

**2011 DRAFTING REQUEST**

**Bill**

Received: **08/16/2011**

Received By: **fknepp**

Wanted: **As time permits**

Companion to LRB:

For: **Donna Seidel (608) 266-0654**

By/Representing: **Chris McKinny**

May Contact:

Drafter: **fknepp**

Subject: **Health - public health**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Seidel@legis.wisconsin.gov**

Carbon copy (CC:) to: **fern.knepp@legis.wisconsin.gov**  
**tamara.dodge@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Eliminate changes made to the family planning program in 2011 Wisconsin Act 32

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	fknepp 08/17/2011	csicilia 09/15/2011	rschluet 09/15/2011	_____	sbasford 09/15/2011	lparisi 09/29/2011	

FE Sent For:

<END>

↪ At Intro.

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/?	fknepp	1/9/14	1/9/14	JF			

FE Sent For:

<END>

## **Dodge, Tamara**

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**From:** McKinny, Chris  
**Sent:** Tuesday, August 16, 2011 3:22 PM  
**To:** Dodge, Tamara  
**Subject:** Several Drafting Requests

Hi Tami,

I have a couple of drafting requests that I believe fall under your purview. Please feel free to pass them on to the appropriate person if I am incorrect. If you have any questions please feel free to let me know. Thank you!

1. Eliminate the changes that were made to the Family Planning Program in the budget (restore funding/eligibility criteria to pre-budget levels)
2. Eliminate the changes that were made to the Family Planning Waiver Program for men in the budget
3. Delete the changes that Governor Walker made in his veto message to the study on requiring competitive bidding for generic drugs (originally the report had to be issued by Dec. 31, 2011, Walker's veto eliminated that date)
4. Draft a bill that would repeal the DHS rulemaking changes authorized in Act 10

There is no real hurry on any of this. Thanks again!

Chris McKinny  
**Office of Rep. Donna Seidel**  
*Assistant Democratic Leader*  
608-266-0654 (office)  
1-888-534-0085 (toll free)



LRB-2878/P1  
FFK & TJD:.....

P.O.W.F.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 8-17-11

no 911 Finally, this bill increases the funding for family planning services during the 2011-2013 fiscal biennium

SAV  
x ref

Gen Cat

AN ACT ... relating to: Optional services for family planning under Medical Assistance and family planning services. and making an appropriation

**Analysis by the Legislative Reference Bureau**

Under current law, state and federal funds (women's health funds) are appropriated to the Department of Health Services (DHS) to provide the following services: counseling by trained personnel regarding family planning; distribution of information relating to family planning; and referral to licensed nurse practitioners within the scope of their practice, licensed physicians, or local health departments for consultation, examination, medical treatment, and prescriptions for the purpose of family planning. Under current law, DHS may only distribute women's health funds to public entities. Current law further provides that a public entity that receives women's health funds may provide the funds to other entities but only if the recipient does not provide abortion services, make referral for abortion services, or have an affiliate that provides abortion services or makes referrals for abortion services. The state portion of this funding is referred to as the women's health block grant.

This bill eliminates the restriction that DHS <sup>may only</sup> distribute funds appropriated for family planning services to public entities and eliminates the restriction that a recipient of these funds may only provide the funds to entities that meet specific criteria. This bill also eliminates the term "women's health block grant."

Before July 1, 2011, the law required DHS to implement a waiver of federal Medicaid law to provide family planning services, under the Medical Assistance program, to any woman between the ages of 15 and 44 whose family income does not

exceed 200% of the federal poverty line for a family the size of the woman's family. Before July 1, 2011, the law also required DHS to request and then implement a waiver to provide family planning services to men of the same age group and income level. The biennial budget act, 2011 Wisconsin Act 32, eliminated the language regarding those requirements for family planning services as of July 1, 2011. On July 1, 2011, current law requires DHS to require a waiver of federal Medicaid law to provide optional services for family planning unless DHS creates a policy that says otherwise. Current law, however, does not specify the gender, age, or income level of those eligible for family planning services under Medical Assistance. DHS is also required under current law to request waivers of federal Medicaid law to require parental notification for family planning services for any female under 18 years of age and to require DHS to determine the income eligibility for a female under 18 years of age using the income of the female's parent or guardian instead of the female's income.

