



Profit. No Matter What.

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

September 23, 2015

Preface

On October 26, 2011, Alliance Defending Freedom¹ 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*. The 2014 edition, released on July 23, 2014, was entitled *Profit. No Matter What. Alliance Defending Freedom's Annual Report on Publicly Available Audits of Planned Parenthood Affiliates and State Family Planning Programs* in order to reflect Planned Parenthood's marketing and motto, "Care. No matter what."²

This fourth 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 fifty-nine separately incorporated affiliates, and other abortion and family planning facilities, particularly with respect to federal and state Title XIX-Medicaid reimbursements. Updates in this 2015 edition include a new federal audit of the Texas Health and Human Services Commission, specifically aimed at Planned Parenthood of North Texas; new federal audits of state family planning programs in California and Nebraska, totaling nearly \$12 million; 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

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

² See Alliance Defending Freedom's response to the Planned Parenthood motto at Catherine Glenn Foster, *Planned Parenthood: A Rose by Any Other Name...?*, ALLIANCE DEFENDING FREEDOM (Nov. 27, 2012), available at <http://www.adflegal.org/detailspages/blog-details/allianceedge/2012/11/27/planned-parenthood-a-rose-by-any-other-name>.

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.³

³ Over the last ten years (FY 2005 – FY 2014), Planned Parenthood affiliates received over \$4.26 billion in taxpayer dollars. According to their own annual reports, Planned Parenthood has received government funding in the following amounts from 2002-2014:

FY 2002: \$240.9 million	FY 2007: \$336.7 million	FY 2011: \$538.5 million
FY 2003: \$254.4 million	FY 2008: \$349.6 million	FY 2012: \$542.4 million
FY 2004: \$265.2 million	FY 2009: \$363.2 million	FY 2013: \$540.6 million
FY 2005: \$272.7 million	FY 2010: \$487.4 million	FY 2014: \$528.4 million
FY 2006: \$305.3 million		

FY 2013 was the first year since FY 2002 that Planned Parenthood’s self-reported government funding has decreased; the funding decreased further in FY 2014.

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 Aims Radio Ad for Obama*, WALL ST. J., Oct. 31, 2012, *available at* <http://blogs.wsj.com/washwire/2012/10/31/planned-parenthood-pac-aims-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](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-563335k9.php>.

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 \$129.7 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 estimating that \$14.4 billion of federal Medicaid expenditures for fiscal year 2013 were improper payments.⁴ 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 \$129.7 million in overbillings. 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. And as Alliance Defending Freedom and the Charlotte Lozier Institute have documented, there are 13,540 clinics providing whole-woman healthcare in the United States, and only 665 Planned Parenthood facilities.⁵

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 \$528 million in FY 2014 – by Planned Parenthood

⁴ 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).

⁵ See Sarah Zagorski, *If Planned Parenthood Loses Taxpayer Funding, This Map Shows Health Clinics That Will Take Its Place*, LIFE NEWS.COM, Aug. 18, 2015, <http://www.lifenews.com/2015/08/18/if-planned-parenthood-loses-taxpayer-funding-this-map-shows-health-clinics-that-will-take-its-place/>.

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 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 restrictions on the funding of abortion.⁶ 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”⁷ 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

⁶ 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>).

⁷ 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).

abortions and [other, unrestricted] funds”⁸ 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 letter from seventy-two Members of Congress and GAO investigation, the Oversight and Investigation letter and 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.

⁸ 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.

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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.⁹

⁹ Planned Parenthood Federation of America, Inc. directs all the activities, programs, services, and pronouncements of each of its affiliates (Amended and Restated Bylaws of the Planned Parenthood Federation of America, Inc. As Amended by the Membership at Its Meeting on March 29, 2008, Article XI, sections noted below). Affiliates must:

- “conform[] to the purposes, written policies and standards of PPFA” (2)
- “publicly support[] the purposes and policies of PPFA” (2)
- “develop a program to further those purposes and policies” (2)
- “have the words ‘Planned Parenthood’ in its name” (3)
- “provide services consistent with the purposes of PPFA” (5)
- “participate in the Risk Management and Quality Management Programs approved by the Membership” (5)
- “participate in the National Insurance Program approved by the Membership or have comparable insurance” (5)
- Participate in public affairs activities (5)
- Direct certain programs, e.g., educational programs (5)
- Pay National Program Support (10)

Additionally, “[e]ach Affiliate which provides medical services shall provide such services in conformity with the PPFA Medical Standards and Guidelines.” (5) PPFA reviews annual audits and management letters of each affiliate. (4, 5, 10) PPFA may impose administrative probation if an affiliate's audited financial statements report a deficit in expendable net assets. (10) According to the cease and desist procedure, PPFA may direct an affiliate's medical and other activities. (10) Upon an affiliate's disaffiliation, “PPFA shall make appropriate arrangements for continuity of patient care.” (10) And PPFA's National Office “provide[s] the leadership required for policy and program initiatives,” “administers the standards maintained by the Membership,” “provides a structure that encourages Affiliates to participate in the planning and executing of policies and plans,” “provid[es] leadership, support, and services,” fundraises in the name of affiliates, and “provide[s] guidance and counsel on [some] legal matters.” (12)

See also Steven H. Aden, *Driving Out Bad Medicine: How State Regulation Impacts the Supply and Demand of Abortion*, 8 UNIV. OF ST. THOMAS J. OF LAW & PUB. POL'Y 14, 19-23 (2013).

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.¹⁰

There are forty-five 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, two 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-five audits found numerous improper practices resulting in significant Title XIX-Medicaid overpayments of nearly \$8.5 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

¹⁰ 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).

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.

Act lawsuit, auditors and investigators have specifically identified **Planned Parenthood affiliates as the source of at least \$12.8 million in waste, abuse, and potentially fraudulent overbilling and penalties.** Former Planned Parenthood employees and others allege many millions more.

Furthermore, **fifty-seven federal audits of state family planning programs by HHS-OIG found over \$121 million in overbilling,** yielding a total of over \$129.7 million in overbillings based on audits alone. In the last year, audits limited in location, time frame, and type of service examined have found overbilling to the federal program of as much as 17.32%¹¹ and 14.58%¹² of the federal share of billed costs; other audits have found overbilling as high as 53.93% of the federal share.¹³ Of the 57 federal audits, the federal share of the audited amounts is known for 55; of these, 31 audits found 10% or more overbilling. These federal audits have detailed “unbundling” or “fragmentation” 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.¹⁴ In New York alone

¹¹ Audit A-07-14-01136, *Nebraska Incorrectly Claimed Federal Reimbursement for Inpatient Claims with Sterilization and Delivery Procedures for the Period April 1, 2011, Through December 31, 2013*, found \$268,285 in federal overbilling of the total \$1, 549,241 in federal share of claims, or 17.32%.

