

**2001 DRAFTING REQUEST**

**Bill**

Received: **01/09/2001**

Received By: **isagerro**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Jablonsky**

This file may be shown to any legislator: **NO**

Drafter: **isagerro**

May Contact:

Alt. Drafters:

Subject: **Public Assistance - med. assist.**

Extra Copies: **DAK**

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**Pre Topic:**

DOA:.....Jablonsky -

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**Topic:**

MA for women diagnosed with breast or cervical cancer

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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>
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*[Signature]*  
*1-23-01*

*[Signature]*  
*1-23-01*  
**<END>**

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By/Representing: Jablonsky

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Subject: Public Assistance - med. assist.

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# DHFS

## 2001-2003 Biennial Budget Statutory Language Request January 10, 2001

Title: Medicaid for Women under 65 With Breast or Cervical Cancer

### Current Language

Sections 49.46 (1), 49.46(1m), 49.465, 49.468, 49.47 (4), and 49.472 define Medical Assistance eligibility. S. 49.665 defines BadgerCare eligibility.

### Proposed Change

1. Create a new section in Chapter 49 (49.473?) that would make certain women under age 65 diagnosed with breast or cervical cancer eligible for medical assistance benefits. The eligibility criteria for these women that must be included in this new section are:
  - a. The woman is not otherwise eligible for Medicaid under s. 49.46 (1), 49.46(1m), 49.465, 49.468, 49.47 (4), and 49.472, or for BadgerCare under s. 49.665,
  - b. Is under age 65,
  - c. Is not covered by any of the health plans defined under 42 USC 300gg(c)<sup>1</sup>,
  - d. Was screened for breast or cervical cancer under the Breast and Cervical Cancer Early Detection Program funded by the Centers for Disease Control and Prevention (CDC), and found to need treatment for either breast or cervical cancer, and
  - e. Remains eligible as long as they need treatment for breast or cervical cancer.

*IGNORE* 2. The CDC funded breast or cervical cancer screening program in Wisconsin is the Wisconsin Well Woman Program, administered by the Division of Public Health. The program is not currently defined in statutes. We suggest creating a new section in Chapter 255 to define this CDC funded screening program. However, Division of Public Health staff have not had an opportunity to determine drafting suggestions for this section.

Note: Other Medicaid eligibility criteria that would apply to this group include Wisconsin residency, providing a Social Security Number [s. 49.82(2)] and citizenship or qualifying alien status [s. 49.84(5) & 49.45(27)]. (There are no income or resource limitations for this group.)

<sup>1</sup> Health plans include the following: a group health plan, health insurance, Medicare, Medicaid, Veterans Benefits/CHAMPUS, Indian Health Service, HIRSP, Federal Employee Health Plans, Peace Corp Health Plans, or other public health plans (to be defined).

## Effect of the Change

This language will create a new Medicaid eligibility category for women with breast or cervical cancer who are not otherwise eligible for Medicaid or BadgerCare and are uninsured. Approximately 30 to 40 women a year screened by the program are diagnosed with cancer. Only some of these women are expected to be eligible for Medicaid under these criteria.

## Rationale for the Change

The Department is responding to new federal legislation enacted in October. The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Public Law 106-354) amends Title XIX of the Social Security Act to give States enhanced matching funds (71.5% in FFY 2001) to provide Medicaid eligibility to a new group of individuals previously not eligible under the program. The new option allows states to provide full Medicaid benefits to uninsured women under age 65 who are identified through the Centers for Disease Control and Prevention's (CDC) National Breast and Cervical Cancer Early Detection Program (NBCCEDP) and are in need of treatment for breast or cervical cancer, including pre-cancerous conditions and early stage cancer. This program supports existing State efforts to address women's health issues, especially for low-income uninsured women.

**Desired Effective Date:** Upon Passage of the Budget Bill  
**Agency:** DHFS  
**Agency Contact:**  
**Phone:**

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Final version (Enrolled Bill) as passed by both Houses. There are 4 other versions of this bill.

<a href="#">GPO's PDF version of this bill</a>	<a href="#">References to this bill in the Congressional Record</a>	<a href="#">Link to the Bill Summary &amp; Status file.</a>	<a href="#">Full Display - 10,309 bytes.</a> <a href="#">[Help]</a>
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## Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Enrolled Bill)

--H.R.4386--

H.R.4386

*One Hundred Sixth Congress*

*of the*

*United States of America*

*AT THE SECOND SESSION*

Begun and held at the City of Washington on Monday,

the twenty-fourth day of January, two thousand

An Act

To amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act with respect to surveillance and information concerning the relationship between cervical cancer and the human papillomavirus (HPV), and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Breast and Cervical Cancer Prevention and Treatment Act of 2000'.

