

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PLANNED PARENTHOOD GULF
COAST, INC.; JANE DOE #1; JANE
DOE #2; AND JANE DOE #3,

Plaintiffs,

v.

KATHY KLIEBERT, SECRETARY,
LOUISIANA DEPARTMENT OF HEALTH AND
HOSPITALS,

Defendant

CIVIL ACTION NO.

3:15-cv-00565-JWD-SCR

AMENDED DECLARATION OF DIRECTOR RUTH KENNEDY

Pursuant to 28 U.S.C. § 1746, the undersigned declares as follows:

1. My name is Ruth Kennedy, and I am the Medicaid Director of the Louisiana Department of Health and Hospitals (“the Department”).
2. I have been serving as the Medicaid Director since July 2012.
3. I served previously as the Deputy Medicaid Director of the Department from October 1999 to July 2012.
4. Prior to October 1999, I have served in the office within the Department responsible for the administration and operation of the Medicaid Program in Louisiana in various supervisory and managerial capacities beginning in June 1992.
5. As the Medicaid Director, I serve as the administrator of the Bureau of Health Services Financing (BHSF), the agency within the Department that sets the policy for health care reimbursement for federally mandated and other medical services, and manage all related activities, including enrollment of participants, determining benefits and services to be provided, health care delivery systems, quality, policy enforcement, and rate setting.

6. There are no Medicaid services that only family planning clinics provide that could not be provided by other enrolled Medicaid providers in the State of Louisiana, including in New Orleans and Baton Rouge.

7. Any physician/physician extender and appropriately certified lab can provide family planning and related services in the State of Louisiana as long as it is within their license and scope.

8a. Upon becoming aware of this Honorable Court's questions as to the types of providers that were included in Exhibit 1 to my first Declaration, I ordered a comprehensive review of this exhibit and have since discovered that nursing facilities and dentist should not have been included in Exhibit 1. [Rec. Doc. 13-2]. The other provider types included in Exhibit 1 are appropriate due to what they are allowed to do under the scope of their license. For example, any provider with prescriptive authority can prescribe contraceptive agents to a Louisiana Medicaid recipient and the prescription will be filled and paid. Other examples are anesthesiologist, who can be reimbursed for their role in sterilization procedures and radiologist, who can be reimbursed for reading ultrasounds, etc. related to reproductive/women's health issues.

8b. During this more in-depth review, I instructed my staff to gather information from available Medicaid providers in proximity to the two Planned Parenthood locations in New Orleans and Baton Rouge, Louisiana. They asked these providers about which family planning and related services they provided and approximate times of the next available appointment for family planning and related services. The results of this inquiry are attached as Exhibits A1, A2 and A3

9. On August 6, 2015, a conference call was convened between the personnel at the Centers for Medicare and Medicaid Services (CMS), the Department, and counsel for the Department of Health and Human Services (HHS) regarding the action taken relative to the participation of Planned Parenthood Gulf Coast, Inc., in the Louisiana Medicaid Program.

10. During the conference call, Secretary Kliebert and I were advised by CMS and HHS counsel that CMS has the authority to withhold federal Medicaid dollars from Louisiana or seek injunctive relief for the failure to comply with the Medicaid Act.

11. A subsequent conference call was convened on August 21, 2015, between personnel at CMS and the Department during which CMS advised that it would be sending a letter to the Department confirming what CMS and HHS counsel had verbally conveyed to the Department during the August 6, 2015 conference call. To date, the letter has not been received.

12. From January 1, 2015 through July 17, 2015, the four Planned Parenthood, Medicaid provider numbers 45802, 133673, 133689, and 91338 have been paid \$213,599.83 in total by the Medicaid fiscal intermediary Molina.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Ruth Kennedy
Ruth Kennedy
Medicaid Director, Louisiana Department of Health and Hospitals

Executed on September 8, 2015.