¹² Audit A-09-13-02019, *California Improperly Claimed Enhanced Federal Reimbursement for Medicaid Family Planning Services Provided in East Los Angeles County*, found \$4,049,335 in federal overbilling of the total \$27,776,933 in federal share of claims, or 14.58%.

¹³ See, e.g., Audit A-02-05-01009, *Review of Abortion-Related Laboratory Claims Billed as Family Planning Under the New York State Medicaid Program*, which found \$3,235,640 in federal overbilling of the total \$5,999,939 in federal share of claims, or 53.93%.

¹⁴ 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; 4 additional claims were for services performed in conjunction with an abortion. 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. This audit also cited Planned Parenthood as stating that they “believe[] that nearly all the services they provide are related to family planning.” However, the audit determined that “the providers improperly claimed, for example, services to pregnant women, treatment for sexually transmitted diseases, and counseling visits unrelated to family planning services.”

during one four-year audit period, it appeared that *hundreds of thousands* of abortion-related claims were billed unlawfully to Medicaid.

Three federal audits specifically identify 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 million¹⁵ to the New York State Medicaid family planning program. These audits likely led to the seven state audits of New

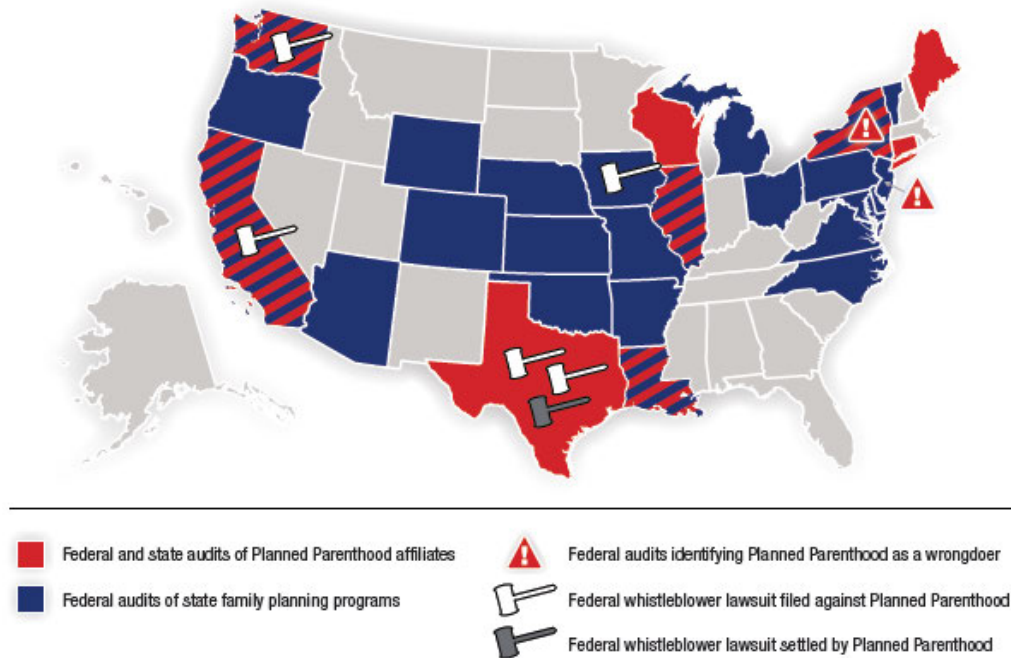
Another federal audit (Review of Abortion-Related Laboratory Claims Billed as Family Planning Under the New York State Medicaid Program, A-02-05-01009, July 2007) found that 98 out of the 100 sample claims, of a universe of 633,968 abortion-related claims, were improper. One laboratory provider, which 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., 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. Of all the federal audits with a known sampling frame, this audit found the highest percent of overbilling: 53.93% of the federal share.

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.

¹⁵ 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.

York Planned Parenthood affiliates; thirteen months after a federal audit of New York State that identified “especially Planned Parenthoods” as incorrectly claiming services as family planning, New York State released its first known audit report of a Planned Parenthood affiliate.¹⁶ **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.”**¹⁷

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



¹⁶ 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.’”

¹⁷ 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-five audits of Planned Parenthood, the audited dates are known for forty 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 \$95,067.90. Of the fifty-seven audits of state family planning programs, the audited dates are known for all audits; as much as \$8,347,640.00 was overbilled in one audited year; the average overbilled amount per audited year in a single audit was \$724,261.25. And more audits of Planned Parenthood and of state family planning programs are forthcoming, as well.¹⁸

¹⁸ See, e.g., Sarah Zagorski, *If Planned Parenthood Loses Taxpayer Funding, This Map Shows Health Clinics That Will Take Its Place*, LIFENEWS.COM, Aug. 18, 2015, <http://www.lifenews.com/2015/08/18/if-planned-parenthood-loses-taxpayer-funding-this-map-shows-health-clinics-that-will-take-its-place/> (listing at least twelve states that have launched investigations into Planned Parenthood this year); 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>.

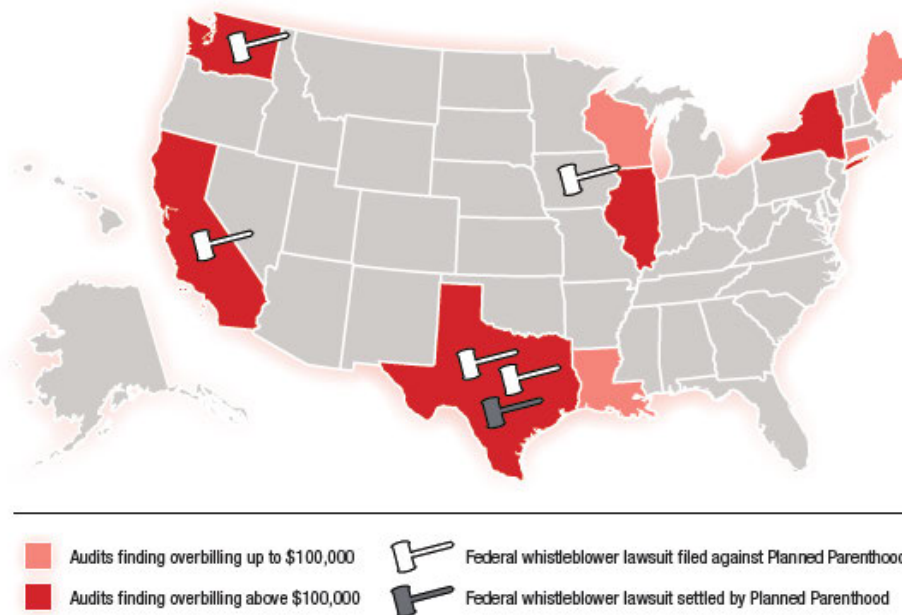
TYPES OF UNLAWFUL BILLING IDENTIFIED IN AUDITS

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” or “fragmentation”);
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, including services for men and for women who were already pregnant, sterilized, or postmenopausal;
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-five known recent 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, two 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 \$8,496,533.96 in waste, abuse, and potential fraud:

- California (2 audits of 2 affiliates): \$5,213,645.92¹⁹
- Connecticut: \$18,791
- Illinois: \$387,000
- Louisiana: (2 audits of 1 affiliate): \$6,147.18

¹⁹ 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 (2 audits of 2 affiliates): \$538,703.10 - \$658,735.97
- Washington (3 audits of 2 or 3 affiliates²⁰): \$640,595.88
- Wisconsin (26 audits of 1 affiliate): \$43,272.80

The audited dates are known for forty 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 \$95,067.90.