This bill restores the age and income eligibility criteria for females to receive family planning services under this waiver program to ages 15 to 44 and income level of not exceeding 300% of the federal poverty line for a family the size of the female's family. The bill also restores the family planning services waiver program for males between the ages of 15 and 44 whose family income does not exceed 300% of the federal poverty line for a family the size of the male's family. DHS is not allowed to create a policy that alters any of the requirements for either the female or male family planning services waiver program under the bill. The bill also eliminates the requirement for DHS to request the additional waivers of federal law relating to parental notification and income eligibility determination for females under 18 years of age.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 20.435 (1) (f) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

20.435 (1) (f) ~~Women's health block grant~~ Family planning. The amounts in the schedule to provide ~~women's health~~ family planning services under s. 253.07. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may transfer funds between fiscal years under this paragraph. All funds distributed by the department under s. 253.07 (2) (b) and (4) but not encumbered by December 31 of each year lapse

to the general fund on the next January 1 unless transferred to the next calendar year by the joint committee on finance.

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 454; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; 2009 a. 2, 15; 2009 a. 28 ss. 325 to 470, 485, 488, 490; 2009 a. 76, 180, 190, 219, 274, 276, 279, 318, 334.

**SECTION 2. 49.45 (24s) (a) of the statutes is amended to read:**

**49.45 (24s) (a)** The department shall request a waiver from the secretary of the federal department of health and human services to permit the department to provide optional services for family planning, as defined in s. 253.07 (1) (a), under medical assistance, ~~unless otherwise provided by the department by a policy created under sub. (2m) (c) 10 to any female between the ages of 15 and 44 whose family income does not exceed 300 percent of the poverty line for a family the size of the female's family.~~ The department shall implement any waiver granted. The department may not create a policy under sub. (2m) (c) that alters the requirement or eligibility criteria under this paragraph.

**NOTE: NOTE:** Par. (a) is amended eff. 1-1-15 by 2011 Wis. Act 32, s. 1441bg, to read as follows below. Par. (a) was created by 2011 Wis. Act 32, s. 1441b. Although the language in brackets was removed from the creation of par. (a) in s. 1441b by the governor's partial veto, the amendment by s. 1441bg of par. (a) does not reflect the removal of that language. **NOTE:**

(a) The department shall request a waiver from the secretary of the federal department of health and human services to permit the department to provide optional services for family planning, as defined in s. 253.07 (1) (a), under medical assistance [to any female between the ages of 15 and 44 whose family income does not exceed 200 percent of the poverty line for a family the size of the female's family]. The department shall implement any waiver granted.

**History:** 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062a, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 477, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342; 2011 a. 10, 32.

**\*\*\*\*NOTE:** The statute for the previous program set the income eligibility at 200 percent of the federal poverty line, but DHS set eligibility at 300 percent of the federal poverty line and was running the program in accordance with that eligibility standard. This draft restores the program to what DHS was actually running instead of the statutory language. Is that okay.

**\*\*\*\*NOTE:** Under the provisions first in 2011 Wisconsin Act 10 and then 2011 Wisconsin Act 32, DHS may alter the eligibility requirements of some programs through a policy it creates under s. 49.45 (2m) (c). To prevent DHS from altering the eligibility requirements under this paragraph, I added the last sentence.

**SECTION 3**

**SECTION 3.** 49.45 (24s) (b) of the statutes, as created by 2011 Wisconsin Act 32, is repealed.

\*\*\*\*NOTE: This repeal eliminates the requirement that DHS request waivers pertaining to parental notification and income eligibility determination, but it would still allow DHS to implement those waivers if it has received them or request those waivers on its own accord.

**SECTION 4.** 49.45 (24s) (c) of the statutes is created to read:

49.45 (24s) (c) The department shall request a waiver from the secretary of the federal department of health and human services to permit the department to provide optional services for family planning, as defined in s. 253.07 (1) (a), under medical assistance to any male between the ages of 15 and 44 whose family income does not exceed 300 percent of the poverty line for a family the size of the male's family. The department shall implement any waiver granted. The department may not create a policy under sub (2m) (c) that alters the requirement or eligibility criteria under this paragraph.

\*\*\*\*NOTE: Please see the notes under s. 49.45 (24s) (a).

**SECTION 5.** 253.07 (title) of the statutes is repealed and recreated to read:

~~253.07~~ (title) **Family Planning.**

**SECTION 6.** 253.07 (1) (a) 3m. of the statutes is created to read:

253.07 (1) (a) 3m. Pregnancy termination.

**SECTION 7.** 253.07 (1) (b) 3m. of the statutes is created to read:

253.07 (1) (b) 3m. Pregnancy termination.

**SECTION 8.** 253.07 (1) (c) of the statutes, as created by 2011 Wisconsin Act 32, is repealed.

**SECTION 9.** 253.07 (2) (b) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

as affected  
by 2011  
Wisconsin  
Act 32

253.07 (2) (b) The department shall allocate ~~women's health~~ state and federal family planning funds under its control in a manner which will promote the development and maintenance of an integrated system of community health services. It shall maximize the use of existing community family planning services by encouraging local contractual arrangements.

