that the girl was well below the age of consent, or that there may be sexual abuse. Instead, they referred her for a late-term abortion as she was five and half months pregnant and required a surgical procedure. After the abortion, Cross resumed raping the girl for months.[39] He was ultimately convicted and incarcerated.

[38] *See, e.g.*, Prosecution's Statement in Aggravation, *People of the State of California v. Andrew King*, Santa Clara County Superior Court, Case Nos. CC942933, CC939000 , http://www.adfmedia.org/files/KingSentencingStatement.pdf.

[39] *See, e.g.*, *People v. Gary Cross*, 134 Cal.App.4th 500(Cal.Ct.App.2005); *People v. Gary Cross*, 45 Cal.4th 58 (Cal. 2008).

CALIFORNIA (cont'd):

PEOPLE OF THE STATE OF CALIFORNIA V. EDGAR RAMIREZ- CRIMINAL CASE
Los Angeles County Super. Ct. No. BA382225

Edgar Ramirez was criminally prosecuted for sexually abusing his daughters. After daily sexual abuse for an extended period of time, one of the girls became pregnant at age thirteen. The girl was taken to Planned Parenthood for an abortion in July 2010. She made up a story about having a boyfriend her own age and Planned Parenthood performed the abortion. There is no indication that it ever filed a report of potential sexual abuse. The young girl went back to the custody of Ramirez who resumed the sexual abuse a couple of days after the abortion. Later that same year, in December 2010, she was again impregnated by Ramirez and taken to Planned Parenthood for another abortion at six weeks of pregnancy. This time, the Planned Parenthood doctor implanted an intrauterine device in order to prevent additional pregnancies. Again, there is no indication a report was made by Planned Parenthood to law enforcement. The abuse was finally stopped when Ramirez was arrested in March of 2011 after the girl's older sister, also a victim of abuse by Ramirez, reported his conduct to law enforcement.[40]

[40] *See, e.g., People of the State of California v. Edgar Ramirez*, No. B243291, 2014 WL 667531 (Cal. Ct. App. Feb. 21, 2014) (unpublished).

COLORADO

Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al. –
CIVIL CASE
Denver District Court, Case No. 2014 CV 21778

A pregnant 13-year-old child was brought to the Denver abortion facility of Planned Parenthood of the Rocky Mountains (PPRM) by her step-father, Timothy Smith, who had been sexually abusing her for seven years. PPRM failed to look into the suspicious circumstances pursuant to its "don't ask, don't tell" policy. It performed the abortion without notifying the child's parents or reporting suspected abuse as required by Colorado law. Moreover, they sent the girl back home with Smith who continued to abuse her for months.[41] Smith was eventually prosecuted and incarcerated for his crimes, and the child's mother brought a civil case against PPRM on behalf of her daughter. The court allowed the plaintiff to pursue punitive damages, noting that she had established a *prima facie* case that Planned Parenthood "purposefully committed conduct which they must have realized as dangerous, and performed it heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly [the child]." Planned Parenthood settled the case.

[41] *See, e.g,* Motion to Amend (re: Punitive Damages), *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778; Order Granting Motion to Amend, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778; various deposition transcripts, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778.

CONNECTICUT:

STATE OF CONNECTICUT V. ADAM GAULT- CRIMINAL CASE
Hartford, Case No. HHD-CR007-0612969-T

A 15-year-old girl went missing in Connecticut in June 2006. She was rescued a year later from the home of 41-year-old Adam Gault, where she was found locked in a tiny room, about 3' high and 4 or 5' deep. During her year with Gault, she was sexually abused by him and taken to a Planned Parenthood facility in West Hartford for an abortion. Planned Parenthood performed the abortion, which enabled the abuse to continue until authorities ultimately found the child while investigating Gault.[42] Gault was convicted and incarcerated for his crimes. There is no indication that Planned Parenthood ever reported the sexual abuse.

STATE OF CONNECTICUT V. KEVON WALKER- CRIMINAL CASE
New London, Case No. KNL-CR07-0291496-T

A police investigation uncovered that Walker (21-years-old) impregnated his then 14-year-old girlfriend three times in six months. The girl was taken for abortions to the Planned Parenthood clinic in Norwich April, July and September of 2006. Each pregnancy was terminated through abortion. The abortion providers evidently failed to report the first statutory rape and abortion to authorities which permitted the abuse to continue.[43]

[42] *See, e.g,* Affidavit in support of Arrest Warrant, *State of Connecticut v. Adam Gault*, Hartford, Case No. HHD-CR007-0612969-T.

[43] *See, e.g,* Affidavit in Support of Arrest Warrant, *State of Connecticut v. Kevon Walker*, New London, Case No. KNL-CR07-0291496-T; Disposition sheet, *State of Connecticut v. Kevon Walker*, New London, Case No. KNL-CR07-0291496-T.

