

Court of Appeals Delivers Major Blow to Planned Parenthood

In a critical blow to Planned Parenthood's access to taxpayer funds, the full United States Court of Appeals for the 5th Circuit held that the states of Texas, Louisiana and Mississippi could disqualify Planned Parenthood as a medical services provider under Medicaid. This effectively defunds Planned Parenthood from Medicaid dollars in those states.

In *Planned Parenthood of Greater Texas Family Planning and Preventative Health Services Inc. v. Kauffman*, the litigation began after the Texas Health and Human Services Commission learned of undercover footage obtained by the Center for Medical Progress—and verified by two forensic reviews—indicating that the abortion organization had broken federal law by profiting from the sale of fetal body parts from aborted babies that were then sold for research. The state removed Planned Parenthood's Medicaid funding and several of Planned Parenthood's patients immediately sued in federal court to challenge the decision.

By way of background, Planned Parenthood gains access to indigent women by providing birth control and preventive services under the Medicaid program. Medicaid payments constitute a significant chunk of the taxpayer funds flowing to the abortion giant. According to a *Washington Post* article published recently, "about half of Planned Parenthood's patients are on Medicaid." As a Medicaid provider, Planned Parenthood milks Medicaid patients like they are "mini cash cows," according to former Planned Parenthood manager Ramona Treviño.

Contrary to what the *Washington Post* implied, however, efforts

to cut off the flow of Medicaid funding to Planned Parenthood historically have failed in the courts, not in the politically accountable branches of government. Five federal appellate courts have read the Medicaid statute as barring states from disqualifying Planned Parenthood as a Medicaid provider. As we have argued, see [here](#) and [here](#), however, the Medicaid statute says no such thing.

Recently the Court of Appeals for the 8th Circuit agreed that the Medicaid statute could not be interpreted as allowing Planned Parenthood's patients to sue states for disqualifying Planned Parenthood as a Medicaid provider. And now, the 5th Circuit, sitting en banc, has joined the 8th Circuit. The court held that the Medicaid statute does not bar states from disqualifying various Medicaid providers, including Planned Parenthood. "Whether a provider is 'qualified' . . . is a matter to be resolved between the State (or the federal government) and the provider."

The 5th Circuit's *en banc* decision reversed earlier 5th Circuit panel decisions that had ruled in favor of Planned Parenthood.

Although the 5th Circuit's decision is an important victory in the battle to defund Planned Parenthood, it is also significant because it increases the likelihood that the Supreme Court will eventually grant review and finally resolve the disagreement among the Circuits. As we reported [here](#), the Supreme Court has declined twice within the past two years to hear cases raising identical issues. In 2018, the court declined to hear the case over the dissent of three justices. With the addition of conservative justices to the court over the past two years, it is just a question of time before four justices will vote to hear a case; and it is quite possible the court will grant review in this case. The court often prefers to grant review only after many of the lower federal appellate courts have decided cases on the issue, and there is fairly equal division among them.

Should the Supreme Court agree to hear this case, the ACLJ will be ready, with your help, to continue the fight to defund Planned Parenthood.{eoa}

For the original article, visit .