August 15, 2013

Sizing Up the 2014-15 Texas Budget: Family Planning

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Making sure all Texans have access to the tools they need to plan the timing and size of their families is a critical piece of the puzzle in building equal economic opportunity for Texans who aspire to overcome poverty, join the middle class, and enjoy prosperity. Women's preventive health care—including cancer screenings and family planning—helps women stay healthy, have healthy pregnancies, and avoid unplanned pregnancy. Today, nearly half of Texas births are unplanned. When women lack the tools to plan and space their pregnancies, babies face higher risks of prematurity and low birth weight.

Devastating budget cuts to family planning in 2011, ostensibly aimed at defunding Planned Parenthood, caused widespread collateral damage, leaving 147,000 Texas women without services and the women's health safety net in tatters. In the 2013 regular session, the Legislature took a big first step in repairing the damage by appropriating funding for family planning that will serve approximately the same number of women Texas did before the 2011 cuts. However, it is not clear that enough family planning providers are available, so access to services may still be limited in despite restored funding.

This analysis explains how family planning services are funded in the 2014-15 Texas budget and recommends ways to move forward during the interim on preventing unintended pregnancy—the one area of consensus that emerged from debates around abortion legislation in the 2013 special sessions.

Consequences of 2011 Cuts

In 2011 the Texas Legislature dismantled the women's health safety net by cutting two-thirds of funding for family planning at the Department of State Health Services (DSHS). In 2010, the DSHS Family Planning program served about 212,000 women. After the cuts, the program was projected to serve just 65,000 women a year, meaning that 147,000 low-income Texas women lost access to critical preventive cancer screening and contraception.

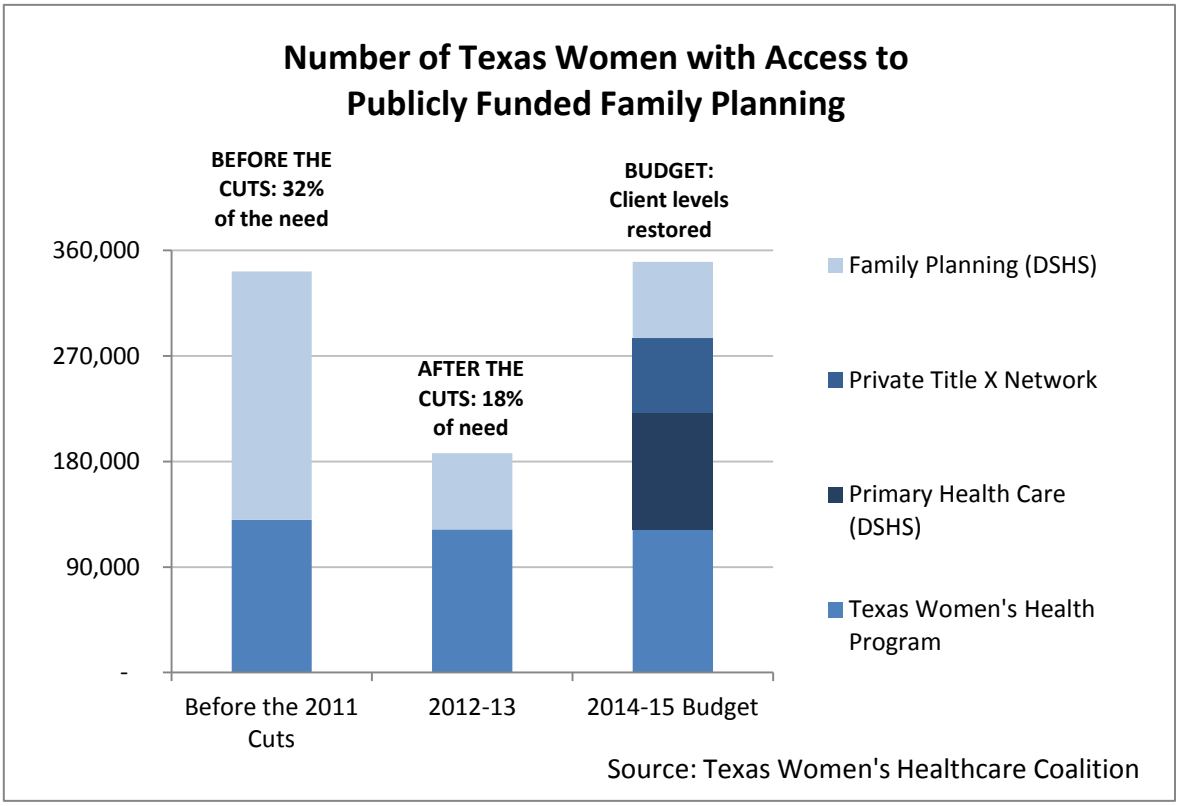
The cuts also left Texas' women's health "safety net" in tatters: at least 56 clinics have closed entirely (most of them not Planned Parenthood clinics),[1] leaving some counties and areas of the state with no DSHS-funded family planning clinics. Many of the safety net providers that have

