



Written by [Raven Clabough](#) on February 19, 2020

## Judge Blocks HHS “Protect Life Rule”

A federal judge has ruled against a Health and Human Services’ pro-life rule that includes multiple provisions to ensure Americans’ taxpayer dollars are not used to fund abortions.

The “Protect Life Rule” requires Planned Parenthood and other abortion businesses to completely separate their abortion business from their taxpayer-funded services to ensure compliance with federal law, which prohibits the use of taxpayer dollars to fund abortions. As such, organizations that receive Title X funds can no longer provide or refer patients for abortions and would have to separate their abortion business from their other healthcare services to continue to receive funding under the Title X program.



Planned Parenthood announced in August it would be leaving the Title X family planning program to avoid compliance with the rule.

Critics contend Planned Parenthood’s decision to withdraw from the program underscores the fact that the organization’s number one priority is abortion.

“Planned Parenthood could have chosen to make the investment to restructure to be compliant with federal law, or have chosen to abandon abortion altogether and focus instead on women’s health,” said Ashley McGuire, senior fellow with the Catholic Association. “Instead, the abortion chain is walking away from tens of millions of dollars of money earmarked to help low income women.

Planned Parenthood’s decision proved to be fruitful for dozens of other health facilities, which received Planned Parenthood’s \$33 million in reallocated funds.

“These awards also prioritize filling service gaps left by the grantees that chose to leave the Title X program rather than comply with the law,” HHS said in September. “HHS is committed to ensuring that Americans have access to high-quality, affordable family planning services, contraceptive care, cancer and HIV screenings, health education, and other health and social services.”

Despite efforts by Planned Parenthood, multiple Title X grantees, and nearly two dozen states to block the Trump administration’s rules, a three-judge panel on the 9<sup>th</sup> U.S. Circuit Court of Appeals lifted preliminary injunctions against the new rule last June. And an 11-judge panel of the 9<sup>th</sup> Circuit refused to reinstate the injunction during a September hearing in San Francisco, the *LA Times* reports.

Last week’s [ruling](#), however, is in response to suit filed by the City of Baltimore, where officials claimed the rule hurts residents’ access to healthcare. The case is one of multiple cases filed across the nation challenging the rule, many of which are still pending.



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In the suit filed by the City of Baltimore on behalf of its health clinics, the city's lawyers took issue with two key provisions of the rule, according to the ruling: the counseling restriction that prohibits health professionals from providing patients with abortion referrals in the absence of an emergency and the separation requirement, which requires all abortion services be physically separated from clinics.

According to Judge Richard D. Bennett's ruling, the rule "violates the Administrative Procedure Act in that it is arbitrary and capricious, being inadequately justified and objectively unreasonable." To meet the "arbitrary and capricious standard," the court must determine whether the offending agency has,

relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

Judge Bennett contends the rules meet this standard for three reasons: 1.) HHS inadequately explained its decision to "disagree" with the ethical assertions of major medical organizations; 2.) HHS failed to account for reliance interests; 3.) HHS did not account for compliance costs.

Judge Bennett granted declaratory relief to Baltimore City and permanently enjoined the rule from being implemented in the State of Maryland.

But while the ruling certainly marks a blow to the pro-life movement, Judge Bennett sided with HHS on several counts. He determined HHS's final rule complied with the Administrative Procedure Act's rule-making procedures and that the final rule does not violate Title X. The judge also dismissed claims by the plaintiffs that the final rule violates First and Fifth Amendment rights.

Predictably, Planned Parenthood of Maryland CEO Karen J. Nelson praised the ruling to *Courthouse News* this week. "We thank the court for recognizing the harm of the Trump-Pence administration's gag rule on Title X, which makes it harder for people with low incomes to get birth control and preventive care," Planned Parenthood of Maryland CEO Karen J. Nelson said in a statement to *Courthouse News* on Tuesday.

And though the HHS rule continues to be litigated, Americans overwhelmingly are opposed to taxpayer-funded abortions, according to a [2019 Marist poll](#), even amongst Independents and Democrats.

"What the abortion lobby is unable to achieve through popular opinion, they run to friendly courts to impose," Marjorie Dannenfelser, president of the Susan B. Anthony List, told LifeSiteNews. "Abortion is not 'family planning,' and a strong majority of Americans — including 42 percent of independents and more than one third of Democrats — oppose taxpayer funding of abortion."

*Courthouse News* reports the Trump administration is expected to appeal Judge Bennett's ruling.

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