Planned Parenthood has fifty-nine affiliates,²¹ and fifteen affiliates, or approximately twenty-five percent, have been audited, though each audit has been very limited in scope, detail, and time frame. And 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.²²

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

²⁰ 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.

²¹ 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 2013 Alliance Defending Freedom audit report.

²² See *Planned Parenthood Cuts Ties with 5 Clinics*, MIAMI HERALD (July 2, 2008).

personally took about \$5,000 from company funds – not her first offense – but was promoted to Chief Operating Officer.²³

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 2013.²⁴

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.²⁵ 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.²⁶

²³ 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/>.

²⁴ Documentation on file with Alliance Defending Freedom. Alliance Defending Freedom is working to obtain full audit records.

²⁵ See Mark Lisher, *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>.

²⁶ 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/>.

Planned Parenthood affiliates have also been fined or settled in cases involving wrongful death / medical malpractice,²⁷ failure to report child sexual abuse and rape,²⁸ and regulatory violations.²⁹

Over the last ten years (Planned Parenthood fiscal years 2005-2014), the average annual government funding received by Planned Parenthood and its affiliates has been \$426.48 million. 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.

²⁷ 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, <http://www.lifenews.com/2014/02/07/planned-parenthood-pays-2-million-settlement-after-killing-black-teen-in-abortion/>.

²⁸ 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.

²⁹ 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 Audits

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

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.”³⁰ 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.³¹

Thirty PPGG medical personnel additionally sent a “letter of concern” to PPGG and PPFA management, detailing numerous problems including “misappropriation and mismanagement” of funds.³²

Connecticut Audit

The U.S. HHS-OIG conducted an audit³³ of Planned Parenthood of Connecticut Inc. & Subsidiar., finding \$18,791 of overbilling.

³⁰ 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/>.

³¹ *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/>.

³² *See id.*

³³ 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.

Illinois Audit

As the result of an audit³⁴ 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 findings of overbilling Medicaid and failure to document services allegedly provided, primarily contraceptives.³⁵ 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.³⁶

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.³⁷

³⁴ This audit, case number 1074160, was conducted of the period January 1, 2006, to December 31, 2007.

³⁵ 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>.

³⁶ 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>.

³⁷ 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 Audits

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

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.³⁸

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.³⁹

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.⁴⁰

³⁸ 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.

³⁹ 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.

⁴⁰ 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 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 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 audit⁴¹ 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 audit⁴² 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

New England (Dec. 14, 2010) (on file with Alliance Defending Freedom). Alliance Defending Freedom is working to obtain full records on the audit process.

⁴¹ Audit # 08-3045. Alliance Defending Freedom is working to obtain full audit records.

⁴² 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, 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 § 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 audit⁴³ 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:

⁴³ The audit (06-6696) was conducted of the period Jan. 1, 2004, through Dec. 31, 2005.

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.
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 audit⁴⁴ 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 audits⁴⁵ 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

⁴⁴ 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.

⁴⁵ 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, 2009Z33-0480, Feb. 24, 2010) were conducted of the period Jan. 1, 2006, through Dec. 31, 2008.

ensure that ancillary services such as lab and ultrasound procedures related to prenatal care are not billed directly to Medicaid.

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 ⁴⁶	\$0 ⁴⁷	\$0	\$0
Initial, follow-up, and postpartum services billed incorrectly after delivery ⁴⁸	\$162.96 ⁴⁹	\$0	\$24.30
Laboratory services billed fee for service that are included in the PCAP rate ⁵⁰	\$3,117.75 ⁵¹	\$169.55	\$291.77
Ultrasound services and diagnostic procedure services billed fee for services that are included in the PCAP rate – facility billed ⁵²	\$25,802.60 ⁵³	\$0	\$4,272.09

⁴⁶ 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.

⁴⁷ 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.

⁴⁸ 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.

⁴⁹ 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.

⁵⁰ 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.

⁵¹ PPHP billed laboratory services ordered during PCAP visits in addition to the PCAP clinic rates, resulting in duplicate payments.

⁵² 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.

Ultrasound services and diagnostic procedure services billed fee for services that are included in the PCAP rate – physician billed ⁵⁴	\$68,105.40 ⁵⁵	\$9,045.00	\$3,804.56
Vitamin and iron supplement services billed fee for service that are included in the PCAP rate ⁵⁶	\$3,995.86	\$1,315.62	\$1,895.16
Total	\$112,490.31⁵⁷	\$12,031.29⁵⁸	\$11,539.48⁵⁹

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

Texas Audits

There are two known audits of Planned Parenthood affiliates in Texas. In sum, they uncovered overpayments of at least \$640,595.88.

Texas Audit I

A 2009 audit⁶⁰ 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,

⁵³ 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.

⁵⁴ 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).

⁵⁵ Using the same procedures as with claims improperly filed by facilities, the audit identified obstetrical ultrasounds and diagnostic procedures that were billed in duplicate.

⁵⁶ 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.

⁵⁷ 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.

⁵⁸ 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.

⁵⁹ 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.

⁶⁰ 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.

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 reasons,⁶¹ 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

⁶¹ 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>.

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 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.

Texas Audit II

In March 2015, the U.S. Department of Health and Human Services, Office of the Inspector General, released an audit⁶² of the Texas Health and Human Services Commission, focusing solely on billings by Planned Parenthood of North Texas to Medicaid and the Texas Women's Health Waiver. The audit found three categories of overbilling, resulting in a total overpayment of \$129,028 (\$67,019 from Medicaid and \$62,009 from the waiver program).

1. Unrelated to family planning: 5 of 105 sample records were not billed for family planning purposes, including for four clients who had already been sterilized.
2. Incorrect billing: 51 of 210 sample records were incorrectly billed, such as duplicate billing.
3. Missing documentation: 89 of 210 sample records lacked supporting documentation.

Eighteen percent of the Medicaid sample (\$4,824 of \$26,313) was found to be overbilled, and eleven percent of the waiver sample (\$2,827 of \$26,477). The Texas Health and Human Services Commission indicated that it would recover the overpayments from Planned Parenthood of North Texas.