managed to keep their doors open have reduced services, making it more difficult for women to get appointments, or access the most effective (and more expensive) forms of birth control.

Medicaid pays for more than half of all births in Texas, so family planning budget cuts also spurred increases in Medicaid caseloads and costs resulting from unplanned pregnancies. The Health and Human Services Commission estimated that due to the 2012-13 DSHS budget cuts an addition 23,760 babies would be born under Medicaid in 2014-2015 at a projected cost of $136 million in General Revenue (state dollars) in the three years from 2013 through 2015.

Service Levels Restored in the 2014-15 Budget

The 2013 Legislature acknowledged the vital role of subsidized family planning to healthy women, healthy babies, and state Medicaid savings and reversed the damaging cuts from 2011. The 2014-15 state budget funds family planning through several programs, each explained below. Taken together, the investments in family planning in the next budget will mean that publicly funded family planning in Texas will provide access to approximately the same number of clients in 2014-15 as it did before the 2011 cuts.



2014-15 Funding and Related Riders for Programs that Provide Family Planning

The following four programs (three run by state agencies, and the fourth administered by the U.S. Department of Health and Human Services) provide low-income Texas women with access to basic preventive care including an annual exam, cancer screenings, and contraception. None of the programs provide abortion. For many women, these programs are their only yearly contact with a health care provider.

Public Funding for Family Planning in Texas, 2010-2015

	2010-11	2012-13	2014-15
DSHS Strategy B.1.3 - Family Planning*	$111.3 million	$37.9 million	$43.2 million
DSHS Strategy B.1.4 - Expanded PHC**	N/A	N/A	$60 million
HHSC Strategy D.2.3 - TWHP***	$59 million	$63.2 million	$71.3 million
Federal Title X Funding******	within DSHS Family Planning	within DSHS Family Planning	$26 million (outside of state budget)
Approximate Total	**$ 170 million**	**$ 101 million**	**$ 200 million** ($174 million within the Texas state budget)

* Budgeted amounts for DSHS Family Planning as passed in General Appropriations Acts

** Amount of the total Expanded Primary Health Care program funds, that according to DSHS, is earmarked for the provision of family planning services/clients.

*** In budgets prior to 2014-15, WHP did not have its own strategy. Estimate for 2010-11 uses the 2011 expended amount for WHP provided in the HHSC 2014-15 Legislative Appropriations Request and an estimate for 2010 using the 2011 cost-per-enrolled-client (the LAR did not contain 2010 data). The 2012-13 amount shown is the WHP 2012 estimated and 2013 budgeted amounts from HHSC's 2014-15 LAR. The 2014-15 amount is the budgeted amount for TWHP.

**** The federal Title X grant to Texas provides approximately $13 million per year for three years starting in April 2013

DSHS Family Planning (DSHS budget strategy B.1.3)

This program has historically been funded primarily by federal dollars from Title X (Family Planning Block Grant), Title XX (Social Services Block Grant), and Title V (Maternal and Child Health Block Grant), plus some state general revenue (GR). In the 2010-11 biennium, it received $111.3 million, 80 percent of which was federal funding, and provided preventive care and contraception to an estimated 211,980 clients in state fiscal year 2010. But due to the deep cuts approved in 2011, budget writers projected that DSHS Family Planning would serve only 65,000 clients a year in 2012-13, meaning about 147,000 women lost access to services.

The 2014-15 budget provides a $5.3 million All Funds increase for the program, from $37.9 million in 2012-13 to $43.2 million in 2014-15. Budgets from both biennia, however, were projected to serve 65,000 women a year, presumably reflecting increasing costs-per-client in 2014-15.