EXHIBIT A-1

Company Name	Address (including City)	Distance from Planned Parenthood (Miles)	Phone #	Date Called/Caller	Rx Contraception		Injectable Contraceptives		Cervical Cancer Screenings		Breast Exams		STI Screenings	
					Service Provided?	Appt Wait Time?	Service Provided?	Appt Wait Time?	Service Provided?	Appt Wait Time?	Service Provided?	Appt Wait Time?	Service Provided?	Appt Wait Time?
Capital City Family Health Center	4560 North Blvd, Ste 108, Baton Rouge	0.71	201-0751	9/3/2015 / Kim Cezar	Yes	2-3 weeks	Yes	2-3 weeks	Yes	2-3 weeks	Yes	2-3 weeks	Yes	2-3 weeks
Baton Rouge Primary Care	153 N 17th St, Baton Rouge	1.69	225-774-1120	9/3/2015 / Kim Cezar	Yes	1-3 days, same day for est pt	Yes	1-3 days, same day for est pt	Yes	1-3 days, same day for est pt	Yes	1-3 days, same day for est pt	Yes	1-3 days, same day for est pt
LSU Health-OLOL	1401 North Foster, Baton Rouge	1.92	987-9000	9/3/2015 / Libby Gonzales	No		No		Yes	MDs not accepting new patients	Yes	MDs not accepting new pts	Yes	MDs not accepting new pts
LSU Health-OLOL	5439 Airline Hwy, Baton Rouge	6.51	358-2280	9/3/2015 / Libby Gonzales	No		No		Yes		Yes		Yes	
LSU Women's Clinic	Womans Hospital, Baton Rouge	8.48	225-215-7960	9/3/2015 / Libby Gonzales	Yes	3 wks-estab pt Nov 1 for a new pt	yes	3 wks-estab pt Nov 1 for new	yes	3 wks-estab pt Nov 1 for new	yes	3 wks-estab pt Nov 1 for new	yes	3 wks-estab pt Nov 1 for new
Ruth Fertel	711 N Broad St, New Orleans	4.69	(504) 609 3500	9/3/2015 / Amara Blust	Yes	Same Day or Next day	Yes	Same Day or Next day	Yes	Same Day or Next day	Yes	Same Day or Next day	Yes	Same Day or Next day
UMC	Canal Street, New Orleans	1.97	504-702-5700	9/3/2015 / Amara Blust	Yes	2-3 weeks	Yes	2-3 weeks	Yes	2-3 weeks	Yes	2-3 weeks	Yes	2-3 weeks
City of New Orleans Health Dept. – Health Care for the Homeless (HCH)	2222 Simon Bolivar Ave., 2nd Floor New Orleans, LA 70113	1.9	(504) 658-2785	9/3/2015 / Susan Badeaux	Yes	no wait time	Yes	no wait time	Yes	within 24 hours	Yes	within 24 hours	Yes	within 24 hours
City of New Orleans Health Dept. – VA Community Resource and Referral Center	1530 Gravier St. New Orleans, LA 70112	3.8	(504) 658-2785	9/3/2015 / Susan Badeaux	Yes	no wait time	Yes	no wait time	Yes	within 24 hours	Yes	within 24 hours	Yes	within 24 hours
Common Ground Health Clinic	1400 Teche St New Orleans, LA 70114	6.7	(504) 361-9800	9/3/2015 / Susan Badeaux	Yes	no wait time	Yes	no wait time	Yes	no wait time	Yes	no wait time	Yes	no wait time
Daughters of Charity Health Center - Carrollton	3201 S Carrollton Ave. New Orleans, LA 70118	3.6	(504) 207-3060	9/3/2015 / Susan Badeaux	no	no	no	no	Yes	1 day	yes	1day	Yes	1day
Daughters of Charity Health Center - St. Cecilia	1030 Lesseps St. New Orleans, LA 70117	7.2	(504) 207-3060	9/3/2015 / Susan Badeaux	no	no	no	no	yes	1 day	yes	1 day	Yes	1 day
Daughters of Charity Health Center - Gentilly	100 Warrington Dr. New Orleans, LA 70117	3.6	(504) 207-3060	9/3/2015 / Susan Badeaux	no	no	no	no	yes	1 day	yes	1 day	Yes	1 day
EXCELth Family Health Center - Gentilly	2050 Caton St. New Orleans, LA 70122	7	(504) 620-9868	9/3/2015 / Susan Badeaux	YES	No More than 2 DAYS	YES	No More than 2 DAYS	YES	No More than 2 DAYS	YES	No More than 2 DAYS	Yes	No More than 2 DAYS
EXCELth Family Health Center – Algiers	4422 Gen Meyer Ave. Suite 103 New Orleans, LA 70131	7.5	(504) 526-1179	9/3/2015 / Susan Badeaux	YES	No More than 2 DAYS	YES	No More than 2 DAYS	YES	No More than 2 DAYS	YES	No More than 2 DAYS	Yes	No More than 2 DAYS
University Medical Center New Orleans and Practice Location	2000 Canal St. New Orleans, LA 70112	4.2	(504) 702-5700	9/3/2015 / Susan Badeaux	Yes	2-3 weeks	Yes	2-3 weeks	Yes	2-3 weeks	Yes	2-3 weeks	Yes	2-3 weeks
New Orleans Musicians' Clinic	3700 St Charles Ave. New Orleans, LA 70115	0.6	(504) 412-1366	9/3/2015 / Susan Badeaux	Yes	1 day	Yes	1 day	Yes	1 day	Yes	1 day	Yes	1 day
NO/Aids Task Force d.b.a CrescentCare Specialty Center	2601 Tulane Ave, Suite 500 New Orleans, LA 70119	3.5	(504) 821-2601	9/3/2015 / Susan Badeaux	YES	less than a week	YES	less than a week	YES	less than a week	YES	less than a week	YES	next day
CrescentCare Specialty Center – Family Care Services Center	4640 S. Carrollton Ave., Suite 120 New Orleans, LA 70119	4.3	(504) 378-0427	9/3/2015 / Susan Badeaux	YES	less than a week	YES	less than a week	YES	less than a week	YES	less than a week	YES	next day
CrescentCare Specialty Center – CrescentCare Health and Wellness	3308 Tulane Ave. New Orleans, LA 70119	3.6	(504) 207-2273	9/3/2015 / Susan Badeaux	YES	less than a week	YES	less than a week	YES	less than a week	YES	less than a week	YES	next day