MINNESOTA:

STATE OF MINNESOTA V. PAUL JAMES FREDERICK- CRIMINAL CASE
Douglas County District Court, Case No. 21-CR-11-2285

This case reveals that Paul James Frederick, a 42-year-old father, was prosecuted for sexually assaulting the 14-year-old girlfriend of his son. Frederick groomed the young girl by driving her to and from school, buying her things, including clothing and Victoria's Secret underwear. Because the child was "inexperienced" and a "virgin," court documents indicate that Frederick took her to Planned Parenthood to get birth control. The court opinion states Frederick was convicted based on the discovery of a used condom in his bedroom, and no mention is made of a Planned Parenthood report of potential sexual abuse.[44]

[44] *See, e.g, State of Minnesota v. Paul James Frederick,* Douglas County District Court, Case No. 21-CR-11-2285, unpublished Minnesota Court of Appeals Opinion, A13-0784 (April 21, 2014).

OHIO:

FAIRBANKS V. PLANNED PARENTHOOD SOUTHWEST OHIO REGION- CIVIL CASE
Court of Common Pleas, Civil Division, Hamilton County, Ohio, Case No. A0901484

Denise Fairbanks was just 16 years old when she went to a Planned Parenthood facility in Ohio on Nov. 15, 2004. She was pregnant as a result of sexual abuse by her biological father. Denise tried to put an end to this abuse, which had started in 2000, by informing a Planned Parenthood employee that she had been forced to do things she did not want to do. Planned Parenthood did not report to law enforcement that Denise was a victim of sexual abuse as required by state law. This failure resulted in her being subjected to sexual abuse for another 1 1/2 yrs. The civil lawsuit was settled and the girl's father was criminally prosecuted and sent to prison.[45]

ROE V. PLANNED PARENTHOOD SOUTHWEST OHIO REGION- CIVIL CASE
Court of Common Pleas, Civil Division, Hamilton County, Ohio, Case No. A0502691

Jane Roe, a 14-year-old girl, was impregnated by her 21-year-old soccer coach. The coach persuaded Roe to have an abortion. Roe wrongly informed Planned Parenthood that at least one parent knew of the planned abortion. She provided the name and address of her father, but listed the coach's cell phone as a contact phone number. Planned Parenthood called the contact number but made no effort to verify the identity of the person to whom they spoke. At no time were Roe's parents notified of, nor did they provide consent to, the abortion. The coach accompanied Roe during the abortion, and Planned Parenthood even checked his ID. But they did not report any suspected abuse. The coach resumed having sex with Roe shortly after the abortion. As a result of a subsequent report made by a teacher, the coach was later found guilty of 7 counts of sexual battery. The trial court granted partial summary judgment in favor of Roe's parents (the plaintiffs) on the issue of Planned Parenthood's failure to comply with the 24 hour waiting requirement in a civil lawsuit. The case was subsequently settled.[46]

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[45] *See, e.g., Fairbanks v. Planned Parenthood Southwest Ohio Region*, Ct. of Common Pleas, Civil Div., Hamilton Cnty., Ohio, Case No. A0901484.

[46] *See, e.g., Roe v. Planned Parenthood Southwest Ohio Region*, (2007) 173 Ohio App.3d 414; *Roe v. Planned Parenthood Southwest Ohio Region*, (2009) 122 Ohio St.3d 399; http://www.adfmedia.org/News/PRDetail/4740; http://www.adfmedia.org/News/PRDetail/?CID=25767.

OHIO (cont'd):

STATE OF OHIO V. JOSEPH COLES- CRIMINAL CASE
Cuyahoga County Court of Common Pleas, Case No. CR-478823

Joseph Coles sexually abused the daughter of his girlfriend for years, starting when she was just 10 years old. She became pregnant twice and had abortions both times—the first when she was 12 years old. She was taken to two different abortion facilities, including Planned Parenthood. After moving to Iowa, the girl told her mother of the abuse that occurred back in Ohio, and the abortions she had there. Evidently neither Planned Parenthood nor the other abortion facility made a report to law enforcement since no investigation was conducted until after she told her mother.[47]

[47] *See, e.g, State of Ohio v. Joseph Coles,* Cuyahoga Cnty. Ct. of Common Pleas, Case No. CR-478823- Indictment; Affidavit, Motion & Order seeking records from Planned Parenthood, http://www.adfmedia.org/files/ColesAffidavitParmaPD.pdf ; *State of Ohio v. Joseph Coles,* 2008 WL 4436872 (Ohio Ct. App. Oct. 2, 2008).

Exhibit

C


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