

PARENTAL NOTIFICATION FOR FAMILY PLANNING SERVICES: TITLE X REGULATIONS

MINI BRIEF NUMBER MB83214

AUTHOR:

Susan Bailey

Education and Public Welfare Division

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MAJOR ISSUES SYSTEM

DATE ORIGINATED 02/18/83

DATE UPDATED 05/18/83

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## ISSUE DEFINITION

The Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, amended title X of the Public Health Service Act to encourage, if practical, parental involvement when family planning services are provided to minor children. To implement this provision the Department of Health and Human Services (DHHS), in February 1982, proposed regulations to require title X projects to notify the parents of unemancipated minors when prescription drugs or devices are provided to these adolescents by family planning clinics. Final regulations were issued on Jan. 26, 1983. They were scheduled to go into effect Feb. 28, 1983. On Mar. 2, 1983, a U.S. District Court judge in the District of Columbia issued a permanent injunction forbidding the government from implementing this rule. DHHS is appealing this ruling. Concern has been expressed about the possible effect these regulations will have on the provision of family planning services to minors. Some are also concerned that DHHS may have exceeded its authority by requiring rather than encouraging parental notification.

## BACKGROUND

### Background

The Voluntary Family Planning Program authorized under title X of the Public Health Service Act currently provides support for (1) family planning clinics, (2) training of family planning personnel, and (3) development and dissemination of family planning and population growth information to all persons desiring such information. Title X activities were first established when Congress enacted P.L. 91-572, the Family Planning Services and Population Research Act of 1970, to expand and improve the availability of family planning services to all persons desiring them, particularly low-income women. Since 1970, the program has been reauthorized and amended several times, most recently by the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, which extended the authority through 1984.

Most of the title X funds are awarded to family planning clinics. These clinics offer a broad range of family planning methods and services, including natural family planning methods, infertility services, and services for adolescents. In 1978, in response to concern over increased teenage sexual activity and pregnancy, Congress included provisions in title X requiring that family planning clinics provide services for adolescents. At this time, Congress also increased title X authorization levels to allow the program to place greater emphasis on reaching teenagers and making family planning services available to them before an unwanted pregnancy occurs. Persons aged 19 and under, currently represent about 34% of clients served by title X clinics. P.L. 97-35 amended title X to require family planning projects to encourage families to participate when services were provided to them by projects, if at all possible.

In February 1982, DHHS issued its proposed parental notification regulations. These regulations stipulated that parents or guardians must be notified within 10 working days following the provision of prescription contraceptives by a title X clinic to their minor child. The clinic must

verify by certified mail, or other similar documentation, that the notification has been received. A clinic may not comply with this regulation if its director determines notification will result in physical harm to the minor by parent or guardian. The Department received 60,000 individual comments and 1,200 letters from various organizations as well as form letters and petitions concerning these regulations. However, it did not provide statistics on the number of persons for or against the regulation. DHHS issued final regulations with only minor changes on Jan. 26, 1983. These regulations were scheduled to go into effect Feb. 28, 1983, but on Feb. 14, a U.S. District Court judge in New York granted a preliminary injunction against the rule. According to the judge, the requirement appeared to contradict Congressional intent to simply encourage rather than mandate parental involvement. On Feb. 18, at U.S. District Court judge in the District of Columbia also temporarily stayed the Government's proposed rule. On Mar. 2, the judge granted a permanent injunction against the rule. DHHS is appealing this ruling.

### Analysis

Supporters of this regulation contend that some kind of notification is necessary to give parents the opportunity to participate in family planning decisions their teenagers make. They believe family planning clinics currently take the position that families are not necessary to this process. As a result, supporters claim that these clinics have not been demonstrably effective in reducing the rate of teenage pregnancies. Between 1973 and 1978, the pregnancy rate has increased from 50 pregnancies per 1,000 to 59 for women aged 10-19. Supporters of the regulation believe notification could encourage parents and teens to communicate better about the appropriate use of contraceptives. Others predict greater communication could encourage teenagers to abstain from sexual activity. In addition, supporters emphasize the regulation does not interfere with services because notification does not take place until after the service has been rendered.

Advocates of the rule also believe parental rights and responsibilities outweigh minors' rights to confidential family planning services mainly because contraceptive use can pose hazards to teenager's health. Although the pill and intrauterine device (IUD) have been shown to be safe for most women, studies indicate a wide array of side effects that can occur as a result of their use. Increased risks of ectopic pregnancy, infection of the ovaries and fallopian tubes, and infertility after discontinuance have been cited as side effects of IUD use. Blood-clotting and strokes can occur in connection with oral contraceptive use.

Some believe the regulation is too weak and that parental permission should be required for persons under 18 to receive prescription contraceptives.

Critics maintain that the rule exceeds congressional intent by mandating, rather than simply encouraging, parental involvement. They cite studies which show that teenagers attend family planning clinics because they are assured of confidentiality. Some claim that the proposal will not deter teenagers from sexual activity but will discourage many who would otherwise seek contraceptives from attending clinics. As a result, critics believe, more unwanted pregnancies and abortions would occur. A 1979-1980 survey, which sought to determine the effects of a parental notification regulation for prescription contraceptives on teenagers under 18 enrolled in family planning clinics, found that 1 in 4 young people currently using clinic services would

stop if such a proposal became effective. The great majority of those surveyed would use less efficient methods or would abandon contraception. Only 2 in 100 said they would stop sexual activity.

Opponents fear notification would damage family relationships. Parents, hurt or angry because their child did not confide in them, might punish the child physically or turn her out of their house. In addition, some charge that the regulation discriminates against women, since only females use prescription contraception.

Others question the justification of the regulation for health reasons. They contend the risks involved with pregnancy and childbirth exceed those associated with using contraceptives, citing evidence which shows that the mortality rate from pregnancy, birth and delivery complications is 60% higher than normal for women who become pregnant before they are 15. Other studies indicate the most common medical problems associated with the use of oral contraceptives occur among women who are over 30. Opponents also cite certain health benefits which occur as a result of oral contraceptive use, including the reduced likelihood of developing benign breast disease or ovarian cysts.

Some family planning clinics have complained that the additional costs to implement these regulations will cause financial hardships for them, especially after recent funding reductions.