Company Name	Address (including City)	Distance from Planned Parenthood (Miles)	Phone #	Date Called/Caller	Rx Contraception		Injectable Contraceptives		Cervical Cancer Screenings		Breast Exams		STI Screenings	
					Service Provided?	Appt Wait Time?	Service Provided?	Appt Wait Time?	Service Provided?	Appt Wait Time?	Service Provided?	Appt Wait Time?	Service Provided?	Appt Wait Time?
Odyssey House Community Clinic	1125 N Tonti St. New Orleans, LA 70119	4.7	(504) 383-8559	9/3/2015 / Susan Badeaux	Yes	2 weeks	Yes	2 week	Yes	4 weeks	Yes	1 week	Yes	1 week
St. Thomas Community Health Center – Mahalia Jackson	2405 Jackson Ave. Building B, Suite 222 New Orleans, LA 70130	2.2	(504) 529-5558	9/3/2015 / Susan Badeaux	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day
St. Thomas Community Health Center – Donald T. Erwin Center	1936 Magazine St. New Orleans, LA 70130	2	(504) 529-5558	9/3/2015 / Susan Badeaux	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day
St. Thomas Community Health Center	1020 St. Andrew St. New Orleans, LA 70130	1.6	(504) 529-5558	9/3/2015 / Susan Badeaux	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day
St. Thomas Community Health Center - Columbia Parc	3943 St. Bernard Ave. New Orleans, LA 70122	6.3	(504) 529-5558	9/3/2015 / Susan Badeaux	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day
St. Thomas Community Health Center – LB Landry Community Clinic	1200 L B Landry New Orleans, LA 70114	6.2	(504) 529-5558	9/3/2015 / Susan Badeaux	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day	Yes	same day/next day
Ruth U. Fertel Community Health Center - AHL	711 N Broad St. New Orleans, LA 70119	4.4	(504) 609-3500	9/3/2015 / Susan Badeaux	Yes	1-3 days	Yes	1-3 days	Yes	1-3 days	Yes	1-3 days	Yes	1-3 days
South Broad Community Health - AHL	3300 South Broad St. New Orleans, LA 70125	2.4	(504) 575-3712	9/3/2015 / Susan Badeaux	Yes	1-3 days	Yes	1-3 days	Yes	1-3 days	Yes	1-3 days	Yes	1-3 days
Tulane Drop-In Clinic at Covenant House	611 N Rampart St. New Orleans, LA 70112	4.5	(504) 584-1112	9/3/2015 / Susan Badeaux	Yes	1-2 days	Yes	1-2 days	Yes	1-2 days	Yes	1-2 days	Yes	1-2 days