History: 1977 c. 418; 1979 c. 89; 1991 a. 39 s. 3695; 1993 a. 27 s. 379; Stats. 1993 s. 253.07; 1993 a. 105, s. 13; 1997 a. 27, 67; 2009 a. 28.

**SECTION 10.** 253.07 (2) (c) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

253.07 (2) (c) The department shall coordinate the delivery of family planning services by allocating ~~women's health~~ family planning funds in a manner which maximizes coordination between the agencies.

History: 1977 c. 418; 1979 c. 89; 1991 a. 39 s. 3695; 1993 a. 27 s. 379; Stats. 1993 s. 253.07; 1993 a. 105, s. 13; 1997 a. 27, 67; 2009 a. 28.

**SECTION 11.** 253.07 (4) (intro.) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

253.07 (4) (intro.) ~~WOMEN'S HEALTH BLOCK GRANT~~ FAMILY PLANNING SERVICES. From the appropriation under s. 20.435 (1) (f) and ~~subject to sub. (5)~~, the department shall distribute the following amounts, for all of the following:

**SECTION 12.** 253.07 (4) (b) to (d) of the statutes, as affected by 2011 Wisconsin Act 32, ~~is~~ amended to read:

253.07 (4) (b) In each fiscal year, \$67,500 to subsidize the provision of papanicolaou tests to individuals with low income by ~~entities that receive women's health funds~~ family planning agencies under this section. In this paragraph, "low income" means adjusted gross income that is less than 200% of the poverty line established under 42 USC 9902 (2).

X

X

→

are

PLAIN

**SECTION 12**

(c) In each fiscal year, \$54,000 to subsidize the provision of follow-up cancer screening by ~~entities that receive women's health funds~~ family planning agencies under this section.

(d) In each fiscal year, \$31,500 as grants to applying family planning agencies under this section for employment in communities of licensed registered nurses, licensed practical nurses, certified nurse-midwives or licensed physician assistants who are members of a racial minority.



↑  
plain comma

History: 1977 c. 418; 1979 c. 89; 1991 a. 39 s. 3695; 1993 a. 27 s. 379; Stats. 1993 s. 253.07; 1993 a. 105, s. 13; 1997 a. 27, 67; 2009 a. 28.

**SECTION 13.** 253.07 (5) of the statutes, as created by 2011 Wisconsin Act 32, is

repealed.



(END)

INS A



INS for  
2673/1

1 (c) In each fiscal year, \$54,000 to subsidize the provision of follow-up cancer  
2 screening by ~~entities that receive women's health funds~~ family planning agencies  
3 under this section.

4 (d) In each fiscal year, \$31,500 as grants to applying family planning agencies  
5 under this section for employment in communities of licensed registered nurses,  
6 licensed practical nurses, certified nurse-midwives or licensed physician assistants  
7 who are members of a racial minority.

8 **History:** 1977 c. 418; 1979 c. 89; 1991 a. 39 s. 3695; 1993 a. 27 s. 379; Stats. 1993 s. 253.07; 1993 a. 105, s. 13; 1997 a. 27, 67; 2009 a. 28.

8 **SECTION 13.** 253.07 (5) of the statutes, as created by 2011 Wisconsin Act 32, is  
9 repealed.

10 **SECTION 14. Fiscal changes.**

11 (1) FAMILY PLANNING. In the schedule under section 20.005 (3) of the statutes  
12 for the appropriation to the department of health services under section 20.435 (1)  
13 (f) of the statutes, as affected by the acts of 2011, the dollar amount is increased by  
14 \$193,600 for the first fiscal year of the fiscal biennium in which this subsection takes  
15 effect to <sup>ing</sup>provide family planning services. In the schedule under section 20.005 (3)  
16 of the statutes for the appropriation to the department of health services under  
17 section 20.435 (1) (f) of the statutes, as affected by the acts of 2011, the dollar amount  
18 is increased by \$193,600 for the second fiscal year of the fiscal biennium in which this  
19 subsection takes effect to <sup>ing</sup>provide family planning services.

20 (END)

INS A

**Parisi, Lori**

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**From:** McKinny, Chris  
**Sent:** Wednesday, September 28, 2011 4:42 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-2673/1 Topic: Eliminate changes made to the family planning program in 2011 Wisconsin Act 32

Thank you!

Please Jacket LRB 11-2673/1 for the ASSEMBLY.