

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 74

Session of
2005

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MUNDY AND ROSS, JANUARY 25, 2005

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,
JANUARY 25, 2005

AN ACT

1 Providing for medical assistance to certain eligible women for
2 breast and cervical cancer treatment and follow-up care and
3 for the powers and duties of the Department of Public
4 Welfare.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 CHAPTER 1

8 PRELIMINARY PROVISIONS

9 Section 101. Short title.

10 This act shall be known and may be cited as the Breast and
11 Cervical Cancer Treatment Act.

12 Section 102. Legislative findings.

13 The General Assembly finds and declares as follows:

14 (1) Breast cancer is the most commonly diagnosed cancer
15 in Pennsylvania among both women and the entire population

1 and is the second-leading cause of female cancer deaths in
2 Pennsylvania.

3 (2) Approximately 11,000 women, or an average of 30
4 women each day, were diagnosed with new cases of breast
5 cancer in this Commonwealth in 2002. This number represented
6 33% of all female cancer diagnoses in Pennsylvania.

7 (3) In 2002, at least 2,200 women, or an average of six
8 women each day, died from breast cancer.

9 (4) Approximately one of every ten women can expect to
10 develop breast cancer in her lifetime.

11 (5) Approximately 600 new cases of cervical cancer were
12 diagnosed in Pennsylvania women during the year 2002.

13 (6) Cervical cancer caused the death of over 200 women
14 in Pennsylvania during the year 2002.

15 (7) Periodic screening mammography in conjunction with
16 good health care and monthly self-examination can reduce a
17 woman's risk of dying from breast cancer by 30%.

18 (8) Early detection of breast cancer is the most
19 effective means to reduce breast and cervical cancer
20 mortality. The five-year survival rate for localized breast
21 cancer is greater than 96%.

22 (9) Breast and cervical cancer mortality rates are
23 significantly greater among racial and ethnic minority groups
24 as well as in lower income areas.

25 (10) The Commonwealth currently provides free breast and
26 cervical cancer screening for uninsured and underinsured
27 women, through the National Breast and Cervical Cancer Early
28 Detection Program of the Centers for Disease Control and
29 Prevention.

30 (11) Numerous family planning, community health and

1 other nonprofit groups provide screening programs to
2 thousands of women throughout this Commonwealth for breast
3 and cervical cancer.

4 (12) More than 10% of women examined for breast and
5 cervical cancer will need further treatment.

6 (13) Although most women have access to necessary
7 screening examinations for breast and cervical cancer, many
8 women do not have adequate health care coverage or financial
9 resources to seek necessary treatment.

10 (14) Due to the passage of the Breast and Cervical
11 Cancer Prevention and Treatment Act of 2000 (Public Law 106-
12 354, 114 Stat. 1381), the Federal Government guarantees
13 financial assistance to states, through enhanced Medicaid
14 matching funds, to provide necessary treatment for uninsured
15 and underinsured women.

16 Section 103. Purpose.

17 Pursuant to Title XV of the Public Health Service Act (58
18 Stat. 682, 42 U.S.C. § 300k et seq.), the Commonwealth has
19 established a screening program aimed at early detection of
20 breast and cervical cancer in uninsured and underinsured
21 persons, operated by the Department of Health under the approval
22 of the National Breast and Cervical Cancer Early Detection
23 Program of the Centers for Disease Control and Prevention. The
24 program has discovered cancer in Pennsylvania residents at a
25 rate that exceeds the national average and presents a serious
26 threat to the general health and welfare of this Commonwealth
27 and all of its inhabitants. Furthermore, under Title XV of the
28 Public Health Service Act, persons screened under the program
29 who are deemed to be in need of treatment for breast or cervical
30 cancer and who do not have other means of public or private

1 coverage for such treatment are eligible to receive Federal
2 Medicaid and State medical assistance benefits, under an
3 enhanced match formula, for the treatment of breast or cervical
4 cancer. However, thousands of uninsured and underinsured women
5 are screened for and often diagnosed with breast or cervical
6 cancer by entities not included in the program. Lack of
7 guaranteed coverage for breast or cervical cancer is a serious
8 source of concern for people faced with inadequate financial
9 resources for necessary treatment. The purpose of this act is to
10 provide State medical assistance funds, as well as Federal
11 Medicaid funds for eligible recipients authorized by the section
12 1920B of the Social Security Act (49 Stat. 620, 42 U.S.C. §
13 1396r-1b), for treatment for uninsured and underinsured women
14 who have been diagnosed with breast or cervical cancer,
15 regardless of the screening entity.

16 Section 104. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Department." The Department of Public Welfare of the
21 Commonwealth.