### **SEC. 2. OPTIONAL MEDICAID COVERAGE OF CERTAIN BREAST OR CERVICAL CANCER PATIENTS.**

(a) COVERAGE AS OPTIONAL CATEGORICALLY NEEDY GROUP-

(1) IN GENERAL- Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended--

(A) in subclause (XVI), by striking 'or' at the end;

(B) in subclause (XVII), by adding 'or' at the end; and

(C) by adding at the end the following:

'(XVIII) who are described in subsection (aa) (relating to certain breast or cervical cancer patients);'

(2) GROUP DESCRIBED- Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following:

'(aa) Individuals described in this subsection are individuals who--

'(1) are not described in subsection (a)(10)(A)(i);

'(2) have not attained age 65;

'(3) have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) in accordance with the requirements of section 1504 of that Act (42 U.S.C. 300n) and need treatment for breast or cervical cancer; and

'(4) are not otherwise covered under creditable coverage, as defined in section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c)).'

(3) LIMITATION ON BENEFITS- Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)--

(A) by striking 'and (XIII)' and inserting '(XIII)'; and

(B) by inserting ', and (XIV) the medical assistance made available to an individual described in subsection (aa) who is eligible for medical assistance only because of subparagraph (A)(10)(ii)(XVIII) shall be limited to medical assistance provided during the period in which such an individual requires treatment for breast or cervical cancer' before the semicolon.

(4) CONFORMING AMENDMENTS- Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)--

(A) in clause (xi), by striking 'or' at the end;

(B) in clause (xii), by adding 'or' at the end; and

(C) by inserting after clause (xii) the following:



'(xiii) individuals described in section 1902(aa),'

(b) PRESUMPTIVE ELIGIBILITY-

(1) IN GENERAL- Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920A the following:

**'PRESUMPTIVE ELIGIBILITY FOR CERTAIN BREAST OR CERVICAL CANCER PATIENTS**

'SEC. 1920B. (a) STATE OPTION- A State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(aa) (relating to certain breast or cervical cancer patients) during a presumptive eligibility period.

'(b) DEFINITIONS- For purposes of this section:

'(1) PRESUMPTIVE ELIGIBILITY PERIOD- The term 'presumptive eligibility period' means, with respect to an individual described in subsection (a), the period that--

'(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(aa); and

'(B) ends with (and includes) the earlier of--

'(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

'(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

'(2) QUALIFIED ENTITY-

'(A) IN GENERAL- Subject to subparagraph (B), the term 'qualified entity' means any entity that--

'(i) is eligible for payments under a State plan approved under this title; and

'(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

'(B) REGULATIONS- The Secretary may issue regulations further limiting those entities that may become qualified entities in order to prevent fraud and abuse and for other reasons.

'(C) RULE OF CONSTRUCTION- Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities, consistent with any limitations imposed under subparagraph (B).

‘(c) ADMINISTRATION-

‘(1) IN GENERAL- The State agency shall provide qualified entities with--

‘(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

‘(B) information on how to assist such individuals in completing and filing such forms.

‘(2) NOTIFICATION REQUIREMENTS- A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall--

‘(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

‘(B) inform such individual at the time the determination is made that an application for medical assistance under the State plan is required to be made by not later than the last day of the month following the month during which the determination is made.

‘(3) APPLICATION FOR MEDICAL ASSISTANCE- In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance under such plan by not later than the last day of the month following the month during which the determination is made.

‘(d) PAYMENT- Notwithstanding any other provision of this title, medical assistance that--

‘(1) is furnished to an individual described in subsection (a)--

‘(A) during a presumptive eligibility period;

‘(B) by a entity that is eligible for payments under the State plan; and

‘(2) is included in the care and services covered by the State plan,

shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).’.

(2) CONFORMING AMENDMENTS-

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: ‘and provide for making medical assistance available to individuals described in subsection (a) of section 1920B during a presumptive eligibility period in accordance with such section’.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended-

(i) by striking 'or for' and inserting ', for'; and

(ii) by inserting before the period the following: ', or for medical assistance provided to an individual described in subsection (a) of section 1920B during a presumptive eligibility period under such section'.

(c) ENHANCED MATCH- The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended--

(1) by striking 'and' before '(3)'; and

(2) by inserting before the period at the end the following: ', and (4) the Federal medical assistance percentage shall be equal to the enhanced FMAP described in section 2105(b) with respect to medical assistance provided to individuals who are eligible for such assistance only on the basis of section 1902(a)(10)(A)(ii)(XVIII)'.

(d) EFFECTIVE DATE- The amendments made by this section apply to medical assistance for items and services furnished on or after October 1, 2000, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

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\* Sue Jablonsky, 1/11/07 8:45am

- DHFS is still debating presumptive  
eligibility questions.

- indiv. would be eligible for all MA  
services

## Sager-Rosenthal, Ivy

---

**From:** Jablonsky, Sue  
**Sent:** Thursday, January 11, 2001 1:18 PM  
**To:** Sager-Rosenthal, Ivy  
**Subject:** FW: FW: MA for women with breast and cervical cancer

-----Original Message-----

**From:** Wood, Susan  
**Sent:** Thursday, January 11, 2001 9:02 AM  
**To:** Jablonsky, Sue  
**Cc:** Bove, Fredi-Ellen; Miller, Anne; Bormett, Michael; LaPhilliph, John; McIlquham, Cheryl; Vavra, James  
**Subject:** Re: FW: MA for women with breast and cervical cancer

your reading of the benefit issue is correct - the law provides for all MA covered services for this group will confirm on the PE issue later today

Thanks,  
Susan

>>> Jablonsky, Sue 01/11/01 08:51AM >>>

Susan-I will call Ivy and tell her you are still deciding re PE and my reading of your documents looks like the person would be eligible for all MA services--not just those associated with cancer treatment. Just wanted to double check. Please let me know your decision on PE ASAP. I'd like to be able to know by today or early tomorrow. Thanks

-----Original Message-----

**From:** Sager-Rosenthal, Ivy  
**Sent:** Wednesday, January 10, 2001 6:47 PM  
**To:** Jablonsky, Sue  
**Subject:** RE: MA for women with breast and cervical cancer

One more question: are the services covered by MA for these individuals limited to those related to the treatment of breast or cervical cancer?

