



Judge Extends Injunction Blocking Texas From Removing Planned Parenthood From Medicaid

Judge Sam Sparks of the Austin Division of the U.S. District Court for the Western District of Texas on February 21 extended the injunction blocking Texas from removing Planned Parenthood from Medicaid contracts. The injunction will continue until a full trial to settle Planned Parenthood's lawsuit against the state of Texas is scheduled, argued, and concluded.



As part of that ongoing lawsuit, Planned Parenthood filed a request with Sparks in Austin on December 30 asking him to stop the state from cutting them from its Medicaid program.

Following that request, Sparks held hearings in Austin from January 17 through 19, after which he issued the initial injunction against the state of Texas.

Explaining his reasoning for extending the injunction, Sparks said state health officials "likely acted to disenroll qualified health care providers from Medicaid without cause."

"Such action would deprive Medicaid patients of their statutory right to obtain health care from their chosen qualified provider," wrote Sparks.

A Reuters report noted that Texas and several other "Republican-controlled" states had taken steps to cut Planned Parenthood's funding since an anti-abortion group released videos showing Planned Parenthood officials negotiating prices for fetal tissue collected from abortions.

The video, the fifth of several made by the pro-life Center for Medical Progress, showed the Director of Research for Planned Parenthood Gulf Coast, Melissa Farrell, advertising the Texas Planned Parenthood branch's track record of fetal tissue sales, including its ability to deliver fully intact aborted babies.

Reuters reported that Texas investigated Planned Parenthood because of the videos, but a grand jury last January cleared the abortion provider of any wrongdoing. Instead, the grand jury indicted two anti-abortion activists who made the videos for "document fraud." Those charges were later dismissed.

Texas has taken no further criminal action against Planned Parenthood since then, but has repeated its accusations that the abortion provider may have violated state law.

The state's legal action against Planned Parenthood began last December 20, when Texas Health and Human Services Inspector General Stuart Bowen gave official notice to Planned Parenthood that the "reproductive health services" organization — which is the largest single provider of abortions in the United States — would no longer receive funding from the Texas Medicaid program.

In his notice letter, Bowen said the undercover videos showed that "Planned Parenthood violated state



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and federal law,” adding that the abortion provider showed a “willingness to charge more than the costs incurred for procuring fetal tissue.”

“Your misconduct is directly related to whether you are qualified to provide medical services in a professionally competent, safe, legal and ethical manner,” Bowen stated in the notice. “Your actions violate generally accepted medical standards, as reflected in state and federal law, and are Medicaid program violations that justify termination.”

The deadline that Bowen established for the cut-off in Medicaid funding was 30 days, which would have been January 19. As noted above, however, Sparks held hearings in Austin from January 17 through 19, the last day before the cut-off was to have taken effect, and issued his injunction stopping it.

In response to Sparks’ injunction, Texas Attorney General Ken Paxton said his office would appeal.

“Today’s decision is disappointing and flies in the face of basic human decency,” Paxton said in his statement.

Pointing to the video that was recorded by the Center for Medical Progress to provide evidence that Planned Parenthood was selling fetal tissue, Paxton said:

“No taxpayer in Texas should have to subsidize this repugnant and illegal conduct.”

A report in LifeNews.com said Judge Sparks’ ruling is not surprising, as he has historically opposed pro-life laws and administrative actions. Sparks indicated that he expected his decision to be appealed to the Fifth Circuit Court of Appeals, saying, “I’m an elevator; I take a case; I move it up to people much smarter than me.”

CNN reported that as a presidential candidate, President Donald Trump said he would work to defund Planned Parenthood.

Speaker of the House Paul Ryan announced in January that Republicans will move to strip all federal funding for Planned Parenthood as part of the process they are using to eliminate much of ObamaCare.

As for the future of this case, much will depend on whether the Fifth Circuit Court of Appeals accepts the expected appeal from Texas, and how that court rules. It is also possible that further federal legislation passed by Congress and signed by Trump to defund Planned Parenthood might have an impact.

Under the concept of federalism, it would be preferable for the states to handle such matters on their own. Before they can do so, however, federal judges such as Sparks must be forced to take a hands-off approach to issues that properly should be decided at the state level.

The solution may lie in legislation that would remove the jurisdiction from federal courts to decide morality issues such as abortion and marriage — from district courts such as Sparks’ all the way up to the Supreme Court.

An example of such legislation was the “We The People Act” which former Rep. Ron Paul (R-Texas) introduced in every Congress since at least 2004 until his retirement from the House. Such legislation would prohibit federal courts from adjudicating cases about state laws on religious freedom and “privacy,” including sexual orientation and abortion. It would also punish any judges violating the established limits by removing them from power.

The text of one version of the “We the People Act” introduced by Paul noted, in part:



The Congress finds the following:

- (1) Article III, section 1 of the Constitution of the United States vests the judicial power of the United States in one Supreme Court, and in such inferior Courts as Congress may from time to time ordain and establish.
- (2) Article I, section 8 and article 3, section 1 of the Constitution of the United States give Congress the power to establish and limit the jurisdiction of the lower Federal courts.
- (3) Article III, section 2 of the Constitution of the United States gives Congress the power to make such exceptions, and under such regulations as Congress finds necessary to Supreme Court jurisdiction....
- (5) Congress has constitutional authority to set broad limits on the jurisdiction of both the Supreme Court and the lower Federal courts in order to correct abuses of judicial power and continuing violations of the Constitution of the United States by Federal courts.

In light of the above principles, the act would have mandated that:

The Supreme Court of the United States and each Federal court —

- (1) shall not adjudicate —
 - (A) any claim involving the laws, regulations, or policies of any State or unit of local government relating to the free exercise or establishment of religion;
 - (B) any claim based upon the right of privacy, including any such claim related to any issue of sexual practices, orientation, or reproduction; or
 - (C) any claim based upon equal protection of the laws to the extent such claim is based upon the right to marry without regard to sex or sexual orientation.

Since Planned Parenthood claims to provide “reproductive health care,” such legislation would very likely eliminate the authority of all federal courts to rule on any issues involving the abortion provider. Any disputes related to abortion, religion, or marriage would then be settled at the state level, as the Tenth Amendment mandates.

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