⁶² The audit (Texas Claimed Unallowable Federal Reimbursement for Some Family Planning Services, A-06-11-00016) was conducted of the period Mar. 1, 2007, through Sept. 30, 2008.

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.⁶³

Washington Audit II – Inland Northwest, 2007-2009

A 2007-2009 audit⁶⁴ of the Planned Parenthood of the Inland Northwest (PPINW) affiliate⁶⁵ 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.⁶⁶ 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 regulations⁶⁷ relative to claims paid from Mar. 15, 2004, to Feb. 26, 2007, for services provided under the Health &

⁶³ 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.

⁶⁴ The audit (MA 07-13, July 20, 2009) was conducted May 8-10, 2007.

⁶⁵ Doing business as Planned Parenthood of Spokane.

⁶⁶ 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/>.

⁶⁷ Specifically, compliance with regulations stated in the Revised Code of Washington (RCW), Washington Administrative Code (WAC), the provider's Core Provider Agreement with DSHS, the Schedule of Maximum Allowances, Billing Instructions, and Numbered Memoranda.

Recovery Services Administration (HRSA) programs.⁶⁸ 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.⁶⁹ 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 member occurred, and one instance in which there was no chart note or other signed documentation to substantiate a billed pregnancy test visit.

⁶⁸ Procedures paid at \$0 and Medicare crossover claims were excluded.

⁶⁹ 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.

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” / “fragmentation” 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 \$345,000.⁷⁰

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 audit⁷¹ 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.

In response to audits conducted of two other family planning facilities, Family Planning Health Services Inc. and NEWCAP Inc., Beth Hartung, president of the Wisconsin Family Planning and Reproductive Health Association, said, “We’re all operating the same way. It would mean, quite frankly, that we would all close.” Hartung admitted the distribution profits underwrite the cost of other services offered at local facilities, some of which perform abortions. And Nicole Safar, public

⁷⁰ 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/>.

⁷¹ Audit # 09-04-08, of Yakima County. Alliance Defending Freedom is working to obtain full audit records.

policy director at Planned Parenthood of Wisconsin, the state's largest recipient of this funding, said audits would trigger “clinic closing” statewide and questioned whether politics played a role in audits.⁷²

Wisconsin Audits I-IV - August 2006

August 2006 audits⁷³ 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.

⁷² See Ben Johnson, *Planned Parenthood: We'll Have to Close Our Clinics if Gov. Walker Investigates Us for Medicaid Fraud*, LIFESITENEWS, Dec. 2, 2014, <http://www.lifesitenews.com/news/planned-parenthood-warns-it-will-be-forced-to-close-clinics-if-scott-walker>.

⁷³ 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 Sept. 30, 2003.

Wisconsin Audit V - September 2006

A September 2006 audit⁷⁴ of payments to Planned Parenthood of Wisconsin found that Planned Parenthood was billing for duplicate and incorrect services, with overpayments of \$74.28.

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 audits⁷⁵ 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

⁷⁴ The audit (2006 05090) was conducted of the period Jan. 1, 2005, through Dec. 31, 2005.

⁷⁵ 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 Sept. 30, 2005.

- # 2007 27407 (Madison): \$467.02
- # 2007 29154 (Sheboygan): \$381.99
- # 2007 49325 (Waukesha): \$404.59
- # 2007 66774 (Milwaukee): \$2,533.46
- # 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 audit⁷⁶ 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.

⁷⁶ The audit (2010 53629) was conducted of the period Jan. 1, 2009, through Dec. 31, 2009.

Wisconsin Audits XV-XXV - December 2010

December 2010 audits⁷⁷ 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.

⁷⁷ 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 audit⁷⁸ 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.

⁷⁸ 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.⁷⁹ 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 Wisconsin, audits conducted of Family Planning Health Services Inc. (FPHS) and NEWCAP Inc. uncovered \$3.5 million in overbilling. FPHS had billed for

⁷⁹ Audit of Tapestry Health Systems, Inc., Financial Management Systems Related to the Title X Family Planning Program, A-01-00-01504, May 2000.

non-covered services and overbilled for more than the actual acquisition cost for drugs such as oral contraceptives, and had violated the “written guidelines of the 340B Drug Pricing Program.” Wisconsin sought repayment of \$2,324,750.73. After finding similar violations at NEWCAP facilities, Wisconsin sought repayment of \$1,169,837.10. However, after the Wisconsin family planning association and the Wisconsin Planned Parenthood affiliate complained to the media,⁸⁰ and the audited facilities submitted written objections, the Wisconsin Department of Health Services reduced the amount due to \$229,781.63 (\$44,706.83 from FPHS and \$185,074.80 from NEWCAP), and indicated that it is likely to reissue written guidance to bill only for actual acquisition cost.

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 ending June 30, 2010, for not following the correct cost sharing method, resulting in the misuse of restricted funds.⁸¹ 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

⁸⁰ Beth Hartung, president of the Wisconsin Family Planning and Reproductive Health Association, said, “We’re all operating the same way. It would mean, quite frankly, that we would all close.” Hartung admitted the distribution profits underwrite the cost of other services offered at local facilities, some of which perform abortions. And Nicole Safar, public policy director at Planned Parenthood of Wisconsin, the state’s largest recipient of this funding, said audits would trigger “clinic closing” statewide and questioned whether politics played a role in audits. *See Ben Johnson, Planned Parenthood: We’ll Have to Close Our Clinics if Gov. Walker Investigates Us for Medicaid Fraud*, LIFESITENEWS, Dec. 2, 2014, <http://www.lifesitenews.com/news/planned-parenthood-warns-it-will-be-forced-to-close-clinics-if-scott-walker>.

⁸¹ *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.

approximately 150% of actual acquisition cost, and one billing without proper documentation.⁸²

⁸² 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-seven federal audits by HHS-OIG of state family planning programs in twenty-four states found over \$121 million in overbilling, at a minimum. Of these audits, as much as \$8,347,640.00 was overbilled in one audited year; the average overbilled amount per audited year in a single audit was \$724,261.25. In the last year alone, audits limited in location, time frame, and type of service examined have found overbilling to the federal program of as much as 17.32%⁸³ and 14.58%⁸⁴ of the federal share of billed costs; other audits have found overbilling as high as 53.93% of the federal share.⁸⁵ Of the 57 federal audits, the federal share of the audited amounts is known for 55; of these, 31 audits found 10% or more overbilling. 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.⁸⁶