Title X Moves from DSHS to Direct Funding. In March 2013, the federal government awarded the Title X family planning block grant to the Women's Health and Family Planning Association of Texas, a private network of publicly funded family planning providers, instead of DSHS. This removed $32 million in federal Title X funds from the DSHS B.1.3 budget strategy. **DSHS Rider 91** replaced those federal funds with $32 million in GR (funding was moved from Medicaid in anticipation of savings to the program from averting unintended pregnancies) to maintain critical access to family planning through the state's current contractors and avoid further erosion of the state's family planning safety net. [2] As a result, this strategy, which has historically been funded primarily through federal funds, is now primarily funded with state GR dollars.

Historically, the DSHS Family Planning program relied heavily on specialized family planning clinics to provide services because of their expertise, efficiencies, and geographic reach. Specialized family planning clinics accounted for 32 percent of DSHS-funded clinic sites before the cuts, but served 41 percent of women.[3] These specialized family planning clinics were disproportionately harmed by the 2011 cuts because of a three-tier funding prioritization system introduced in the 2012-13 budget and maintained in the 2014-15 budget by **DSHS Rider 65.** Under this system, clinics that perform only family planning services are the last in line for allocated funds behind clinics associated with medical schools and large hospital districts, county health departments, and federally qualified health centers. As a result of the combination of tiering and the dramatically smaller budget, no specialized family planning clinics received funding in 2012-13.

Family planning clinics certainly were not the only providers whose ability to serve clients was harmed by the cuts. Due to the scale of the 2011 cuts, some higher-tier clinics that provided more comprehensive primary care were also completely de-funded and even most of the highest-tier providers sustained devastating funding reductions.

DSHS Rider 91 limits funding for DSHS Family Planning only to providers who are eligible to participate in the Texas Women's Health Program. This directive blocks funding to providers

who “affiliate” with providers who perform abortion. State rules define “affiliation” in a way that renders ineligible any clinic that shares an organizational name with an entity that performs abortions elsewhere, even if that clinic does not itself provide abortion and never has.

DSHS Rider 96 directs DSHS to try to secure lower-cost prescription drug pricing for the Family Planning program to try to make up for the loss of federal drug discounts. When federal Title X was part of this funding strategy, providers awarded Family Planning funds had access to “340B drug pricing,” which provides significant discounts on prescription drugs including contraceptives. With the state’s loss of Title X funds, funding through Family Planning no longer comes with automatic access to 340B pricing, so the agency will seek other avenues for access to discounts for program providers.

DSHS Primary Health Care (DSHS Budget Strategy B.1.4)

The 2013 Legislature appropriated $100 million for 2014-15 to fund DSHS’ proposed expansion of the Primary Health Care program, which will increase access to priority women’s health services, including, but not limited to family planning, as directed by **DSHS Rider 89**. The $100 million in GR was “paid for” by reducing funding to Medicaid in anticipation of savings resulting from averting unintended pregnancies.

DSHS estimates that $60 million of the $100 million increase in program funding will be used to provide family planning services to an additional 100,000 women a year.

In addition to family planning, clients in the program will have access to a range of primary, preventive, and screening services and navigation help through community health workers, as appropriate. **DSHS Rider 82** limits funding in the DSHS Primary Health Care program only to providers who are eligible to be providers under the Texas Women’s Health Program—the same restriction described above for the Family Planning program.

Texas Women’s Health Program (HHSC Budget Strategy D.2.3)

In 2005, Texas joined a number of other states in creating a special Medicaid family planning program, the Medicaid Women’s Health Program (WHP), that allowed uninsured women at the same income levels as those who could qualify for Medicaid maternity benefits to get family planning services. The program has had as many as 130,000 low-income women enrolled, significantly expanding access to family planning. The program was financed with a generous 9-to-1 federal match, and Texas saved $10 for each $1 it put into the program.

In 2012, HHSC adopted an “affiliate rule” to deny WHP funding to any health care provider that has an affiliation with an abortion provider, despite the fact that federal Medicaid authorities hold that the rule violates federal Medicaid laws granting women the right to select among all lawfully operating, qualified family planning providers. The program lost federal funding as of January 1, 2013 and transitioned to the GR-funded Texas Women’s Health Program.

The 2013 Legislature appropriated $71.3 million to TWHP for the 2014-15 biennium, fully replacing lost federal funding with GR.

