

2003 DRAFTING REQUEST

Bill

Received: **09/13/2002**

Received By: **pkahler**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 7-7980**

By/Representing: **Blaine**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:..... Blaine - BB0005

Topic:

MA eligibility

Instructions:

See Attached

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>
/?	pkahler 09/17/2002	kgilfoy 09/18/2002		_____			State
/P1			rschluet 09/19/2002	_____	lkunkel 09/19/2002		State
/P2	pkahler	kgilfoy	jfrantze	_____	lkunkel		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	10/07/2002	10/07/2002	10/07/2002	_____	10/07/2002		

FE Sent For:

<END>

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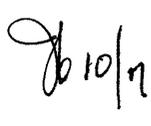
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FE Sent For:

1/1-9/18
KMG

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<END>
9-19-2

Robert Blaine

DHFS

Department of Health and Family Services
2003-2005 Statutory Language Request
May 20, 2002

MA Eligibility for Individuals Diagnosed with Breast or Cervical Cancer Including Pre-Cancerous Conditions

Current Language

s. 49.473 (2) (c) and s. 49.473 (2) (e)

Proposed Change

Add language to s. 49.473 (2) (c) so that creditable health coverage does not include Indian Health Service or tribal medical care programs, and add language to s. 49.473 (2) (e) to include treatment for a pre-cancerous condition of the breast or cervix.

Effect of the Change

This language will make Wisconsin law consistent with federal law by changing Medicaid (MA) eligibility for women screened for and diagnosed with breast or cervical cancer under the Wisconsin Well Women Program in two ways:

- 1) Allow women diagnosed with a pre-cancerous condition to also be eligible.
- 2) Allow women covered by an Indian Health Service or tribal medical care program to also be eligible.

Rationale for the Change

The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Public Law 106-354) added a new optional Medicaid (MA) category of eligibility. This category covers women who were screened for and diagnosed with breast or cervical cancer under a program funded by the Centers for Disease Control and Prevention called the National Breast and Cervical Cancer Early Detection Program (NBCCEDP).

In response to PL 106-354, Act 16 included a provision to expand MA eligibility to women screened and diagnosed with breast or cervical cancer under Wisconsin's NBCCEDP called the Wisconsin Well Women Program (WWWP). A woman is eligible for MA under this provision if she is under the age of 65; is not already eligible for MA, BadgerCare or other creditable health care coverage; has been screened for breast or cervical cancer through WWWP; and requires treatment for breast or cervical cancer.

Since PL 106-354 was enacted, two changes at the federal level have made the Act 16 provision inconsistent with federal regulations.

- The Centers for Medicare and Medicaid Systems issued a letter to State Medicaid Directors interpreting PL 106-354 as allowing MA coverage of women diagnosed with breast or cervical cancer *including pre-cancerous conditions*. Wisconsin statutes do not allow MA eligibility if the woman screened under WWWP is diagnosed with a pre-cancerous condition.
- Public Law 107-121 was enacted which disallows consideration of Indian Health Service (IHS) or tribal medical programs as creditable health insurance for the purposes of MA eligibility under PL 106-354. Public Law 107-121 allows a woman to become MA eligible under PL 106-354 who otherwise would have been denied coverage because her IHS or tribal medical care program would have been considered creditable health insurance. Currently, Wisconsin statute considers IHS or tribal medical programs as creditable health insurance.

In order for Wisconsin's Act 16 provision to comply with federal regulations, the provision must be amended to allow coverage of pre-cancerous conditions and allow women with health care coverage through IHS or other tribal organization to qualify for MA if they meet the other eligibility criteria. Although expanding MA coverage under PL 106-354 is optional for states, once a state has adopted such a provision, the state must cover all populations identified in federal regulations.

See attached statutory language draft.

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

UNOFFICIAL TEXT
Chapter 49
49.473
49.473(1)
49.473(1)(b)



+ **49.473**(1)(b) 
(b) "Qualified entity" has the meaning given in 42 USC 1396r-1b (b) **(2)**.

+ **49.473** **(2)** 
(2) A woman is eligible for medical assistance as provided under sub. (5) if, after applying to the department or a county department, the department or a county department determines that she meets all of the following requirements:

+ **49.473** **(2)**(a) 
(a) The woman is not eligible for medical assistance under ss. 49.46 (1) and (1m), 49.465, 49.468, 49.47, and 49.472, and is not eligible for health care coverage under s. 49.665.

+ **49.473** **(2)**(b) 
(b) The woman is under 65 years of age.

+ **49.473** **(2)**(c) 
(c) The woman is not eligible for health care coverage that qualifies as creditable coverage in 42 USC 300gg (c), *but applied without regard to paragraph (i)(F) of such section.*

+ **49.473** **(2)**(d) 
(d) The woman has been screened for breast or cervical cancer under a breast and cervical cancer early detection program that is authorized under a grant received under 42 USC 300k.