EXHIBIT A-2

New Orleans Site Location

Legend

- ★ Planned Parenthood
- 5 mile radius
- 10-mile radius

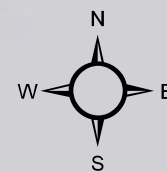
- (N) Rx Contraception
- (N) Injectable Contraceptives
- (Y) Cervical Cancer Screenings
- (Y) Breast Exams
- (Y) STI Screenings

- Daughters of Charity Health Center - Carrollton
- Daughters of Charity Health Center - St. Cecilia
- ▲ Daughters of Charity Health Center - Gentilly

- (Y) Rx Contraception
- (Y) Injectable Contraceptives
- (Y) Cervical Cancer Screenings
- (Y) Breast Exams
- (Y) STI Screenings

- City of New Orleans Health Dept. – Health Care for the Homeless (HCH)
- City of New Orleans Health Dept. – VA Community Resource and Referral Center
- Common Ground Health Clinic
- ▲ EXCELth Family Health Center - Gentilly
- ▲ EXCELth Family Health Center – Algiers
- ▲ University Medical Center New Orleans and Practice Location
- ▲ New Orleans Musicians' Clinic
- NO/Aids Task Force d.b.a CrescentCare Specialty Center
- CrescentCare Specialty Center – Family Care Services Center
- CrescentCare Specialty Center – CrescentCare Health and Wellness
- Odyssey House Community Clinic
- St. Thomas Community Health Center – Mahalia Jackson
- St. Thomas Community Health Center – Donald T. Erwin Center
- St. Thomas Community Health Center
- St. Thomas Community Health Center - Columbia Parc
- St. Thomas Community Health Center – LB Landry Community Clinic
- Ruth U. Fertel Community Health Center - AHL
- South Broad Community Health - AHL
- Tulane Drop-In Clinic at Covenant House

Light Gray Canvas Base



0 0.75 1.5 3 4.5 Miles



Louisiana Dept. of
Health and Hospitals,
Office of Public Health
Center for Population
Health Informatics.

Basemap:
ESRI, DeLorme, Navteq

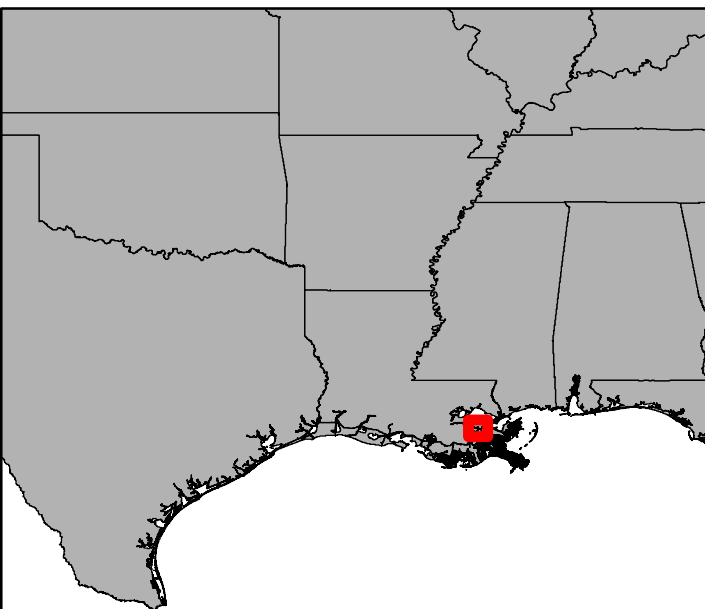


EXHIBIT A-3

Baton Rouge Site Location

Legend

- ★ Planned Parenthood
- 5 mile radius
- 10 mile radius

- (N) Rx Contraception
- (N) Injectable Contraceptives
- (Y) Cervical Cancer Screenings
- (Y) Breast Exams
- (Y) STI Screenings

- LSU Health-OLOL
- ◆ LSU Health-OLOL

- (Y) Rx Contraception
- (Y) Injectable Contraceptives
- (Y) Cervical Cancer Screenings
- (Y) Breast Exams
- (Y) STI Screenings

- Baton Rouge Primary Care
- ✳ Capital City Family Health Center
- ◆ LSU Women's Clinic

Louisiana Dept. of Health and Hospitals,
Office of Public Health
Center for Population Health Informatics.

Basemap:
ESRI, DeLorme, Navteq

