

August 28, 2019

Via Email: Jennifer.Kent@dhcs.ca.gov

Jennifer Kent
Director
Department of Health Care Services
P.O. Box 997413
Sacramento, CA 95899-7413

Re: Changes to the Family Planning, Access, Care, and Treatment (FPACT) Client Eligibility Certification Form

Dear Director Kent:

At a Department of Health Care Services (DHCS)-sponsored Family Planning Stakeholder meeting on December 6, 2018, the Office of Family Planning (OFP) announced plans to make revisions to the Client Eligibility Certification (CEC) form (DHCS 4461). The undersigned organizations write to express concerns with one of the proposed changes. Specifically, we have deep concerns about the addition of a question that would ask applicants who do not provide a Social Security Number (SSN) to indicate the reason they cannot provide one. We strongly oppose including this question and urge OFP to maintain the current SSN field on the CEC form.

We believe family planning is a vital health service, and support DHCS' efforts to provide affordable and high quality comprehensive family planning services to individuals who cannot receive them elsewhere. The Family Planning, Access, Care, and Treatment (FPACT) program provides coverage for low-income individuals to access comprehensive family planning and related services, including all FDA-approved contraceptive methods, STI testing and treatment, and cervical cancer screenings.¹ FPACT's network of 2,200 providers serves more than one million low-income individuals of childbearing age, regardless of immigration status.

¹ Calif. Dept. of Health Care Services, *Family PACT Program, Policies, Procedures and Billing Instructions Manual, Family PACT Program Overview* at 4, http://files.medi-cal.ca.gov/pubsdoco/publications/masters-mtp/fpact/fam_f00.doc (last visited July 10, 2019).

Unlike adult Medi-Cal or Covered California, FFACT eligibility is not contingent on immigration status.² The current CEC form includes a space for enrollees to submit a SSN. Applicants must provide a SSN if they have one in order to screen for coverage eligibility in other Medi-Cal programs, however possession of a SSN is not a requirement for receipt of FFACT services. Providers are instructed to note an enrollee's stated reason for their inability to provide a SSN in the box if they do not provide one. The FFACT Provider Manual rightly clarifies that "[t]he inability of the client to provide the SSN shall not deny client access to family planning services if all other eligibility criteria are met."³

In communications with DHCS staff earlier this year, OFP stated the agency is required to collect and report applicants' stated reasons for their inability to provide an SSN to CMS. We reiterate our request that OFP provide us with the statutory or regulatory source of this requirement, as originally requested in our March 20, 2019 and May 28, 2019 emails. Our opinion is that there are no statutory or regulatory requirements requiring the collection or reporting of this type of information. We ask that DHCS reevaluate its need to report information about FFACT applicants' stated reasons for their inability to provide an SSN. The negative impacts are too great to move forward with an optional question that the state is not compelled to ask FFACT applicants.

OFP's plan to add a question to the CEC form that requests FFACT applicants who do not provide a SSN to specify and self-attest the reason they cannot provide one is a dramatic shift from current practice. Without the assurances of a provider to explain the SSN question and its irrelevance to FFACT eligibility, many patients will likely be deterred from completing the application and forgo family planning services they want and need.

Current federal policies and rhetoric have created a hostile climate that has instilled fear, confusion, and instability among immigrant communities across California and the country. Many immigrants eligible for public health programs and other benefits have dropped out or declined to obtain services out of fear that their immigration status could be negatively impacted. The federal administration's changes to the immigration inadmissibility rule governing public charge determinations has compounded such fears and created a chilling effect. Medi-Cal and Covered California reported decreases in

² Eligible clients are individuals with a medical necessity for family planning services who are residents of California with incomes at or below 200 percent of the federal poverty guidelines, with no other source of family planning health care coverage, or meet criteria specified for eligibility with Other Health Coverage. California Code, Welfare and Institutions Code - WIC § 24003.