+ **49.473** **(2)**(e) 
(e) The woman requires treatment for breast or cervical cancer, *including pre-cancerous conditions of the breast or cervix.*

+ **49.473** **(3)** 
(3) Prior to applying to the department or a county department for medical assistance, a woman is eligible for medical assistance as provided under sub. (5) beginning on the date on which a qualified entity determines, on the basis of preliminary information, that the woman meets the requirements specified in sub. (2) and ending on one of the following dates:

+ **49.473** **(3)**(a) 
(a) If the woman applies to the department or a county department for medical assistance within the time limit required under sub. (4), the day on which the department or county department determines whether the woman meets the requirements under sub. (2).

+ **49.473** **(5)** 
(5) The department shall audit and pay, from the appropriation accounts under s. 20.435 (4) (b) and (c), allowable charges to a provider who is certified under s. 49.45 **(2)**(a) 11. for medical assistance

on behalf of a woman who meets the requirements under sub. (2) for all benefits and services specified under s. 49.46 (2).

Unofficial text from Wis Stats. database. See printed Statutes and Wis. Acts for official text under s. 35.18(2) stats. Report errors to the Revisor of Statutes at (608) 266-2011, FAX 264-6978, email bruce.munson@legis.state.wi.us





State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0033/

PJK/

PI
King

Blaine (I don't know why it didn't show up)

DOA:..... - MA eligibility

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

SOON
(9-17)

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1 AN ACT relating to: medical assistance eligibility for women diagnosed with
2 certain precancerous conditions.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current law, DHFS administers the medical assistance (MA) program, under which eligible individuals receive health care services. One type of individual who is eligible for the MA program is a woman who has been screened for breast or cervical cancer under a breast and cervical cancer early detection program authorized under a federal grant, who requires treatment for breast or cervical cancer, who is under 65 years of age, and who is not eligible for health care coverage that qualifies under a federal law as creditable coverage, which generally includes any type of health care coverage.

This bill expands the MA program eligibility for women that is based on breast or cervical cancer in two ways. First, the criterion that a woman must require treatment for breast or cervical cancer is expanded to include treatment for a precancerous condition of the breast or cervix. Second, the criterion that a woman must be ineligible for creditable coverage, which includes generally any type of health care coverage, is expanded by excluding from consideration eligibility for a medical care program of the federal Indian health service or an American Indian tribal organization. The other requirements related to age and cancer screening remain the same.

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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:

1 **SECTION 1.** 49.473 (title) of the statutes is amended to read:

2 **49.473 (title) Medical assistance; women diagnosed with breast or**
3 **cervical cancer or precancerous conditions.**

History: 2001 a. 16, 104.

4 **SECTION 2.** 49.473 (2) (c) of the statutes is amended to read:

5 **49.473 (2) (c)** The woman is not eligible for health care coverage that qualifies
6 as creditable coverage in 42 USC 300gg (c), excluding the coverage specified in 42
7 USC 300gg (c) (1) (F).

History: 2001 a. 16, 104.

8 **SECTION 3.** 49.473 (2) (e) of the statutes is amended to read:

9 **49.473 (2) (e)** The woman requires treatment for breast or cervical cancer or
10 for a precancerous condition of the breast or cervix.

History: 2001 a. 16, 104.

11 **SECTION 4.** 49.473 (6) (b) of the statutes is amended to read:

12 **49.473 (6) (b)** Inform the woman at the ~~of~~ time of the determination that she
13 is required to apply to the department or a county department for medical assistance
14 no later than the last day of the month following the month in which the qualified
15 entity determines that the woman is eligible for medical assistance.

History: 2001 a. 16, 104.

16

(END)

Kahler, Pam

From: Blaine, Robert
Sent: Tuesday, October 01, 2002 8:50 AM
To: Kahler, Pam
Subject: FW: FW: LRB Draft: 03-0033/P1 MA eligibility

Hi Pam --

DHFS has requested (see below) that some language be added to the analysis of the draft, to indicate that expanding MA coverage for pre-cancerous conditions of the breast/cervix is necessary in order to be compliant with federal law. DHFS has included a link to the guidance from the Centers on Medicare and Medicaid Services (CMS) which interprets PL 106-354. I looked over the guidance and agree with DHFS that in order for the state to extend MA coverage for breast or cervical cancer, it needs to include pre-cancerous conditions.

They've also requested similar language related to the Indian Health services as credible insurance piece. I'm fine with this as well.

Clearly, this is your analysis, so if you think these changes are either unneeded or unnecessary, that's fine with me.