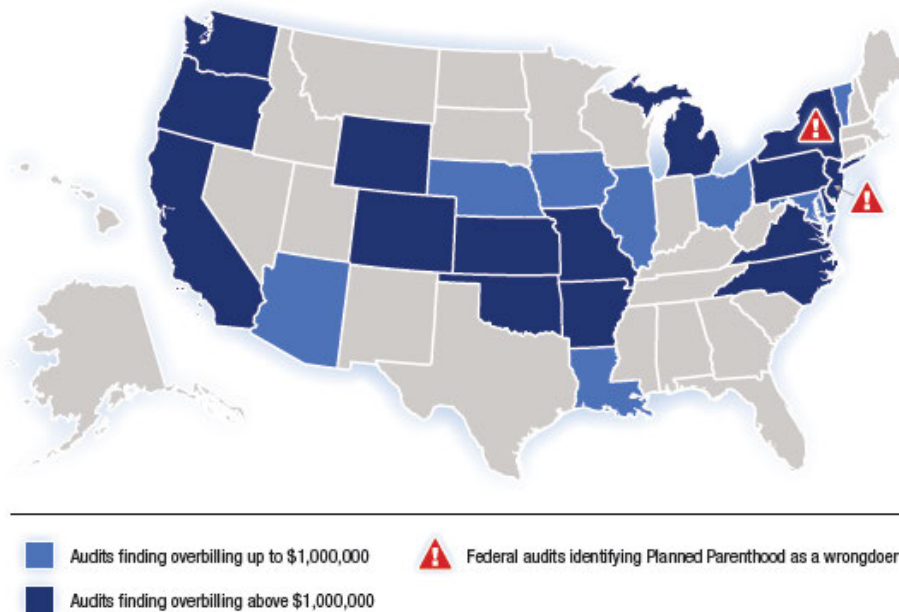
⁸³ Audit A-07-14-01136, *Nebraska Incorrectly Claimed Federal Reimbursement for Inpatient Claims with Sterilization and Delivery Procedures for the Period April 1, 2011, Through December 31, 2013*, found \$268,285 in federal overbilling of the total \$1,549,241 in federal share of claims, or 17.32%.

⁸⁴ Audit A-09-13-02019, *California Improperly Claimed Enhanced Federal Reimbursement for Medicaid Family Planning Services Provided in East Los Angeles County*, found \$4,049,335 in federal overbilling of the total \$27,776,933 in federal share of claims, or 14.58%.

⁸⁵ See, e.g., Audit A-02-05-01009, *Review of Abortion-Related Laboratory Claims Billed as Family Planning Under the New York State Medicaid Program*, which found \$3,235,640 in federal overbilling of the total \$5,999,939 in federal share of claims, or 53.93%.

⁸⁶ 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 <http://www.hhs.gov/opa/title-x-family-planning/initiatives-and-resources/title-x-grantees-list/>.

FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS



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

(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.**

(3) 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. This audit also cited Planned Parenthood as stating that they “believe[] that nearly all the services they provide are related to family planning.” However, the audit determined that “the providers improperly claimed, for example, services to pregnant women, treatment for sexually transmitted diseases, and counseling visits unrelated to family planning services.”

Additionally, 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. Of all the federal audits with a known sampling frame, this audit found the highest percent of overbilling: 53.93% of the federal share.

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.

State	HHS-OIG Audit #	Audited Period	Total Overbilling
Arizona	A-09-04-00027	10/01/1999 – 09/30/2002	\$558,093 ⁸⁷
Arkansas	A-06-11-00022	10/01/2005 – 09/30/2010	\$1,906,657 ⁸⁸
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
California	A-09-13-02012	10/01/2010 – 09/30/2011	\$2,953,936
California	A-09-13-02019	10/01/2010 – 09/30/2011	\$4,049,335
California	A-09-13-02044	10/01/2011 – 09/30/2012	\$2,280,044
California	A-09-13-02047	10/01/2010 – 09/30/2011	\$2,267,822
California	A-09-14-02028	10/01/2011 – 09/30/2012	\$171,121 ⁸⁹
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

⁸⁷ 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.

⁸⁸ 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.”

⁸⁹ This audit was conducted because previous audits had found that California had claimed overbilled approximately \$17.8 million for family planning in three counties. One of these reviews found that California overbilled at least \$2.2 million for family planning services in Orange County, the focus of A-09-14-02028, but that review did not include claims for family planning drugs and supplies. An additional \$46,792 in apparent duplicate payments will be reviewed in a separate audit.

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 ⁹⁰
Illinois	A-05-10-00053	10/01/2007 – 09/30/2009	\$869,273
Iowa	A-07-12-03178	10/01/2010 – 09/30/2011	\$7,462 ⁹¹
Kansas	A-07-09-04146	07/01/2005 – 06/30/2009	\$589,355
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	10/01/2007 – 09/30/2009	\$124,006

⁹⁰ Alternatively, Delaware could provide support for the family planning service costs claimed.

⁹¹ The total amount of overbilling uncovered was \$8,291, but the federal share was \$7,462. This overpayment relates to services provided to just 28 women, or an average of over \$296 per woman.

Louisiana	A-06-10-00076	10/01/2007 – 09/30/2009	\$0 ⁹²
Maryland	A-03-03-00218	07/2000 – 03/2004	\$228,643 ⁹³
Michigan	A-05-08-00064	10/01/2005 – 09/30/2007	\$1,000,519
Michigan	A-05-09-00050 ⁹⁴	10/01/2005 – 09/30/2007	\$838
Missouri	A-07-04-01004 ⁹⁵	10/01/2000 – 09/30/2003	\$0
Missouri	A-07-04-01012	10/01/1995 – 09/30/2001 ⁹⁶	\$6,467,583
Missouri	A-07-12-01117	01/01/2009 – 09/30/2011	\$2,373,541 ⁹⁷

⁹² Seven percent of the sample claims in this audit were found to be overbilled, but because the dollar amount was low, HHS-OIG did not pursue reimbursement.

⁹³ HHS-OIG directed Maryland to look for further overpayments after Apr. 2004; for the period between Apr. 2004 and Mar. 2005, Maryland found an additional \$335,999 in overpayments.

⁹⁴ This audit did not review the medical necessity of the services or whether the services were actually provided, but merely reporting procedures.

⁹⁵ This audit was conducted solely to determine if Missouri's methodology to claim Medicaid family planning costs under managed care was compliant.

⁹⁶ These were retroactive claims that were submitted in the quarter ending March 31, 2001.

⁹⁷ 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-07-12-01118	01/01/2009 – 12/31/2010	\$487,351
Missouri	A-07-12-01121	01/01/2009 – 12/31/2010	\$862,398
Nebraska	A-07-11-02759	01/01/2009 – 03/31/2009 ⁹⁸	\$43,948
Nebraska	A-07-14-01136	04/01/2011 – 12/31/2013	\$268,285
New Jersey	A-02-05-01016	07/01/1997 – 03/31/2002	\$314,446 ⁹⁹
New Jersey	A-02-05-01019	02/01/2001 – 01/31/2005	\$2,219,746
New Jersey	A-02-06-01010 ¹⁰⁰	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	\$3,235,640 ¹⁰¹
New York	A-02-05-01018	01/01/2000 – 12/31/2003	\$6,132,366 ¹⁰²

⁹⁸ 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. The audit only evaluated the state systems, and did not evaluate claims submitted by providers to determine their validity.