HHSC Rider 44 directs HHSC to report on client enrollment, service utilization, and provider enrollment twice a year. If the report shows that the volume of clients enrolled or services delivered dropped more than 10 percent relative to 2011, HHSC must take corrective actions to increase provider enrollment and/or client outreach (see *Data Point to Provider Capacity Issues in TWHP* for information on declines in TWHP enrollment and services since 2011).

Section 51 of Special Provisions Relating to All Health and Human Services Agencies in the budget creates a contingency for TWHP funding—if the program is abolished, its remaining funding will be moved to the DSHS Primary Health Care program to continue to provide women's health services.

Data Point to Provider Capacity Issues in TWHP

Since its inception in 2007, enrollment in WHP grew steadily and consistently until it peaked at about 130,000 women enrolled in August 2011, the month before the family planning budget cuts took effect. HHSC data show that WHP/TWHP enrollment declined in 15 of the following 16 months for which final enrollment counts are available, and at the end of 2012 enrollment was about 120,600 women. This decline in women enrolled is very likely a reflection of clinic closures and diminished provider capacity that resulted from the 2011 budget cuts. In WHP/TWHP women enroll at the point of service—when they seek services from a clinic. Historically, the providers that performed the bulk of services in WHP were also the ones who contracted with the state under the DSHS Family Planning program. So even though funding for WHP wasn't reduced in 2011, damage to the DSHS-funded provider safety net meant that fewer women could "get through the door" to be enrolled in and served by WHP/TWHP.

Enrollment appears to be declining at an even faster pace since Planned Parenthood was removed from the program in January 2013, despite stepped-up efforts by HHSC to recruit providers to replace some of the capacity of Planned Parenthood and other providers who participated in WHP but are barred from TWHP. Planned Parenthood was formerly WHP's largest provider and served about 45 percent of all WHP clients.

At this point, HHSC only has preliminary enrollment data for calendar year 2013, which shows enrollment declining from 120,590 in December 2012 to 99,382 in July 2013. These preliminary enrollment numbers are expected to increase when

finalized, but the trend provides cause for concern. Data from HHSC comparing TWHP claims from the first five months of 2013 (without Planned Parenthood) to WHP claims from the first five months of 2012 (with Planned Parenthood) show a decrease in claims submitted of about 22 percent.[4] Declining enrollment and service utilization illustrate the need for close program monitoring and triggers for corrective action as directed in HHSC Rider 44.

Federal Title X Family Planning Grant through a Private Network

As noted above, the Women's Health and Family Planning Association of Texas was awarded the federal Title X family planning grant in March 2013, and federal Title X dollars were removed from the 2014-2015 state budget. The Women's Health and Family Planning Association of Texas will receive and distribute about $13 million a year for three years. As the chart above shows, these funds, while outside the state budget, are critical to restoring Texas' family planning service capacity to provide care to as many women as before the 2011 session's cuts.

Missing Data, Dollars: Medicaid, Texas Family Planning, and the ACA

Nationwide, Medicaid accounts for about 75 percent of all public funding for family planning, and is responsible for nearly all growth in U.S. public family planning spending since the early 1990s,[5] as public health block grant funding weathered some direct cuts and general fell far behind inflation and population growth.

Much of the Medicaid-funded family planning growth came about because of state Medicaid family planning "waivers," such as the former Medicaid Women's Health Program in Texas. **Texas limits women's eligibility for comprehensive Medicaid to those with dependent children and incomes below a dollar cap set by the Texas legislature in 1985 and never since updated**. The cap for parents is so low ($188 per month for a mother with two children, for example) that there are 250 children on Texas Medicaid for every one parent. The family planning waivers let Texas—and other states that cover very few adult women in Medicaid except during a pregnancy—extend eligibility for family planning services to low-income women, so that any woman who would be eligible for Medicaid if she were to become pregnant is also eligible for the care she needs to help her avoid an unplanned pregnancy.

As the TWHP section above explains, Texas forced an end to our participation in the waiver program when our state leaders mandated exclusion of legally-qualified birth control providers, which was held to be a violation of federal law. Under federal law, the federal budget pays 90 percent of the costs of family planning services delivered in Medicaid. This creates a very strong incentive for states to be efficient in tracking those services, including when they are delivered and paid for under a Medicaid Managed Care HMO contract, where the state itself is not directly paying the family planning provider. Despite this incentive, currently Texas HHSC does not compile or report the aggregate amount of family planning services provided to the small number of mothers getting Medicaid or the teens under age 19 enrolled in Medicaid coverage for children. Still, it is likely that better data can eventually be collected and reported by HHSC. As noted in the final section of this paper, extending Medicaid to all Texas adults up to 138% FPL would potentially do even more to extend family planning access than TWHP. If Texas takes steps toward accepting these federal funds to allow low-income adults to gain coverage, ensuring that our Medicaid agency is equipped to track access to and use of family planning care will be even more important.