³ Calif. Dept. of Health Care Services, *Family PACT Program, Policies, Procedures and Billing Instructions Manual, Provider Responsibilities* at 1, http://files.medi-cal.ca.gov/pubsdoco/publications/masters-mtp/fpact/provres_f00.doc (last visited July 10, 2019).

enrollments and re-enrollments since the public charge rule was first leaked to the press in early 2018.⁴

We are also concerned about the chilling effect this question could have on adolescents who rely on FFACT providers to obtain confidential family planning and related services without parental consent. Many adolescents do not know their SSN and do not want to ask their parent(s) or guardian for their SSN because they want to keep information about the service confidential. In fact, in recent discussions with FFACT providers across the state about the proposed change to the CEC form, many expressed concern that the addition of such a question would create an immediate barrier to enrollment for adolescents.

Additionally, we ask that DHCS promptly upload data under the “Demographic Profile of Family PACT Clients Services by Fiscal Year” for 2016 to present, and commit to updating this data set on a bi-annual basis moving forward. DHCS already collects and releases this data, and we believe the current climate necessitates a more frequent look at patient visit trends to better understand how policies might be impacting the communities served through FFACT.

As our state continues its successful efforts toward universal health coverage, episodic programs like FFACT, must remain open and available to all Californians to obtain family planning services they need. We strongly urge OFP to abandon its planned addition of the SSN question on the CEC form. We also welcome the opportunity to further discuss this issue in person. We will reach out to your office in the coming weeks to set a meeting date. Should you have any questions or require additional information, please contact Priscilla Huang (huang@healthlaw.org) at the National Health Law Program.

Sincerely,

National Health Law Program
Essential Access Health
ACCESS Women's Health Justice
ACLU of California
AltaMed Health Services Corporation
Altura Centers for Health

⁴ See Covered California, *2019 Open Enrollment Early Observations Report* at 8, https://hbex.coveredca.com/data-research/library/CoveredCA_2019_Open_Enrollment_Early_Analysis.pdf (last visited July 11, 2019) and Ana B. Ibarra, *Medi-Cal enrollment among immigrant children stalls, then falls. Is fear to blame?* (July 4, 2019), <https://www.sacbee.com/news/local/health-and-medicine/article232297962.html>.

American Academy of Pediatrics, California
Asian Americans Advancing Justice - CA
Asian Health Services
Asian Pacific Health Care Venture, Inc.
Butte County Public Health
California Immigrant Policy Center
California Latinas for Reproductive Justice
California Medical Association
California National Organization for Women
California Pan-Ethnic Health Network
California Primary Care Association
California Rural Legal Assistance Foundation
California Women's Law Center
CaliforniaHealth+Advocates
CAPSLO Health & Prevention Division
CAPSLO The Center
Citizens For Choice
City of Berkeley
Coalition for Humane Immigrant Rights (CHIRLA)
Community Clinic Association of Los Angeles County
Community Health Systems, Inc.
Dr. Tri Do, physician
Families Together of Orange County
If/When/How: Lawyering for Reproductive Justice
JWCH Institute, Inc.
Maternal and Child Health Access
National Council of Jewish Women CA
National Immigration Law Center
National Organization for Women, Hollywood Chapter
Neighborhood Healthcare
Northeast Valley Health Care
Orange County Women's Health Project
Planned Parenthood Affiliates of California
Positive Women's Network USA

Radiant Health Centers
San Diego Immigrant Rights Consortium
Services, Immigrant Rights & Education Network (SIREN)
Training in Early Abortion for Comprehensive Healthcare (TEACH)
Tri-City Health Center
UCLA OB/GYN Clinic
Valley Community Healthcare
Via Care Community Health Center
Western Center on Law & Poverty
Women's Foundation of California
Women's Health Specialists

Cc: René Mollow, Deputy Director, Health Care Benefits and Eligibility
Christina Moreno, Chief, Office of Family Planning
Richard Figuerora, Deputy Cabinet Secretary