⁹⁹ Additionally, HHS-OIG set aside \$10,867,467 (\$4,346,987 federal share) in unsupported claims for resolution.

¹⁰⁰ This is one of the two audits that named Planned Parenthood as a wrongdoer.

¹⁰¹ 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.

¹⁰² 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.

New York	A-02-06-01007	01/01/2000 – 06/30/2005	\$2,603,128
New York	A-02-07-01001 ¹⁰³	10/01/2002 – 06/30/2006	\$918,816
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 ¹⁰⁴	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	\$2,086,910 ¹⁰⁵
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	\$1,692,956 ¹⁰⁶
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

¹⁰³ 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.

¹⁰⁴ This audit uncovered improperly billed pharmacy claims and sterilizations performed without obtaining proper consent.

¹⁰⁵ The Oklahoma Health Care Authority was further directed to work with CMS to determine what portion of an additional \$126,613 was unallowable.

¹⁰⁶ 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.

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			\$121,253,399¹⁰⁷

¹⁰⁷ 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.”¹⁰⁸

***Reynolds v. Planned Parenthood Gulf Coast*¹⁰⁹**

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

¹⁰⁸ PLANNED PARENTHOOD FEDERATION OF AMERICA, ANNUAL REPORT 2012-2013, at 4.

¹⁰⁹ 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 more¹¹⁰ 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."¹¹¹

Johnson v. Planned Parenthood Gulf Coast¹¹²

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.

¹¹⁰ Planned Parenthood will pay an additional, unspecified amount for Reynolds' attorneys' fees.

¹¹¹ 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>.

¹¹² 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 Coast¹¹³

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 of 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,

¹¹³ 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 Angeles¹¹⁴

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.¹¹⁵

¹¹⁴ No. CV 05-8818 AHM (C.D. Cal.).

¹¹⁵ 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."¹¹⁶ PPLA President Martha Swiller replied: "This is bad."¹¹⁷

Thayer v. Planned Parenthood of the Heartland¹¹⁸

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 of the Heartland's Storm Lake and LeMars clinics, alleged that Planned Parenthood's Iowa affiliate knowingly committed Medicaid fraud 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. Thayer's complaint also alleges that Planned Parenthood 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

¹¹⁶ 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).

¹¹⁷ 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).

¹¹⁸ No. 4:11-cv-00129-JAJ-CFB (S.D. Iowa).

were returned to Planned Parenthood by the Postal Service. Instead of crediting 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 to Medicaid clients and then billed Medicaid for the full reimbursement amount for these services without crediting Medicaid for the donations it had received. 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 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 engaged in an “unbundling” or “fragmentation” scheme whereby it separated out charges for services and products rendered in connection with abortions, including office visits, ultrasounds, Rh factor tests, lab work, general counseling, and abortion aftercare, and submitted such “fragmented” charges as separate claims for Medicaid reimbursement. This scheme was applied systematically to virtually every client who received an abortion at one of Planned Parenthood’s clinics, and each abortion was associated with a minimum of three abortion-related procedures or services, but often several more.

After a district court judge dismissed the case in 2012, on August 29, 2014, the U.S. Court of Appeals for the 8th Circuit reversed the district court’s order and reinstated Thayer’s complaint, writing, “we conclude that Thayer has pled sufficiently particularized facts to support her allegations that Planned Parenthood violated the FCA by filing claims for (1) unnecessary quantities of birth control pills, (2) birth control pills dispensed without examinations or without or prior to a physician’s order, (3) abortion-related services, and (4) the full amount of services that had already been paid, in whole or in part, by ‘donations’ Planned Parenthood coerced from patients.”

Bloedow v. Planned Parenthood of the Great Northwest¹¹⁹

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.”¹²⁰

¹¹⁹ No. C11-1192 MJP (W.D. Wash.).

¹²⁰ 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.**¹²¹

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

¹²¹ 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.”¹²² 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.¹²³

¹²² Notes from Meeting regarding Family Planning Policies and 340B Reimbursements (Sept. 24, 2004) (on file with Alliance Defending Freedom).

¹²³ 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.¹²⁴ 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.

¹²⁴ 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>.

**UNITED STATES AUDITS OF INTERNATIONAL
ABORTION AND FAMILY PLANNING FACILITIES/ADVOCATES**

The International Planned Parenthood Federation (IPPF), founded in 1952 by eight national family planning associations¹²⁵ at the urging of Margaret Sanger,¹²⁶ is Planned Parenthood Federation of America's parent organization.¹²⁷ In 2000, after refusing to agree to the Mexico City Policy but agreeing to the original Helms Amendment that prohibits nongovernmental organizations from using U.S. funds to perform or promote abortion overseas, IPPF received a \$5 million grant from the U.S. Agency for International Development (USAID). In March 2000, the General Accounting Office notified USAID that it would be auditing that grant, and in late April set an audit date of May 25-26. On May 12, IPPF admitted that its India and Uganda affiliates had paid for abortions with that money and refunded \$700,000 to the USAID account.¹²⁸

IPPF continues to promote abortion,¹²⁹ and performs abortions through its member associations.¹³⁰

¹²⁵ The associations were from Great Britain, Hong Kong, India, the Netherlands, Singapore, Sweden, West Germany, and the United States.

¹²⁶ The Margaret Sanger Papers Project, *Birth Control Organizations: International Planned Parenthood Federation*, available at https://www.nyu.edu/projects/sanger/aboutms/organization_ippf.php.

¹²⁷ At least within the IPPF Western Hemisphere Region, PPFA is unique in that it is the largest member association, is separately incorporated, does not receive funds from IPPF/WHR, and has its own international family planning program apart from IPPF. See IPPF/WHR, *Who We Are, Our History, Frequently Asked Questions*, <https://www.ippfwhr.org/en/who-we-are-our-history-frequently-asked-questions>.

¹²⁸ George Archibald. *Fearing Audit, Group Repays \$700,000 Used to Fund Abortions*, WASH. TIMES, Oct. 5, 2000, A3.

¹²⁹ As has been extensively documented, IPPF pushes for the provision and legalization of abortion through "test cases," "gradual expansion . . . until the exceptions become the general rule and vice versa," and even illegal means:

- For the past 20 years, IPPF has distributed abortion drugs and "menstrual regulation machines" (manual vacuum aspiration abortion machines) in countries where abortion is illegal. As Malcolm Potts wrote, "Using the name 'menstrual regulation' alters the name of the game . . . [T]here will be no proof of pregnancy unless the tissue removed from the uterus is subjected to microscopic examination. The point is of crucial importance in countries where abortion is illegal." MALCOLM POTTS ET AL., ABORTION 230-232 (1970).