-----Original Message-----

**From:** Sager-Rosenthal, Ivy  
**Sent:** Wednesday, January 10, 2001 6:31 PM  
**To:** Jablonsky, Sue  
**Subject:** MA for women with breast and cervical cancer

Sue:

Did want to include the presumptive eligibility provisions in the draft to provide MA to women with breast and cervical cancer? It is optional under federal law.

Please let me know. If you have questions, give me a call.

Ivy

Ivy G. Sager-Rosenthal  
Legislative Attorney  
Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 261-4455

## Sager-Rosenthal, Ivy

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**From:** Jablonsky, Sue  
**Sent:** Friday, January 12, 2001 1:05 PM  
**To:** Sager-Rosenthal, Ivy  
**Subject:** FW: Breast and Cervical Cancer Eligibility

-----Original Message-----

**From:** Miller, Anne  
**Sent:** Friday, January 12, 2001 12:09 PM  
**To:** Jablonsky, Sue  
**Cc:** Bove, Fredi-Ellen; LaPhilliph, John; Wood, Susan; Johnson, Gale  
**Subject:** RE: Breast and Cervical Cancer Eligibility

Hi Sue!  
It's s. 255.075, titled "Health screening for low-income women".  
- Anne

>>> Jablonsky, Sue 01/12/01 12:07PM >>>

Thanks, Ann but the drafter needs to know the stat cite of which program is the CDC one.

-----Original Message-----

**From:** Miller, Anne  
**Sent:** Friday, January 12, 2001 11:59 AM  
**To:** Jablonsky, Sue  
**Cc:** Bove, Fredi-Ellen; LaPhilliph, John; Wood, Susan; Johnson, Gale  
**Subject:** Breast and Cervical Cancer Eligibility

Dear Sue:

Attached is a DRAFT revised Stat Language Request for MA Eligibility of women screened under the Breast and Cervical Cancer Screening program in Wisconsin funded by the CDC. This draft has not had full department approval, but I know that you need this information ASAP, so I have forwarded you this draft.

We have decided not to use presumptive eligibility for this population.

Also, we have decided to not reference the Wisconsin Well Women Program in stats. The Wisconsin Well Women program provides more than one screening program and is funded by many sources. According to a State Medicaid Director Letter from HCFA, all of the women screened under the Wisconsin Well Women Program breast and cancer screening programs would be MA eligible if they meet the other requirements, but the actual eligibility requirement is that the women must be screened under the program in which CDC funds are used. Therefore, only the CDC program should be referenced ( I have attached a copy of this letter for your reference.)

Please feel free to contact me with any questions or concerns.

Thanks,  
Anne Miller  
DHFS/OSF  
6-5422

Title: Medicaid for Women under 65 With Breast or Cervical Cancer

## Current Language

Sections 49.46 (1), 49.46(1m), 49.465, 49.468, 49.47 (4), and 49.472 define Medical Assistance eligibility. S. 49.665 defines BadgerCare eligibility.

## Proposed Change

1. Create a new section in Chapter 49, s. 49.473, that would make certain women under age 65 diagnosed with breast or cervical cancer eligible for medical assistance benefits. The eligibility criteria for these women that must be included in this new section are:
  - a. The woman is not otherwise eligible for Medicaid under s. 49.46 (1), 49.46(1m), 49.465, 49.468, 49.47 (4), and 49.472, or for BadgerCare under s. 49.665,
  - b. Is under age 65,
  - c. Is not covered by any of the health plans defined under 42 USC 300gg(c)<sup>1</sup>,
  - d. Was screened for breast or cervical cancer under the Breast and Cervical Cancer Early Detection Program funded by the Centers for Disease Control and Prevention (CDC), and found to need treatment for either breast or cervical cancer, and
  - e. Remains eligible as long as they need treatment for breast or cervical cancer.
  - f. Other Medicaid eligibility criteria that would apply to this group include Wisconsin residency, providing a Social Security Number [s. 49.82(2)] and citizenship or qualifying alien status [s. 49.84(5) & 49.45(27)].

There are no income or resource limitations for this group.

## Effect of the Change

This language will create a new Medicaid eligibility category for women with breast or cervical cancer who are not otherwise eligible for Medicaid or BadgerCare and are uninsured.

Approximately 30 to 40 women a year screened by Wisconsin's Breast and Cervical Cancer Early Detection Program are diagnosed with cancer.