Remaining Challenges

The solid commitment the 2013 Legislature made to funding family planning services is a huge and necessary step forward, but is not sufficient alone to ensure low-income women have the tools they need to plan the size and timing of their families. Provider capacity remains an obstacle to service delivery; it could take much longer to rebuild the women's health safety net than it did to dismantle it. Anecdotal evidence indicates that some of the 56 clinics that shut down in the last two years will try to reopen, while others will not. The major challenges to restoring family planning access in Texas are explained below.

Challenges to Getting the New Expanded PHC Program Off of the Ground

DSHS has opted to maintain the existing, smaller PHC program as-is and create a new Expanded Primary Health Care program (EPHC) focused on priority preventive and primary care for women, alongside of it. DSHS hopes to have EPHC contracts in place by November 1, 2013. Providers can begin building their capacity to deliver expanded women's health services and conduct outreach to clients once funding awards are announced, but it will take time to ramp up. The bumps and delays expected with the roll-out of a new initiative along with the time it will take for providers to ramp up their capacity may mean that all EPHC funding may not be spent in the first year, or possibly the first biennium. **DSHS Rider 89** allows DSHS to roll over unspent funds from the first year to the second, helping to facilitate the ramp up.

The Texas Women's Healthcare Coalition has raised concerns about the early roll-out of EPHC, noting that neither the program's Request for Proposals nor the draft 2014 Policy Manual explicitly prioritize the provision of family planning or ensure that 60 percent of the patients (100,000 women a year) and services within the program are family-planning-related. Without specific performance targets related to the provision of contraceptive care and the ability to prioritize funding providers with a demonstrated ability to efficiently provide family planning care, it will be challenging for EPHC to deliver on its goals of producing savings in Medicaid and restoring access to family planning for 100,000 women.

No Single Focus on Ensuring Statewide Access to Family Planning

The clinic closures resulting from the 2011 budget cuts and tiering left many counties and areas of the state without DSHS-funded family planning services. Similar regional access issues resulted from the removal of Planned Parenthood from TWHP. Although funding for family planning service levels was restored, it is now spread among four programs administered by two state agencies and one private provider network. These programs do not currently share a unified goal, of ensuring geographic access to services statewide (which would entail, in part, restoring services to areas recently left without any), nor does Texas have systems to analyze and track the combined capacity and impact of the four programs. The disjointed nature of family planning funding in Texas today will make it difficult to ensure that funding and services are distributed throughout all parts of the state, in the aggregate across multiple programs, in a manner that best meets the need.

Exclusion of Specialized Family Planning Clinics Adds to Capacity Issues

Historically, Texas relied on specialized family planning clinics to provide much of the provider capacity in WHP and the DSHS Family Planning program. Planned Parenthood may be the best- known specialized family planning clinic, but there are (or were) many other non-profit clinics that specialize in providing efficient family planning services (and not abortion) in communities throughout the state. The 2011 and 2013 Legislatures' goal of de-funding Planned Parenthood resulted in shifting funding from specialized family planning clinics to other providers who deliver family planning services along with other primary care services as described below. While encouraging the delivery of family planning in primary care settings has benefits for some clients, the benefits come with tradeoffs in terms of more limited provider capacity. In some cases, specialized family planning clinics were viable in communities that could not support a comprehensive primary care clinic. The primary care clinics that have been tasked with adding considerable family planning capacity may have difficulty achieving the efficiencies, expertise and geographic reach of the specialized clinics.

The following policies have shifted family planning funding away from specialized family planning clinics:

- **Tiering in DSHS Family Planning**. As discussed above, the 2011 Legislature implemented and the 2013 Legislature maintained a funding allocation system in the DSHS Family Planning program that prioritizes primary care settings over family planning clinics. Specialized family planning clinics comprise the lowest priority tier, and in 2012-13 received no funding from the program.

