

Now & Next

Healthcare Alert

July 30, 2025

***Updated*—One Big Beautiful Bill Act’s restriction on family planning services**

By Whitney Phelps, Alexandra Busto, and Grace Connolly

New federal law cuts Medicaid funds to abortion providers—while the court grants partial relief in response to an initial challenge, major funding restrictions remain.



What’s the impact?

- The OBBB Act blocks Medicaid funding to nonprofit abortion providers, impacting many family planning clinics nationwide.
- Impacted abortion providers may be required to restructure legal or business operations in order to access federal funding.

On July 4, 2025, President Trump signed the One Big Beautiful Bill (OBBB) Act, or H.R. 1, into law. OBBB, enacted through Congress’s reconciliation process, includes a provision that impacts federal funding to certain providers of family planning services. Specifically, the law precludes any Medicaid payment to a “prohibited entity” for **any** services. Generally, this impacts funding to nonprofit organizations that primarily provide family planning and reproductive health services and abortions. A more detailed definition is provided below.

The provision is effective immediately for one year, but, interestingly, the organizations impacted by the law meet the definition of “prohibited entity” as of Q3 2025, not as of the law’s passage date.

Shortly after the OBBB was passed, the Planned Parenthood Federation of America, Inc. (PPFA) filed a complaint challenging the provision. A federal judge initially blocked enforcement for the plaintiffs under a two-week injunction. On July 28, 2025, the judge issued another order granting a preliminary injunction blocking the enforcement of the provision that applies to all Planned Parenthood clinics across the country. The judge found that the plaintiffs had demonstrated a substantial likelihood of success on their bill of attainder and First Amendment right of association claims (discussed below).

Impact on family planning services

Section 71113 of the OBBB prohibits federal payments to certain prohibited entities. A “prohibited entity” means an entity, including its affiliates, subsidiaries, successors, and clinics, that meets the following four criteria:

- / Organized as a tax-exempt entity under 501(c)(3) of the Internal Revenue Code of 1986
- / Serves as an “essential community provider” described in section 156.235 of title 45, Code of Federal Regulations, which is primarily engaged in family planning services, reproductive health, and related medical care
- / Provides for abortions, except if the pregnancy is a result of rape or incest, or the woman is in danger of death
- / Received over \$800,000 in Medicaid program funding in fiscal year 2023

If any entity is considered a “prohibited entity,” it is not permitted to receive federal funding for **any** of its services.

Provision challenged by Planned Parenthood Federation of America, Inc.

In response to the enactment of these provisions under OBBB, PPFA filed a complaint against the US Department of Health and Human Services (HHS) Secretary Robert F. Kennedy, Jr., and Centers for Medicare & Medicaid Services (CMS) Administrator Mehmet Oz on July 7, 2025. The complaint challenges the provision on federal payments to “prohibited entities” and alleges that the provision was intended to target PPFA and its member healthcare providers and could result in the closure of affiliated Planned Parenthood clinics across the country.

PPFA’s complaint made five claims:

- / **Unconstitutional bill of attainder:** The OBBB is an unconstitutional bill of attainder because it punished PPFA and its members without a judicial trial.
- / **Equal protection violation:** The OBBB violates the equal protection component of the Due Process Clause of the Fifth Amendment because PPFA is treated unlike other organizations that provide the same medical care.
- / **First Amendment retaliation:** The federal government is retaliating against PPFA for engaging in First Amendment-protected activity, specifically, advocating for access to sexual and reproductive healthcare.
- / **Request for declaratory judgment:** PPFA requests declaratory judgment for members that do not provide abortion services or did not receive over \$800,000 in Medicaid funds in 2023 and, therefore, should not be denied federal Medicaid funding under the provision because these members do not meet the definition of “prohibited entities.”
- / **Unconstitutionally vague:** The OBBB provision is “impermissibly vague” because the definition of “prohibited entity” includes “affiliates, subsidiaries, successors, and clinics,” but it does not define those terms. Further, the OBBB is ambiguous as to whether it applies to members who do not provide abortions or who did not receive over \$800,000 in Medicaid funds in 2023.

Temporary restraining order and decision by federal judge

On the same day the complaint was filed, a federal judge in Massachusetts granted PPFA’s request for a temporary restraining order (TRO). The TRO temporarily enjoined HHS and CMS, as well as their directors, from enforcing the OBBB provision and allowing the plaintiffs to continue to receive Medicaid funding. The TRO remained in effect for 14 days.

The Supreme Court of the United States also recently held that federal district courts cannot issue universal injunctions. (*Trump v. CASA, Inc.*, 606 U.S. ____ (2025)). Thus, the TRO only prevented HHS and CMS from enforcing the law against the named plaintiffs in the complaint, not other prohibited entities. Absent further challenges or federal/state guidance, other organizations that qualify as prohibited entities may be subject to the prohibition on federal payments.

On July 22, 2025, the Massachusetts federal judge granted a declaratory judgment for those members that do not provide abortion services or did not receive over \$800,000 in Medicaid funds in 2023, meaning those members are permitted to receive federal funding.

Six days later, on July 28, 2025, the judge issued a new order blocking the enforcement of the provision impacting family planning services and ordering the government to continue to provide Medicaid funding to **all** Planned Parenthood affiliates—members of PPFA. Other non-

Planned Parenthood affiliate providers that meet the definition of a prohibited entity are still subject to the defunding provision.

Complaint filed by state AGs

On July 29, 2025, the Attorneys General (AGs) of more than 20 states filed a lawsuit against HHS Secretary Robert F. Kennedy Jr. and CMS Administrator Dr. Mehmet Oz alleging that the defunding provision of the OBBB is unconstitutional because it violates the Spending Clause of the U.S. Constitution by failing to provide clear notice of obligations to satisfy the conditions to receive the restricted federal Medicaid funding. Like the PPFA complaint, the AGs allege that the defunding provision also violates the First Amendment and is an unconstitutional bill of attainder. The states ask that the provision be blocked and deemed unconstitutional. A ruling in the AGs' favor would protect all abortion providers from the defunding provision, not just those that would be protected by the PPFA lawsuit and current preliminary injunction.

Additional impacts

Although there has been a longstanding prohibition by CMS that prevents abortion providers from billing federal funding (i.e., Medicare, Medicaid, and other government healthcare programs) for abortion services, the OBBB's provisions mean that abortion providers that meet the definition of "prohibited entity" are no longer able to receive federal funds for **any** of their services—abortion and otherwise. Although regulations around the provision of abortion services have been largely left to the states in the post-*Dobbs* landscape, these providers must now take federal law into account.

Nixon Peabody's Healthcare team is actively monitoring developments in this area. For more information, please contact your Nixon Peabody attorney or the authors of this alert.

Whitney Phelps

518.427.2659

wphelps@nixonpeabody.com

Alexandra Busto

213.629.6146

abusto@nixonpeabody.com

Grace Connelly

312.977.9292

gconnelly@nixonpeabody.com