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<sup>1</sup> Health plans include the following: a group health plan, health insurance, Medicare, Medicaid, Veterans Benefits/CHAMPUS, Indian Health Service, HIRSP, Federal Employee Health Plans, Peace Corp Health Plans, or other public health plans (to be defined).

## **Rationale for the Change**

The Department is responding to an opportunity created in new federal legislation enacted in October to expand health services to women with cancer. The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Public Law 106-354) amends Title XIX of the Social Security Act to give States enhanced matching funds (71.5% in FFY 2001) to provide Medicaid eligibility to a new group of individuals previously not eligible under the program. The new option allows states to provide full Medicaid benefits to uninsured women under age 65 who are identified through the Centers for Disease Control and Prevention's (CDC) National Breast and Cervical Cancer Early Detection Program (NBCCEDP) and are in need of treatment for breast or cervical cancer, including pre-cancerous conditions and early stage cancer. This program supports existing State efforts to address women's health issues, especially for low-income uninsured women.

**Desired Effective Date:** Upon Passage of the Budget Bill  
**Agency:** DHFS  
**Agency Contact:** Anne Miller  
**Phone:** 266-5422



January 4, 2001

Dear State Health Official:

The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (BCCPTA - the Act) (Public Law 106-354) amends Title XIX of the Social Security Act to give States enhanced matching funds to provide Medicaid eligibility to a new group of individuals previously not eligible under the program. The new option allows states to provide full Medicaid benefits to uninsured women under age 65 who are identified through the Centers for Disease Control and Prevention's (CDC) National Breast and Cervical Cancer Early Detection Program (NBCCEDP) and are in need of treatment for breast or cervical cancer, including pre-cancerous conditions and early stage cancer. The Act also allows states to extend presumptive eligibility to applicants in order to ensure that needed treatment begins as early as possible. The Act has an effective date of October 1, 2000.

The Health Care Financing Administration (HCFA) and CDC are committed to facilitating states' efforts to improve access to needed breast and cervical cancer treatment for uninsured women identified under the NBCCEDP as needing such treatment. This letter is a first step in support of that commitment. It provides a brief overview of CDC's NBCCEDP program and outlines the basic provisions of the new Medicaid coverage option.

### **Overview of CDC's National Breast and Cervical Cancer Early Detection Program (CDC Program)**

During 2001, almost 50,000 women are expected to die from breast or cervical cancer in the United States despite the fact that earlier detection and treatment of these diseases could substantially decrease this mortality. Many of these deaths, which will occur disproportionately among women of racial and ethnic minority and low-income groups, could be avoided by making cancer screening services available to all women at risk. Recognizing the value of screening and early detection, Congress passed the Breast and Cervical Cancer Mortality Prevention Act of 1990. This Act established the NBCCEDP, which authorizes CDC to promote breast and cervical cancer screening and to pay for screening services for eligible women. The NBCCEDP operates in all 50 states, the District of Columbia, 6 U.S. Territories, and 12 American Indian/Alaska Native organizations. Through cooperative agreements with state and territorial Health Departments, the District of Columbia Health Department, and American Indian/Alaskan Native Health Agencies, CDC's NBCCEDP builds the infrastructure for breast and cervical cancer early detection by supporting public and provider education, quality assurance, surveillance, and evaluation activities critical to achieving maximum utilization of the Program's screening, diagnostic and case management services.

Screening services provided by the NBCCEDP include clinical breast examinations, mammograms, pelvic examinations, and Papanicolaou (Pap) tests. Screening services also include diagnostic services, such as surgical consultation and biopsy to ensure that all women with abnormal screening results receive timely and adequate diagnostic evaluation and treatment referrals. The law does not, however, allow CDC to pay for treatment services for women who are diagnosed with breast or cervical cancer.

As a condition of participation in the CDC program, 42 U.S.C.300n(a) requires states to agree that low-income women will be given priority in the provision of services. Over the past 10 years, the NBCCEDP has provided more than 2 million screening exams to underserved women, including older women, women with low incomes, and women of racial and ethnic minority

groups. The program has diagnosed more than 8,600 breast cancers, over 39,000 pre-cancerous cervical lesions, and 660 cervical cancers. The overall goal of the NBCCEDP is to reduce mortality from breast and cervical cancers, and the success of this effort hinges on the identification and treatment of pre-cancerous conditions and early stage cancers.

### **Medicaid Program Requirements**

It is difficult for many uninsured women who are screened and diagnosed through the CDC program to obtain timely access to treatment services. The BCCPTA allows States to provide coverage to these women under Medicaid. The following outlines the basic rules regarding the new eligibility option.

**Eligibility.** The BCCPTA adds a new optional categorically needy eligibility group (Section 1902(a)(10)(A)(ii)(XVIII), which is comprised of individuals described in §1902(aa)) and was also added by the BCCPTA. In order to qualify under this new optional category, the Act requires that a woman will need to meet the following eligibility requirements:

1. The woman must have been screened for breast or cervical cancer under the CDC Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service (PHS) Act, and found to need treatment for either breast or cervical cancer; and
2. She must be uninsured, that is, she must not otherwise have creditable coverage (including current enrollment in Medicaid), as the term is used under the Health Insurance Portability and Accountability Act (HIPAA) (§2701(c) of the PHS Act (42 U.S.C. 300gg(c)), and she must not be eligible under any of the mandatory Medicaid eligibility groups. There is no requirement that there be a waiting period of prior uninsurance before a woman who has been screened under the CDC program can become eligible for Medicaid under this new option; and
3. She must be under age 65.