- **Family Planning Restoration Comes through Primary Care Providers**. The bulk of family planning funded through DSHS used to come through the Family Planning program, but the 2014-15 family planning restorations instead shifted much of the state's family planning funding to the new Expanded Primary Health Care program. Contractors in this program will have to provide (directly or through subcontract) a range of primary care services. While specialized family planning clinics are not specifically ineligible, they may need to first begin providing some primary care services to receive funding. In addition, some family planning clinics have expressed concerns that they will be excluded from EPHC, discouraged from applying, or disadvantaged in scoring if they also accept federal Title X family planning funding.

- **Planned Parenthood Barred from DSHS Family Planning, EPHC, and TWHP**. The Legislature's attempts to defund Planned Parenthood include efforts that more broadly target specialized family planning clinics (as discussed above) and others that narrowly target "affiliates" of abortion providers. TWHP barred participation by Planned Parenthood (formerly the largest provider in the program) and other affiliates of abortion providers in 2012. In 2013, the Legislature included riders in the budget limiting funding in the DSHS Family Planning program and the Expanded Primary Health Care program to providers eligible to participate in TWHP, making Planned Parenthood ineligible. Excluding such a large and established provider creates sizable hurdles to ensuring a sufficient provider base and jeopardizes access to family planning for many women in communities around the state.

Moving Forward on Family Planning

The debate around abortion legislation during the 2013 special sessions highlighted the need to take a closer look at state efforts to prevent unintended pregnancies. More than 40 percent of unintended pregnancies among low-income women end in abortion.[6] If the goal is to reduce abortion, reducing the incidence of unintended pregnancies is the key, and that requires accessible and affordable family planning services. Senators from both parties spoke during the special session of the need to increase access to family planning, and Senator Jane Nelson

appears to have secured leadership support for an interim charge focused on reviewing family planning access and programs.

As part of an interim study, the Legislature should:

- evaluate the demonstrated capacity and geographic distribution of family planning contractors in DSHS programs, TWHP providers (those who have actually provided services in the program as opposed to those who have been certified as eligible to participate), and Title X providers with the goal of ensuring adequate access in relation to the need in communities across the state across all payers;
- seek information on whether sufficient alternate providers are readily available to former clients of clinics that have closed or are no longer eligible to participate in state programs and identify where service gaps persist;
- study ways to better coordinate the various publicly funded family planning programs in a manner that improves the number of women served, ensures adequate provider capacity statewide, and maximizes savings to the state;
- evaluate the effects of tiered funding priorities in the DSHS Family Planning program and the affiliate ban rule in TWHP, DSHS Family Planning, and EPHC on access to family planning services statewide and on the prevalence of unintended pregnancy, number of births, and Medicaid costs to the state; and
- evaluate the ability of an adult Medicaid expansion or a “Texas solution” for expansion to increase access to family planning and reduce the prevalence of unintended pregnancy. Accepting the coverage and funding available under the ACA would be the most cost-effective policy option to ensure all low-income, U.S. citizen adults have access to needed preventive care including family planning—all care, not just family planning services, would be funded with a 90 percent federal match or better.

With sufficient funding to restore former client service levels and renewed interest by the Legislature on preventing unintended pregnancies, Texas has a great opportunity to evaluate what is and is not working in its family planning programs, and take necessary steps to ensure access to critical preventive care and contraception.

Endnotes

[1] University of Texas Population Research Center, TxPEP Family Planning Data Finder, *DSHS Family Planning Clinic Closures*, www.prc.utexas.edu/txpep/#state

[2] Budget "riders" provide directions for use of state budget funds

[3] Kari White, Ph.D., Daniel Grossman, M.D., Kristine Hopkins, Ph.D., and Joseph E. Potter, Ph.D., "Cutting Family Planning in Texas," *New England Journal of Medicine*, September 27, 2012, www.nejm.org/doi/full/10.1056/NEJMp1207920

[4] Becca Aaronson, "Texas Women's Health Program Claims Decline," *Texas Tribune*, July 30, 2013, www.texastribune.org/2013/07/30/services-provided-texas-womens-health-program-decl/

[5] Guttmacher Policy Review, Winter 2012, "Medicaid Drives Upward Trend in Public Funding for Family Planning Services," www.guttmacher.org/pubs/gpr/15/1/gpr150121.html

[6] Lawernce B. Finer and Mia R. Zolna, "Unintended pregnancy in the United States: incidence and disparities, 2006," *Contraception*, 2011, 84(5):478-485, www.guttmacher.org/pubs/journals/j.contraception.2011.07.13.pdf

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