Thanks for your consideration of this matter,
Robert

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

From: Miller, Anne
Sent: Tuesday, October 01, 2002 8:27 AM
To: Blaine, Robert
Cc: Megna, Richard
Subject: RE: FW: LRB Draft: 03-0033/P1 MA eligibility

Hi Robert!

Below is the web site of the Dear State Medicaid Director letter that interprets PL 106-354, the public law which allows MA coverage for the original expansion under Act 16, as including pre-cancerous conditions. Please see the first paragraph, 7th line. In case the link below doesn't work, it's the Dear State Medicaid Director letter dated January 4, 2001.

<http://cms.hhs.gov/states/letters/sho01041.asp>

Public Law 107-121 is the regulation disallowing consideration of Indian Health Service or tribal medical programs as creditable health insurance for the purposes of MA eligibility under Pl 106-354.

I hope this information helps. Please feel free to contact me with any questions or concerns.

- Anne

>>> Blaine, Robert 09/27/02 01:18PM >>>

Anne -- maybe you could forward to me the federal guidance which states that we must make this change to be consistent with federal law. I will share with LRB and see whether such an addition is appropriate.

Thanks,
Robert

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

From: Miller, Anne
Sent: Tuesday, September 24, 2002 2:58 PM
To: Blaine, Robert

Cc: Bove, Fredi-Ellen; Megna, Richard
Subject: Re: FW: LRB Draft: 03-0033/P1 MA eligibility

Hi Robert!

Is it possible, under the description of the bill, to include that the changes are to make WI law consistent with federal eligibility regulations? Maybe include something like federal regulations allow eligibility under criteria X, Y and Z and WI law allows only X and Y. Just a thought.

Thanks,
Anne

>>> Blaine, Robert 09/19/02 11:22AM >>>
any comments are welcome.

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

From: Schlueter, Ron
Sent: Thursday, September 19, 2002 11:21 AM
To: Blaine, Robert
Cc: Kraus, Jennifer; Hanaman, Cathlene; Haugen, Caroline
Subject: LRB Draft: 03-0033/P1 MA eligibility

Following is the PDF version of draft 03-0033/P1.



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January 4, 2001

Dear State Health Official:

The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Public Law 106-354) amends Title XIX of the Social Security Act to allow states to use their matching funds to provide Medicaid eligibility to a new group of individuals who are not eligible under the program. The new option allows states to provide Medicaid 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 or pre-cancerous conditions and early stage cancer. The Act also allows states to provide presumptive eligibility to applicants in order to ensure that needed services are received as early as possible. The Act has an effective date of October 1, 2000.

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

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 and cervical cancer in the United States despite the fact that earlier detection and treatment could substantially decrease this mortality. Many of these deaths, however, are disproportionately among women of racial and ethnic minority and could be avoided by making cancer screening services available to all eligible women. Recognizing the value of screening and early detection, Congress passed the Breast and Cervical Cancer Mortality Prevention Act of 1990. This Act established the CDC's National Breast and Cervical Cancer Early Detection Program, which authorizes CDC to promote breast and cervical cancer screening services for eligible women.

The NBCCEDP operates in all 50 states, the District of Columbia, 6 tribal organizations, and 12 American Indian/Alaska Native organizations. Through cooperation with state and territorial Health Departments, the District of Columbia Department of Health, and American Indian/Alaskan Native Health Agencies, CDC's NBCCEDP provides the infrastructure for breast and cervical cancer early detection by sup-





State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0033/P2
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DOA:..... Blaine - MA eligibility

FOR 2003-05 BUDGET -- NOT READY FOR INTRODUCTION

SOON
(10-7)
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in conformity with the interpretation of
the Centers for Medicare and Medicaid Services,

1 AN ACT relating to: medical assistance eligibility for women diagnosed with
2 certain precancerous conditions.

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in conformity with a change in federal law,

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0033/P2dn
PJK:kmg:jf

October 7, 2002

Robert:

This redraft makes two changes to the analysis in response to the request from DHFS.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0033/P2
PJK:kmg:jf

DOA:..... Blaine – BB0005 MA eligibility

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This bill expands MA eligibility for women that is based on breast or cervical cancer in two ways. First, the criterion that a woman must require treatment for breast or cervical cancer is expanded, in conformity with the interpretation of the Centers for Medicare and Medicaid Services, to include treatment for a precancerous condition of the breast or cervix. Second, the criterion that a woman must be ineligible for creditable coverage, which includes generally any type of health care coverage, is expanded, in conformity with a change in federal law, by excluding from consideration eligibility for a medical care program of the federal Indian Health Service or an American Indian tribal organization. The other requirements related to age and cancer screening remain the same.