Breast and cervical cancer treatment programs have varied from state to state. Some states have run programs separate from Title XV and may wish to combine those programs with Title XV. It is anticipated that variations among states will continue and programs will continue to evolve.

We have been advised by CDC that a woman has been "screened under the program" if she comes under any of the following three categories:

1. CDC Title XV funds paid for all or part of the costs of her screening services.
2. The woman is screened under a state Breast and Cervical Cancer Early Detection Program in which her particular clinical service has not been paid for by CDC Title XV funds, but the service was rendered by a provider and/or an entity funded at least in part by CDC Title XV funds; the service was within the scope of a grant, sub-grant or contract under that State program; and the State CDC Title XV grantee has elected to include such screening activities by that provider as screening activities pursuant to CDC Title XV.
3. The woman is screened by any other provider and/or entity and the state CDC Title XV grantee has elected to include screening activities by that provider as screening activities pursuant to CDC Title XV. For example, if a family planning or community health center provides breast or cervical cancer screening or diagnostic services, the

state would have the option of including the provider's screening activities as part of overall CDC Title XV activities.

As long as the screening was performed by a provider under the state's Breast and Cervical Cancer Early Detection Program as defined above, the woman meets the Medicaid eligibility requirement. The programs operating in states under the CDC program will be able to provide Medicaid agencies with verification that the woman was screened under the CDC program. In the context of BCCPTA, a woman is considered to "need treatment" if, in the opinion of the individual's treating health professional (i.e., the individual who conducts the screen or any other health professional with whom the individual consults), the screen (and diagnostic evaluation following the clinical screening) indicates that the woman is in need of treatment services. These services include diagnostic services that may be necessary to determine the extent and proper course of treatment, as well as treatment itself.

In addition to meeting these criteria, the woman will also need to meet any other general coverage requirements applicable to Medicaid beneficiaries (e.g., state residency and citizenship or immigration status). There are no Medicaid income or resource limitations imposed by federal law for this new Medicaid eligibility group, and no authority for states to impose such limitations.

**Eligibility Period.** As with other mandatory and optional eligibility categories, under §1902(a)(34) of the Act, a woman's eligibility for coverage under this new option begins up to three months prior to the month in which she applied for Medicaid, if as of this earlier date, she would have met relevant program requirements as described in the eligibility section of this letter. Her eligibility for coverage ends when her course of treatment is completed, or the state has determined that she no longer meets the criteria for this eligibility category (for example, because she has attained age 65 or has creditable coverage) and has determined in accordance with 42 C.F.R. §435.916 that she does not remain eligible for Medicaid under an alternate eligibility category.

A woman is not limited to one period of eligibility. A new period of eligibility and coverage would commence each time a woman who has been screened under the CDC program has been found to need treatment of breast or cervical cancer, and meets other eligibility criteria.

**Coverage.** A woman whose eligibility is based on this new option is entitled to full Medicaid coverage; coverage is not limited to coverage for treatment of breast and cervical cancer. As is the case with Medicaid coverage in general, states may use administrative methods, such as prior review and approval requirements, to ensure that services furnished to women under this new option are medically necessary. Services furnished under this new option should be, to the maximum extent possible, consistent with optimal standards of practice. Such practice guidelines are located at the National Guideline Clearinghouse, Agency for Health Care Research and Quality: <http://www.ahrq.gov>. With respect to experimental treatments, States may cover experimental treatments although they are not required to do so. Furthermore, routine covered costs associated with the experimental intervention may be covered.

**Presumptive Eligibility.** Presumptive eligibility is a Medicaid option that allows states to enroll Medicaid applicants for a limited period of time before full Medicaid applications are filed and processed, based on a determination by a Medicaid provider of likely Medicaid eligibility. States have the option to use the presumptive eligibility procedure to facilitate the prompt enrollment and immediate access to services for women who are in need of treatment for breast or cervical cancer.

Under this option, states can certify entities that are eligible for payment under a state's Medicaid program that the state determines are capable of making presumptive eligibility determinations. A certified entity can enroll women who appear to be eligible in Medicaid on a temporary basis.

Presumptive eligibility begins on the date that a qualified entity determines that the woman appears to meet the eligibility criteria described above. Presumptive eligibility ends on the earlier of the following two dates: the date on which a formal determination is made on the woman's application for Medicaid; or, in the case of a woman who fails to apply for Medicaid following the presumptive eligibility determination, the last day of the month following the month in which presumptive eligibility begins. Federal financial participation is allowed for services provided during this presumptive eligibility period regardless of whether or not the woman applies for Medicaid or is later found eligible for Medicaid.