22 "Health care facility." A health care facility that provides
23 clinically related health services. The term includes, but is
24 not limited to, a general or special hospital, psychiatric
25 hospital, rehabilitation hospital, ambulatory surgical facility,
26 long-term care nursing facility, screening mammography facility,
27 cancer treatment center using radiation therapy on an ambulatory
28 basis and an inpatient drug and alcohol treatment facility, both
29 profit and nonprofit, a hospice and any similar facility
30 operated by an agency of State or local government. The term

1 shall not include an office used primarily for the private or
2 group practice by health care practitioners where no reviewable
3 clinically related health service is offered, a facility
4 providing treatment solely on the basis of prayer or spiritual
5 means in accordance with the tenets of any church or religious
6 denomination or a facility conducted by a religious organization
7 for the purpose of providing health care services exclusively to
8 clergy or other persons in a religious profession who are
9 members of the religious denominations conducting the facility.

10 "Health care provider." A licensed hospital or health care
11 facility, medical equipment supplier or person who is licensed,
12 certified or otherwise regulated to provide health care services
13 under the laws of this Commonwealth, including a physician,
14 podiatrist, optometrist, psychologist, physical therapist,
15 certified nurse practitioner, registered nurse, nurse midwife,
16 physician's assistant, chiropractor, dentist, pharmacist or an
17 individual accredited or certified to provide behavioral health
18 services.

19 "In need of treatment." An opinion of a physician who
20 conducts a screen or of a physician with whom a patient
21 consults, that deems the screen or subsequent diagnostic
22 evaluation as indicating that the patient is in need of further
23 treatment for breast or cervical cancer, including treatment for
24 a precancerous condition of the breast or cervix.

25 "Medical assistance." The State program of medical
26 assistance established under the act of June 13, 1967 (P.L.31,
27 No.21), known as the Public Welfare Code.

28 "Patient." A natural person receiving health care in or from
29 a health care provider.

30 "Physician." A medical doctor or doctor of osteopathy

1 licensed under the laws of this Commonwealth to practice
2 medicine or surgery within the scope of the act of October 5,
3 1978 (P.L.1109, No.261), known as the Osteopathic Medical
4 Practice Act, or the act of December 20, 1985 (P.L.457, No.112),
5 known as the Medical Practice Act of 1985.

6 "Presumptive eligibility period." The period of eligibility
7 which:

8 (1) begins with the date on which a qualified entity
9 determines, on the basis of preliminary information, that the
10 family income of the woman does not exceed the maximum income
11 level of eligibility under Chapter 3 (relating to women
12 screened under program) or 5 (relating to other women
13 screened for breast and cervical cancer); and

14 (2) ends on the earlier of:

15 (i) the day on which the Department of Public
16 Welfare makes a determination with respect to the
17 eligibility of the woman for medical assistance under
18 this act; or

19 (ii) the last day of the month following the month
20 during which the woman was determined to be presumptively
21 eligible.

22 "Program." The National Breast and Cervical Cancer Early
23 Detection Program of the Centers for Disease Control and
24 Prevention established under Title XV of the Public Health
25 Service Act (58 Stat. 682, 42 U.S.C. § 201 et seq.).

26 "Qualified entity." Any of the following:

27 (1) a physician;

28 (2) a hospital or other health care facility;

29 (3) an entity that:

30 (i) is eligible to receive medical assistance

1 payments pursuant to this article; and

2 (ii) provides health care services covered under

3 this act; or

4 (4) an entity that is authorized by the Department of
5 Public Welfare to determine presumptive eligibility of a
6 woman seeking medical assistance pursuant to this act;
7 that is duly licensed, certified or otherwise regulated to
8 diagnose, treat, mitigate, cure or provide health care services
9 to a patient with cancer, under the laws of this Commonwealth.

10 "Screening mammography facility." An individual,
11 organization, facility, institution or part thereof, staffed and
12 equipped to provide screening mammography services.

13 "Screening mammography services." A radiologic procedure
14 furnished to an asymptomatic woman for the purpose of early
15 detection of breast cancer. The term includes a physician's
16 interpretation of the results of the procedure.

17 "Secretary." The Secretary of Public Welfare of the
18 Commonwealth.

19 CHAPTER 3

20 WOMEN SCREENED UNDER PROGRAM

21 Section 301. Establishment.

22 Any person meeting the criteria established under this
23 chapter shall be eligible to receive medical assistance for
24 treatment and follow-up care for diagnosed incidences of breast
25 cancer or cervical cancer.

26 Section 302. Eligibility.

27 In order to receive medical assistance for treatment and
28 follow-up care for diagnosed incidences of breast cancer or
29 cervical cancer, a woman must:

30 (1) Be uninsured and not otherwise eligible for medical

1 assistance under Article IV of the act of June 13, 1967
2 (P.L.31, No.21), known as the Public Welfare Code.

3 (2) Have been screened for and found to have breast or
4 cervical cancer under the program.

5 (3) Not have attained 65 years of age.

