



**Mary Fallin**  
Governor

November 18, 2015

Mr. Nico Gomez, Director  
Oklahoma Health Care Authority Board  
4345 North Lincoln Boulevard  
Oklahoma City, Oklahoma 73105

Dear Mr. Gomez,

I received the two October 2015, Program and Integrity Review of Payments for Planned Parenthood affiliates operating in Oklahoma. One integrity review found a 20.3% error rate and another found a 14.1% error rate. **These results are alarming.** More than one in every seven bills submitted for payment to your agency by these providers are inaccurately coded or insufficiently documented. These errors result in overbilling to the Oklahoma taxpayer. The lack of attention to the requirements imposed on a responsible provider is a continuing problem for these Planned Parenthood affiliates.

*Planned Parenthood Federation of America* (Planned Parenthood) has 59 affiliates that operate about 700 locations in the United States. In Oklahoma, the local affiliates are designated as *Planned Parenthood of Central Oklahoma, Inc.* operating in the Oklahoma City metropolitan area and *Planned Parenthood of the Heartland* operating in the Tulsa metropolitan area.

Research strongly suggests that Planned Parenthood and its Oklahoma and national affiliates regularly, whether **intentionally or negligently**, engage in a pattern of practices resulting in the overbilling of state Medicaid programs. For example, the Alliance Defending Freedom submitted a series of four reports dated October 26, 2011, April 10, 2013, July 23, 2014, and September 17, 2015, outlining a consistent pattern of federal audits of national and Oklahoma Planned Parenthood affiliates overbilling for services. See, U.S. Department of Health and Human Services audits A-06-09-00097, A-06-10-00047.

Numerous False Claims Act whistleblower lawsuits around the country have also alleged 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. One such suit has been brought against the Tulsa, Oklahoma metropolitan affiliate *Planned Parenthood of the Heartland*. *Heartland*, a multistate affiliate, was sued by Sue Thayer,

former manager of Planned Parenthood of the Heartland's Iowa clinics, alleging that Heartland 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. The U.S. Court of Appeals for the Eighth Circuit held:

[W]e 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.

*U.S. ex. rel. Thayer v. Planned Parenthood of the Heartland*, 765 F.3d 914 (8th Cir. 2014).

While the Thayer case has not yet reached a final result, it is disturbing in light of the numerous pending FCA lawsuits and one settlement where a Texas Planned Parenthood affiliate paid \$4.3 million to settle the fraud issues.

As a result of these patterns of irresponsible business behavior among and between the Planned Parenthood organizations, a dozen states have denied or withdrawn funding to Planned Parenthood affiliates. Ten states did so in 2011, and more have done so in 2015. Medicaid regulations permit states to establish "reasonable standards relating to the qualifications of providers," 42 C.F.R. § 431.51(c)(2), which includes being free of any government investigatory proceeding. See, *Guzman v. Shewry*, 552 F.3d 941, 949 (9th Cir. 2009) (upholding exclusion of Medicaid provider on grounds that he was under investigation for fraud or abuse). It is time to enforce these qualifications and to terminate the contracts with the Planned Parenthood affiliates. The current integrity reviews coupled with the past behavior of Planned Parenthood and its' affiliates raise serious concerns about the financial integrity, legal compliance, and ethics of these Oklahoma providers. I do not believe that these Planned Parenthood providers and their leadership have the competence to provide cost-effective, legally compliant, and ethically responsible medical care paid for by our taxpayers through Oklahoma's Medicaid programs.

I would ask you, as the Director of the Oklahoma Health Care Authority to strongly consider appropriately terminating the Planned Parenthood contracts in Oklahoma. In fact, I would urge you to recommend termination of any similarly situated provider who is found to have a high error rate, past findings of overbilling, or in association with other providers who do not rigorously adhere to the high standards that are required to be granted access to public funds.

Such a termination will not interfere with any individual's ability to have a free choice of healthcare provider services. There are only two Planned Parenthood affiliates in the state operating in about six metropolitan locations in Oklahoma City and Tulsa. However, there are more than one hundred and twenty other metropolitan and rural providers available to Oklahoma citizens, including Federally Qualified Health Clinic sites, Rural Health Clinics, and private

Medicaid providers, all of whom provide a broader spectrum of health care services than Planned Parenthood's limited metropolitan locations. Indeed, because services provided by Planned Parenthood in Oklahoma are so limited, any individual being served by the Planned Parenthood clinics would have already been required to have another primary care provider elsewhere to obtain full and adequate medical care.

We have a joint responsibility to the citizens of Oklahoma to hold providers to high standards that are imposed to allow an entity to receive taxpayer dollars. The recent behavior of the Planned Parenthood affiliates clearly demonstrates that these providers do not value the opportunity to serve their fellow Oklahomans with taxpayer funds. Indeed whether willful or simply negligent, the consistent submission of improper billings should disqualify these Planned Parenthood providers from participation in the Oklahoma Medicaid program.

Sincerely,

A handwritten signature in black ink that reads "Mary Fallin". The signature is written in a cursive, flowing style.

Mary Fallin  
Governor

Cc: Mr. Charles McFall, Chairman OK Health Care Authority Board