**Citizenship and Alienage.** The usual rules which govern citizenship and alienage apply to the new optional Medicaid eligibility group. In general, to be eligible for Medicaid an individual must either be a citizen or a qualified alien. (See the web site at <http://aspe.hss.gov/hsp/immigration/restrictions-sum.htm> for a definition of "qualified alien" and a discussion of the restrictions on immigrants receiving federal public benefits, including Medicaid, and for a list of exceptions to these restrictions.) Most states have elected to provide Medicaid to qualified aliens. However, many qualified aliens who arrived in the United States after August 21, 1996 are barred from receiving Medicaid for 5 years beginning with their date of entry with a qualified alien status. The 5 year bar does not apply to certain refugees, asylees, and certain other groups. Otherwise eligible qualified aliens who are subject to the 5 year ban as well as otherwise eligible non-qualified aliens may receive Medicaid coverage for treatment of an emergency medical condition but not including organ transplants and transplant-related services.

Women who do not meet the immigration-related eligibility criteria may still be able to receive Medicaid coverage related to an "emergency condition", other than services related to an organ transplant. Section 1903(v) of the Act permits states to obtain Federal match for services related to an "emergency medical condition" when furnished to an otherwise eligible individual. The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: (A) placing the patient's health in serious jeopardy; (B) serious impairment of bodily functions, or (C) serious dysfunction of any bodily part.

Breast or cervical cancers may be identified at various stages. Some women in need of treatment for breast or cervical cancer will have an emergency condition. As with other examples of emergency medical conditions, medical judgement and the facts of a particular case will form the basis for identifying those conditions in screened women that amount to an emergency medical condition.

**Requirement to Submit a State Plan Amendment.** In order to be eligible for payment under this new Act, a state or territory must submit a state plan amendment electing this optional categorically needy eligibility group and/or to provide presumptive eligibility. We enclose state plan preprint language that should be used by states electing these new options.

**Matching Rate.** The Federal matching rate for the new eligibility group is equal to the enhanced Federal Medical Assistance Percentage (FMAP) used in the State Children's Health Insurance

Program (SCHIP) (described in §2105(b) of the Social Security Act (the Act)). That rate is published periodically in the Federal Register, and is posted on web site

<http://aspe.os.dhhs.gov/health/fmap.htm>.

**Participation of Territories.** Territories that operate Medicaid programs (Puerto Rico, Virgin Islands, American Samoa, Guam and the Northern Marianas Islands) may choose this new option. However, federal payments to those territories are capped by statute. To the extent that these territories already receive the maximum federal payment permitted, the new law would not result in any additional federal funding. If the cap on federal payments has not been reached, federal funds at the enhanced matching rate could be available for the new eligibility group.

**Treatment of American Indian and Alaska Native (AI/AN) Women.** Under Section 2701(c) of the Public Health Service Act, a medical care program of the Indian Health Service (IHS) or an Indian tribal organization is considered creditable coverage, as the term is used under HIPAA. But not all AI/AN women are "covered under" this creditable coverage. The term "covered under" implies reasonable access to such a program. In consultation with IHS and the tribes, we intend to develop standards to determine whether individuals are "covered under" such a program.

#### **Overview of Implementation**

Successful implementation of the new benefit will require a coordinated effort between state Medicaid and public health agencies. State breast and cervical cancer programs have been in place for several years so they may be able to provide to state Medicaid agencies important data on the numbers of women screened and diagnosed within a state.

At the federal level, HCFA will be working closely with CDC to help facilitate implementation of the new coverage group. To assist states as they move forward, we are developing the state plan materials, instructions and more detailed questions and answers regarding the new benefit. We believe that states will be able to design application procedures that are simple and that are closely tied to the case management services offered by most state breast and cervical cancer programs. A simple process will help ensure that women with cancer receive the treatment they need.

We encourage you to submit state plan amendments to your HCFA regional office as quickly as possible. HCFA staff will gladly offer technical assistance to any state that requests it. If you have questions about issues not addressed in this letter, please contact Marlene Jones at HCFA (410) 786-3290 for Medicaid-related issues and Steve Reynolds at CDC (770) 488-3075 for issues concerning NBCCEDP.

Sincerely,

/s/

Timothy M. Westmoreland  
Director

Enclosure

cc:

HCFA Regional Administrators

HCFA Associate Regional Administrators for Medicaid and State Operations

Centers for Disease Control and Prevention Grantees

Nancy Lee - Centers for Disease Control and Prevention

Steve Reynolds - Centers for Disease Control and Prevention

Kathy Cahill - Centers for Disease Control and Prevention

Don Shriber - Centers for Disease Control and Prevention, State Chronic Disease Directors

Lee Partridge - Director, Health Policy Unit, American Public Human Services Association

Joy Wilson - Director, Health Committee, National Conference of State Legislatures

Matt Salo - Director of Health Legislation, National Governors' Association

Heather Mizeru - Director of State Affairs, National Association of Community Health Centers, Inc.