According to GAO reports, IPPF continues to receive U.S. funds;¹³¹ it has a budget of over \$125,000,000.¹³² It granted \$80,089 in FY 2013 and \$74,543 in FY

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- “[Family Planning] Associations should operate right up to the edge of what is legal and sometimes even beyond where the law is uncertain or out of tune with public opinion. While a government gains short term respect by being respectable, a voluntary body may gain long term respect by being responsibly disreputable.” See Population Research Institute, *Abortion for All: How the International Planned Parenthood Federation Promotes Abortion Around the World*, <https://www.pop.org/content/abortion-for-all-how-the-international-planned-parenthood-federation-promotes-abortion-around-the-world-894>.
 - Malcolm Potts: “There are some laws that can and should be broken [R]estrictive abortion laws . . . are as obsolete and irrelevant to the contemporary world as the New York State statute which makes it a crime to have a deck of cards in an apartment within a one-mile radius of an armory.” *Id.*
 - “Family Planning Associations . . . should not use the absence of law or the existence of an unfavorable law as an excuse for inaction: Action outside the law, and even in violation of it, is part of the process of stimulating change.” *Id.*

IPPF advocates for the right of girls at least as young as 10 to choose drugs, sex, and abortion, IPPF, *Healthy, Happy, and Hot*, available at <http://issuu.com/ippfresources/docs/healthy-happy-hot/2?e=0>, and wrote in its *Exclaim! Young People’s Guide to Sexual Rights: An IPPF Declaration* booklet, “Any limitation on sexual rights must be non-discriminatory, including on the grounds of age.” And in its *Statement on Unsafe Abortion and Reproductive Health*, IPPF wrote against coercive and sex-selection abortions, but Madam Peng Yu, Vice Minister of the State Family Planning Commission of China, claimed IPPF as one of the “major international agencies that have been extending cooperation to China.” See Population Research Institute, *Abortion for All: How the International Planned Parenthood Federation Promotes Abortion Around the World*, <https://www.pop.org/content/abortion-for-all-how-the-international-planned-parenthood-federation-promotes-abortion-around-the-world-894>.

¹³⁰ According to IPPF’s Annual Performance Report, 2013-2014, available at http://www.ippf.org/sites/default/files/ole_apr2013-14_0.pdf, IPPF “provided” 2,956,777 million abortion-related services in 2013, an increase of 24% from 2012 (2,386,725), but below IPPF’s target number of 3.4 million. In 2013, 874,868 of those services were abortions (533,085 surgical, a 38% increase, and 341,783 chemical, a 73% increase). IPPF’s target for abortion-related services was 4.9 million for 2014, and 7.1 million for 2015. See also Jonathan Abbamonte, *This Is the Device Planned Parenthood Is Using to Get Body Parts from Aborted Babies to Sell*, LIFENEWS, July 27, 2015, <http://www.lifenews.com/2015/07/27/this-is-the-device-planned-parenthood-is-using-to-get-aborted-babys-body-parts-for-sale/>.

¹³¹ According to GAO reports, IPPF has received U.S. government funding in the following amounts from FY 2002-2012:

FY 2002: \$1,300,000	FY 2005-2009: \$0	FY 2011: \$170,000
FY 2003: \$1,000,000	FY 2010: \$30,000	FY 2012: \$210,000
FY 2004: \$1,600,000		

This is a reduction from the U.S. funding IPPF received in the 1990s (e.g., FY 1994: \$40,629,056, FY 1995: \$42,082,056, FY 1996: \$34,407,884). See U.S. GENERAL ACCOUNTING

2014 to member associations and partner organizations, including \$16,179 for abortion in FY 2013 and \$15,726 in FY 2014. Regionally, IPPF spent \$2,908,000 on abortion in FY 2013 and \$3,544,000 on abortion in FY 2014, and centrally, \$2,024,000 on abortion in FY 2013 and \$2,742,000 in FY 2014.¹³³

OFFICE, FAMILY PLANNING: FEDERAL FUNDS PROVIDED TO PLANNED PARENTHOOD ORGANIZATIONS (GAO/HEHS-98-171R) (1998), *available at* <http://www.gao.gov/assets/90/87746.pdf>.

From FY 2010 to FY 2012, USAID obligated approximately \$26 million to IPPF member associations, and shipped contraceptives, such as condoms, valued at about \$710,000 to IPPF member associations (FY 2010: \$8,049, FY 2011: \$170,000, and FY 2012: \$540,000).

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; U.S. GOVERNMENT ACCOUNTABILITY OFFICE, HEALTH CARE FUNDING: FEDERAL OBLIGATIONS TO AND EXPENDITURES BY SELECTED ENTITIES INVOLVED IN HEALTH-RELATED ACTIVITIES, 2010-2012 (GAO-15-270R) (2015), at Table 3, *available at* <http://www.gao.gov/assets/670/669140.pdf>; *see also id.* at Tables 19, 20, 23.

¹³² *See* IPPF, *Financial*, <http://www.ippf.org/about-us/financial>.

¹³³ *See* IPPF, *Financial Statements, 2014*, *available at* http://www.ippf.org/sites/default/files/financialreport_2014-2015.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.¹³⁴
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 Kits¹³⁵ (each containing 3 months of pill

¹³⁴ 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).

¹³⁵ See <https://www.plannedparenthood.org/planned-parenthood-wisconsin/patients/qck-birth-control-by-mail>. This can be done “at no cost to you [the recipient]” for clients covered by Family Planning Only Services or BadgerCare. A similar program in Iowa was the subject of a federal False Claims Act lawsuit: *Thayer v. Planned Parenthood of the Heartland*, described herein.

- 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 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.¹³⁶
 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,¹³⁷ and to encourage legitimate whistleblowers to come forward.
 6. Update state Medicaid regulations relating to prescription refill frequency and maximum prescription reimbursement amount.

¹³⁶ See U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL, RECOVERY ACT OVERSIGHT, <https://oig.hhs.gov/recovery-act-oversight/>.

¹³⁷ 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>.

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.