6 Section 303. Limitation on eligibility.

7 A patient may be eligible to receive medical assistance under
8 this act during more than one noncontinuous period of time in
9 each calendar year, provided that the patient qualifies under
10 the eligibility criteria specified in section 302 (relating to
11 eligibility).

12 Section 304. Application for medical assistance.

13 A woman eligible to receive medical assistance under this act
14 must complete and submit an application to the department by the
15 last day of the month following the month during which a
16 determination of presumptive eligibility was made. The
17 department shall make a determination on the application within
18 30 days of filing. If the time period set forth in this section
19 is not met, the application shall be deemed approved.

20 CHAPTER 5

21 OTHER WOMEN SCREENED FOR BREAST AND CERVICAL CANCER

22 Section 501. Establishment.

23 A person meeting the criteria established under this chapter
24 shall be eligible to receive medical assistance for treatment
25 and follow-up care for diagnosed incidences of breast cancer or
26 cervical cancer.

27 Section 502. Eligibility.

28 In order to receive medical assistance for treatment and
29 follow-up care for diagnosed incidences of breast cancer or
30 cervical cancer, a patient must:

1 (1) Be uninsured and not otherwise eligible for medical
2 assistance under Article IV of the act of June 13, 1967
3 (P.L.31, No.21), known as the Public Welfare Code.

4 (2) Have been screened for and found to have breast or
5 cervical cancer by a health care provider who is duly
6 licensed, certified or otherwise regulated to diagnose,
7 treat, mitigate, cure or provide health care services to a
8 patient with cancer, under the laws of this Commonwealth.

9 (3) Not have attained 65 years of age.

10 (4) Have family income that does not exceed 250% of the
11 Federal poverty level, as established for that year by the
12 Department of Health and Human Services, for the same size
13 family.

14 Section 503. Limitation on eligibility.

15 Medical assistance made available to a woman under this
16 chapter shall be limited to the duration and scope of treatment
17 required for breast or cervical cancer. A patient may be
18 eligible to receive medical assistance under this act during
19 more than one noncontinuous period of time in each calendar
20 year, provided that the patient qualifies under the eligibility
21 criteria specified in section 502 (relating to eligibility).

22 Section 504. Application for medical assistance.

23 A woman eligible to receive medical assistance under this act
24 must complete and submit an application to the department no
25 later than the last day of the month following the month during
26 which a determination of presumptive eligibility was made. The
27 department shall make a determination on the application within
28 30 days of filing. If the time period set forth in this section
29 is not met, the application shall be deemed approved.

30 CHAPTER 7

1 PRESUMPTIVE ELIGIBILITY

2 Section 701. Authorization to determine presumptive
3 eligibility.

4 A qualified entity may determine a woman to be eligible for
5 medical assistance under this act for a presumptive eligibility
6 period prior to a final determination of eligibility, under
7 section 302 (relating to eligibility) or 502 (relating to
8 eligibility), from the department.

9 Section 702. Procedure.

10 A qualified entity that determines a woman to be
11 presumptively eligible for medical assistance shall:

12 (1) Notify the department of the determination within
13 five working days after the date on which the determination
14 of presumptive eligibility is made.

15 (2) Inform the woman at the time a determination of
16 presumptive eligibility is made that such a determination is
17 only temporary and services may be discontinued unless the
18 woman completes and submits an application for medical
19 assistance no later than the last day of the month following
20 the month during which the determination of presumptive
21 eligibility was made.

22 CHAPTER 9

23 RESPONSIBILITIES OF DEPARTMENT

24 Section 901. Federal Medicaid matching funds.

25 The department shall:

26 (1) Submit a State medical assistance plan amendment, as
27 well as any additional required documentation, to the Centers
28 for Medicare and Medicaid Services within 60 days of the
29 effective date of this act.

30 (2) Seek to maximize the receipt of Federal Medicaid

1 matching funds authorized by the participation of eligible
2 women under this act.

3 Section 902. Report to General Assembly.

4 The department shall make an annual report to the General
5 Assembly on the implementation of this act.

6 Section 903. Rules and regulations.

7 The department shall be responsible for the administration of
8 this act and shall promulgate further rules and regulations
9 necessary to implement and enforce its provisions.

10 CHAPTER 11

11 MISCELLANEOUS PROVISIONS

12 Section 1101. Funding.

13 (a) Annual appropriation.--The General Assembly shall
14 include in the appropriation to the department in the General
15 Appropriation Act an annual appropriation from the General Fund
16 in an amount sufficient to provide medical assistance for the
17 purpose of providing coverage for the treatment of breast or
18 cervical cancer to uninsured and underinsured women pursuant to
19 this act.

20 (b) Federal Medicaid funding.--The department shall utilize
21 all Federal Medicaid funding received for the purpose of
22 carrying out the provisions of this act.

23 Section 1102. Repeals.

24 All acts and parts of acts are repealed insofar as they are
25 inconsistent with this act.

26 Section 1103. Effective date.

27 This act shall take effect immediately.