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DRAFT

ATTACHMENT 2-2-A  
PAGE 23b

STATE: \_\_\_\_\_

Citation Group Covered

B. Optional Coverage Other Than the Medically Needy (Continued)

1902 (a) (10) (A)(ii) (XVIII) of the Act \_\_\_\_ [24]. Women who:

a. have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under title XV of the Public Health Service Act in accordance with the requirements of section 1504 of that Act and need treatment for breast or cervical cancer, including a pre-cancerous condition of the breast or cervix;

b. are not otherwise covered under creditable coverage, as defined in section 2701 (c) of the Public Health Service Act;

c. are not eligible for Medicaid under any mandatory categorically needy eligibility group; and

d. have not attained age 65.

1920B of the Act \_\_\_\_ [25].

Women who are determined by a "qualified entity" (as defined in 1920B (b) based on preliminary information, to be a woman described in 1902 (aa) the Act related to certain breast and cervical cancer patients.

The presumptive period begins on the day that the determination is made. The period ends on the date that the State makes a determination with respect to the woman's eligibility for Medicaid, or if the woman does not apply for Medicaid (or a Medicaid application was not made on her behalf) by the last day of the month following the month in which the determination of presumptive eligibility was made, the presumptive period ends on that last day.

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TN No. \_\_\_\_\_ Approval Date: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Supersedes  
TN No. \_\_\_\_\_

## Sager-Rosenthal, Ivy

---

**From:** Jablonsky, Sue  
**Sent:** Friday, January 19, 2001 10:00 AM  
**To:** Sager-Rosenthal, Ivy  
**Subject:** FW: FW: Breast & Cervical Cancer Eligibility Language

-----Original Message-----

**From:** Wood, Susan  
**Sent:** Friday, January 19, 2001 9:48 AM  
**To:** Jablonsky, Sue  
**Cc:** Miller, Anne; Jones, James; Vavra, James  
**Subject:** Re: FW: Breast & Cervical Cancer Eligibility Language

Yes we would like a delayed effective date - I recommend that it be 1/1/02  
thanks so much for asking  
>>> Jablonsky, Sue 01/18/01 05:03PM >>>

-----Original Message-----

**From:** Sager-Rosenthal, Ivy  
**Sent:** Thursday, January 18, 2001 3:18 PM  
**To:** Jablonsky, Sue  
**Subject:** RE: Breast & Cervical Cancer Eligibility Language

Sue:

I was just finishing this draft and thought you might want to include a  
delayed effective date. Do you? If so, how long?  
Let me know,  
Ivy

-----Original Message-----

**From:** Jablonsky, Sue  
**Sent:** Friday, January 12, 2001 5:29 PM  
**To:** Sager-Rosenthal, Ivy  
**Subject:** FW: Breast & Cervical Cancer Eligibility Language  
**Importance:** High

-----Original Message-----

**From:** Miller, Anne  
**Sent:** Friday, January 12, 2001 3:59 PM  
**To:** Jablonsky, Sue  
**Cc:** Bove, Fredi-Ellen; LaPhillip, John; Johnson, Gale; Sager-Rosenthal,  
Ivy  
**Subject:** Breast & Cervical Cancer Eligibility Language  
**Importance:** High

Dear Sue:

The reference I sent you earlier for the CDC funded program for breast and  
cervical cancer MA eligibility was incorrect. Please reference 42 USC 300k  
(public Law 101-354) which established the National Breast and Cervical Cancer  
Early Detection Program.



Also, if needed, we can provide new draft stat language to define the Wisconsin Well Women Program, but the federal cite should work.

Please feel free to contact me with any questions or concerns.

Anne Miller  
DHFS/OSF  
6-5422



DOA:.....Jablonsky - MA for women diagnosed with breast or cervical cancer

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

*Soon*

1 AN ACT <sup>Don't</sup> <sup>GEM. CAT</sup> relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MEDICAL ASSISTANCE**

Under current law, DHFS administers the medical assistance (MA) program under which DHFS provides health care services to eligible individuals. Also under current law, DHFS receives federal funding to conduct a breast and cervical cancer early detection program. This program provides individuals with breast and cervical cancer screening, referrals, education, and outreach.

This bill expands the MA program to provide MA to women who are under the age of 65, who require treatment for breast or cervical cancer, who have been screened for breast or cervical cancer under the breast and cervical cancer early detection program, and who are not otherwise eligible for the MA program or for other health care coverage.

For further information see the *state* 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:*

2 SECTION 1. 49.473 of the statutes is created to read:



## Sager-Rosenthal, Ivy

---

**From:** Jablonsky, Sue  
**Sent:** Monday, January 22, 2001 8:38 AM  
**To:** Sager-Rosenthal, Ivy  
**Subject:** FW: FW: LRB Draft: 01-1926/1 MA for women diagnosed with breast or cervical cancer

-----Original Message-----

**From:** LaPhillip, John  
**Sent:** Friday, January 19, 2001 5:08 PM  
**To:** Jablonsky, Sue  
**Cc:** Bormett, Michael; Riedasch, Scott; Wood, Susan; Johnson, Gale  
**Subject:** Re: FW: LRB Draft: 01-1926/1 MA for women diagnosed with breast or cervical cancer

The draft looks great. One technical suggestion would be to also modify s. 49.43(8). That section defines Medical Assistance by relating it to the statutes from 49.45 to 49.472. We would want to expand that to now include 49.473. Thank you.