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: Audited Years and Averages

State	Audited Years	Total Overbilling	Overbilling by Audited Year
California	1	\$5,213,645.92	\$5,213,645.92
Connecticut	unknown	\$18,791.00	unknown
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	unknown	\$207,809.00	unknown
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 - I	unknown	\$409,675.10	Unknown
Texas - II	1.58	\$129,028	\$81,663
Washington - I	unknown	unknown	unknown
Washington - II	2.96	\$629,142.88	\$212,548.27
Washington - III	unknown	\$11,453	Unknown
[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 - XIII	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	82.56	\$8,496,533.96	\$6,423,548.60

Total overbilling not including the audits for which audited years are not available:

\$7,848,805.86

Average overbilling per audited year, in a single audit:

\$7,848,805.86 / 82.56 = \$95,067.90

Key:

[- audits of different affiliates or clinics within one state that cover the same time frame and the same services

**Federal Audits of State Family Planning Programs and Other Organizations:
Audited Years and Averages**

State	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
California	1	\$2,953,936	\$2,953,936
California	1	\$4,049,335	\$4,049,335
California	1	\$2,280,044	\$2,280,044
California	1	\$2,267,822	\$2,267,822
California	1	\$171,121	\$171,121
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	\$7,462	\$7,462.00
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	2	\$124,006	\$62,003.00
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
Nebraska	2.75	\$268,285	\$97,558.18
New Jersey	4.75	\$314,446	\$66,199.16
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	\$2,086,910	\$8,347,640.00
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	167.417	\$121,253,399	\$53,159,465.16

Average overbilling per audited year, in a single audit:
 $\$121,253,399 / 167.417 = \underline{\$724,261.25}$

**Federal Audits of State Family Planning Programs and Other Organizations:
Percent Overbilled**

State	HHS-OIG Audit #	Min. Overbilling to Fed. Gov't (see notes <i>supra</i>)	Fed. Share Examined	Min. % Overbilled as % of Fed. Share Examined
Arizona	A-09-04-00027	\$558,093.00	\$20,779,332.00	2.69%
Arkansas	A-06-11-00022	\$1,906,657.00	\$58,788,268.00	3.24%
California	A-09-11-02040	\$5,671,216.00	\$41,011,068.00	13.83%
California	A-09-12-02077	\$627,053.00	\$15,170,337.00	4.13%
California	A-09-13-02012	\$2,953,936.00	\$26,330,861.00	11.22%
California	A-09-13-02019	\$4,049,335.00	\$27,776,933.00	14.58%
California	A-09-13-02044	\$2,280,044.00	\$16,723,765.00	13.63%
California	A-09-13-02047	\$2,267,822.00	\$20,363,072.00	11.14%
California	A-09-14-02028	\$171,121.00	\$9,382,894.00	1.82%
Colorado	A-07-04-01005	\$1,587,305.00	\$12,439,617.00	12.76%
Colorado	A-07-04-01008	\$454,786.00	\$3,400,000.00	13.38%
Colorado	A-07-11-01095	\$617,999.00	\$8,061,318.00	7.67%
Colorado	A-07-11-01096	\$1,975,800.00	unknown	unknown
Colorado	A-07-11-01097	\$2,295.00	\$2,489,882.00	0.09%
Delaware	A-03-03-00220	\$2,916,288.00	\$6,739,565.00	43.27%
Illinois	A-05-10-00053	\$869,273.00	\$3,061,838.00	28.39%
Iowa	A-07-12-03178	\$7,462.00	unknown ¹³⁸	unknown
Kansas	A-07-09-04146	\$589,355.00	\$5,417,639.00	10.88%
Kansas	A-07-10-04156	\$2,447,414.00	\$9,357,333.00	26.16%
Kansas	A-07-10-04157	\$151,526.00	\$3,222,537.00	4.70%
Kansas	A-07-10-04162	\$485,982.00	\$1,802,880.00	26.96%
Louisiana	A-06-10-00075	\$124,006.00	\$14,689,486.00	0.84%
Louisiana	A-06-10-00076	\$0.00	\$4,874,919.00	0.00%
Maryland	A-03-03-00218	\$228,643.00	\$52,774,038.00	0.43%
Michigan	A-05-08-00064	\$1,000,519.00	\$15,908,952.00	6.29%
Michigan	A-05-09-00050	\$838.00	\$5,076,355.00	0.02%
Missouri	A-07-04-01004	\$0.00	\$67,418,574.00	0.00%
Missouri	A-07-04-01012	\$6,467,583.00	\$33,666,500.00	19.21%

¹³⁸ This family planning amount is part of a broader audit, and the amount examined related to family planning was not included in the published audit.

Missouri	A-07-12-01117	\$2,373,541.00	\$8,214,033.00	18.02% ¹³⁹
Missouri	A-07-12-01118	\$487,351.00	\$19,721,239.00	2.47%
Missouri	A-07-12-01121	\$862,398.00	\$4,783,200.00	18.03%
Nebraska	A-07-11-02759	\$43,948.00	<i>\$181,000,000.00</i>	0.02%
Nebraska	A-07-14-01136	\$268,285.00	\$1,549,241.00	17.32%
New Jersey	A-02-05-01016	\$314,446.00	\$890,829.00	35.30%
New Jersey	A-02-05-01019	\$2,219,746.00	\$5,096,578.00	43.55%
New Jersey	A-02-06-01010	\$597,496.00	\$5,329,034.00	11.21%
New Jersey	A-02-06-01020	\$162,548.00	\$1,907,247.00	8.52%
New York	A-02-05-01001	\$1,566,740.00	\$3,585,190.00	43.70%
New York	A-02-05-01009	\$3,235,640.00	\$5,999,939.00	53.93%
New York	A-02-05-01018	\$6,132,366.00	\$13,950,611.00	43.96%
New York	A-02-06-01007	\$2,603,128.00	\$7,737,923.00	33.64%
New York	A-02-07-01001	\$918,816.00	\$30,153,183.00	3.05%
New York	A-02-07-01037	\$17,151,156.00	\$46,532,392.00	36.86%
New York	A-02-09-01015	\$3,773,506.00	\$17,143,041.00	22.01%
North Carolina	A-04-10-01089	\$1,387,378.00	\$52,305,271.00	2.65%
North Carolina	A-04-10-01091	\$666,826.00	\$5,027,113.00	13.26%
North Carolina	A-04-10-01092	\$541,513.00	<i>\$105,000,000.00</i>	0.52%
Ohio	A-05-10-00035	\$320,774.00	\$1,181,209.00	27.16%
Oklahoma	A-06-09-00097	\$2,086,910.00	\$764,385,637.00	0.27%
Oklahoma	A-06-10-00047	\$3,356,074.00	\$15,655,489.00	21.44%
Oregon	A-09-10-02043	\$1,487,974.00	\$41,198,400.00	3.61%
Oregon	A-09-11-02010	\$1,692,956.00	\$56,413,592.00	3.00%
Pennsylvania	A-03-03-00214	\$15,070,548.00	\$102,926,476.00	14.64%
Vermont	A-01-05-00002	\$323,367.00	\$3,632,031.00	8.90%
Virginia	A-03-04-00209	\$1,388,506.00	\$32,168,144.00	4.32%
Washington	A-09-09-00049	\$8,458,169.00	\$18,727,441.00	45.16%
Wyoming	A-07-11-01100	\$1,348,942.00	\$5,347,751.00	25.22%
TOTAL		\$121,253,399	\$2,044,290,197	5.93%

Key:

[*ital.*] - Amt examined only available as a rounded number

¹³⁹ Some of the repayment based on this audit was calculated from subsequent quarters with unlisted figures, so the only the percentage overbilling from the time frame with total amount examined provided was used to calculate the overbilling percentage, i.e., \$1,480,516/\$8,214,033, or 18.02%.