>>> Jablonsky, Sue 01/19/2001 1:36:18 PM >>>  
Here's the draft. Please get back to me ASAP with any changes you might want.

-----Original Message-----

**From:** Marty, Karen  
**Sent:** Friday, January 19, 2001 1:32 PM  
**To:** Jablonsky, Sue  
**Cc:** Kraus, Jennifer; Currier, Dawn; Hanaman, Cathlene; Haugen, Caroline  
**Subject:** LRB Draft: 01-1926/1 MA for women diagnosed with breast or cervical cancer

Following is the PDF version of draft 01-1926/1.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1926/1

ISR:kmg:km

3  
TEMP

DOA:.....Jablonsky - MA for women diagnosed with breast or cervical cancer  
FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT <sup>DONT GEN. CAT.</sup> relating to: the budget.

*Analysis by the Legislative Reference Bureau*  
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Insert 1-2

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

2

**SECTION 1.** 49.173 of the statutes is created to read:

1           **49.473 Medical assistance; women diagnosed with breast or cervical**  
2 **cancer.** (1) A woman is eligible for medical assistance as provided under sub. (2)  
3 if she meets all of the following requirements:

4           (a) The woman is not eligible for medical assistance under ss. 49.46 (1) and  
5 (1m), 49.465, 49.468, 49.47, and 49.472, and is not eligible for health care coverage  
6 under s. 49.665.

7           (b) The woman is under 65 years of age.

8           (c) The woman is not eligible for health care coverage that qualifies as  
9 creditable coverage in 42 USC 300gg (c).

10           (d) The woman has been screened for breast or cervical cancer under a breast  
11 and cervical cancer early detection program that is authorized under a grant  
12 received under 42 USC 300k.

13           (e) The woman requires treatment for breast or cervical cancer.

14           (2) The department shall audit and pay allowable charges to a provider who  
15 is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who  
16 meets the requirements under sub. (1) for all benefits and services specified under  
17 s. 49.46 (2).

18           **SECTION 9423. Effective dates; health and family services.**

19           (1) **MEDICAL ASSISTANCE FOR WOMEN WITH BREAST OR CERVICAL CANCER.** The  
20 treatment of ~~section~~ 49.473 of the statutes takes effect on January 1, 2002.

21

(END)

*sections  
49.43 (8) and*

Insert 1-2

Section #. 49.43 (8) of the statutes is amended to read:

49.473

\* 49.43 (8) "Medical assistance" means any services or items under ss. 49.45 to ~~49.472~~, except s. 49.472 (6), and under ss. 49.49 to 49.497, or any payment or reimbursement made for such services or items.

History: 1977 c. 29 ss. 583m, 591; 1977 c. 418 s. 929 (18); 1979 c. 221; 1981 c. 20 s. 2202 (20) (m); 1981 c. 93; 1983 a. 189; 1987 a. 27; 1987 a. 403 s. 256; 1987 a. 413; 1991 a. 39; 1993 a. 27, 99, 112, 437; 1995 s. 27 ss. 2649, 2661, 2943 to 2946, 9126 (19); 1999 a. 9.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1926/2 <sup>3</sup>

ISR:kmg/ra

*REVIEW*

DOA:.....Jablonsky - MA for women diagnosed with breast or cervical cancer

*EWJ*

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

*SOON*

DO NOT GEN

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*  
**HEALTH AND HUMAN SERVICES**

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3 reimbursement made for such services or items.

4           **SECTION 2.** 49.473 of the statutes is created to read:

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6 **cancer.** (1) A woman is eligible for medical assistance as provided under sub. (2)  
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9 (1m), 49.465, 49.468, 49.47, and 49.472, and is not eligible for health care coverage  
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12           (c) The woman is not eligible for health care coverage that qualifies as  
13 creditable coverage in 42 USC 300gg (c).

14           (d) The woman has been screened for breast or cervical cancer under a breast  
15 and cervical cancer early detection program that is authorized under a grant  
16 received under 42 USC 300k.

17           (e) The woman requires treatment for breast or cervical cancer.

18           (2) The department shall audit and pay <sup>from the appropriation accounts under</sup> allowable charges to a provider who <sup>s. 20.435</sup>  
19 is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who <sup>(4)(b)</sup>  
20 meets the requirements under sub. (1) for all benefits and services specified under <sup>and (c),</sup>  
21 s. 49.46 (2).

22           **SECTION 9423. Effective dates; health and family services.**





DOA:.....Jablonsky – MA for women diagnosed with breast or cervical cancer

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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*Analysis by the Legislative Reference Bureau*  
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15          and cervical cancer early detection program that is authorized under a grant  
16          received under 42 USC 300k.

17          (e) The woman requires treatment for breast or cervical cancer.

18          (2) The department shall audit and pay, from the appropriation accounts under  
19          s. 20.435 (4) (b) and (o), allowable charges to a provider who is certified under s. 49.45  
20          (2) (a) 11. for medical assistance on behalf of a woman who meets the requirements  
21          under sub. (1) for all benefits and services specified under s. 49.46 (2).

22          **SECTION 9423. Effective dates; health and family services.**

