

Public Law 101-354
101st Congress

An Act

To amend the Public Health Service Act to establish a program of grants for the detection and control of breast and cervical cancer.

Aug. 10, 1990
[H.R. 4790]

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 Mortality Prevention Act of 1990".

Breast and
Cervical Cancer
Mortality
Prevention Act
of 1990.
42 USC 201 note.

SEC. 2. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES FOR
PREVENTION AND CONTROL OF BREAST AND CERVICAL
CANCER.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title XIV the following new title:

"TITLE XV—PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST AND CERVICAL CANCERS

"SEC. 1501. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES.

42 USC 300k.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States on the basis of an established competitive review process for the purpose of carrying out programs—

"(1) to screen women for breast and cervical cancer as a preventive health measure;

"(2) to provide appropriate referrals for medical treatment of women screened pursuant to paragraph (1) and to ensure, to the extent practicable, the provision of appropriate follow-up services;

"(3) to develop and disseminate public information and education programs for the detection and control of breast and cervical cancer;

"(4) to improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of breast and cervical cancer;

"(5) to establish mechanisms through which the States can monitor the quality of screening procedures for breast and cervical cancer, including the interpretation of such procedures; and

"(6) to evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program-monitoring activities.

"(b) GRANT AND CONTRACT AUTHORITY OF STATES.—A State receiving a grant under subsection (a) may expend the grant to carry out

the purpose described in such subsection through grants to, and contracts with, public or nonprofit private entities.

42 USC 300f.

"SEC. 1502. REQUIREMENT OF MATCHING FUNDS.

"(a) **IN GENERAL.**—The Secretary may not make a grant under section 1501 unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such section, to make available non-Federal contributions (in cash or in kind under subsection (b)) toward such costs in an amount equal to not less than \$1 for each \$3 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities.

"(b) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(1) **IN GENERAL.**—Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(2) **MAINTENANCE OF EFFORT.**—In making a determination of the amount of non-Federal contributions for purposes of subsection (a), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the State involved toward the purpose described in section 1501 for the 2-year period preceding the first fiscal year for which the State is applying to receive a grant under such section.

"(3) **INCLUSION OF RELEVANT NON-FEDERAL CONTRIBUTIONS FOR MEDICAID.**—In making a determination of the amount of non-Federal contributions for purposes of subsection (a), the Secretary shall, subject to paragraphs (1) and (2) of this subsection, include any non-Federal amounts expended pursuant to title XIX of the Social Security Act by the State involved toward the purpose described in paragraphs (1) and (2) of section 1501(a).

42 USC 300m.

"SEC. 1503. REQUIREMENTS WITH RESPECT TO TYPE AND QUALITY OF SERVICES.

"(a) **REQUIREMENT OF PROVISION OF ALL SERVICES BY DATE CERTAIN.**—The Secretary may not make a grant under section 1501 unless the State involved agrees—

"(1) to ensure that, initially and throughout the period during which amounts are received pursuant to the grant, not less than 60 percent of the grant is expended to provide each of the services or activities described in paragraphs (1) and (2) of section 1501(a), including making available screening procedures for both breast and cervical cancers;

"(2) subject to subsection (b), to ensure that—

"(A) in the case of breast cancer, both a physical examination of the breasts and the screening procedure known as a mammography are conducted; and

"(B) in the case of cervical cancer, both a pelvic examination and the screening procedure known as a pap smear are conducted;

"(3) to ensure that, by the end of any second fiscal year of payments pursuant to the grant, each of the services or activities described in section 1501(a) is provided; and

"(4) to ensure that not more than 40 percent of the grant is expended to provide the services or activities described in paragraphs (3) through (6) of such section.

"(b) **USE OF IMPROVED SCREENING PROCEDURES.**—The Secretary may not make a grant under section 1501 unless the State involved agrees that, if any screening procedure superior to a procedure described in subsection (a)(2) becomes commonly available and is recommended for use, any entity providing screening procedures pursuant to the grant will utilize the superior procedure rather than the procedure described in such subsection.

"(c) **QUALITY ASSURANCE REGARDING SCREENING FOR BREAST CANCER.**—The Secretary may not make a grant under section 1501 unless the State involved agrees that the State will assure the quality of any screening procedure for breast cancer conducted pursuant to such section and, in the case of mammography, will provide that—

"(1) the equipment used to perform the mammography will be specifically designed for mammography and will meet appropriate radiologic standards for mammography;

"(2) the mammography will be performed by an individual who—

"(A) is licensed by a State to perform radiological procedures; or

"(B) is certified as qualified to perform radiological procedures by an appropriate organization;

"(3) the results of the mammography will be interpreted by a physician who—

"(A) is certified as qualified to interpret radiological procedures by an appropriate board; or

"(B) is certified as qualified to interpret screening mammography procedures by an appropriate program for assuring the qualifications of the individual with respect to such interpretations; and

"(4) with respect to the first screening mammography performed on a woman for which payment is made pursuant to section 1501(a), there are satisfactory assurances that the results of the mammography will be placed in permanent medical records maintained with respect to the woman.

"(d) **QUALITY ASSURANCE REGARDING SCREENING FOR CERVICAL CANCER.**—The Secretary may not make a grant under section 1501 unless the State involved agrees that the State will assure the quality of any screening procedure for cervical cancer conducted pursuant to such section and, in the case of the pap smear (or other cytological screening procedure replacing the pap smear pursuant to subsection (b)), will provide—

"(1) the maximum number of cytology slides that any individual may screen in a 24-hour period;

"(2) requirements that a clinical laboratory maintain a record of—

"(A) the number of cytology slides screened during each 24-hour period by each individual who examines cytology slides for the laboratory; and

"(B) the number of hours devoted during each 24-hour period to screening cytology slides by such individual;

Records.

"(3) criteria for requiring rescreeing of cytological preparations, such as—

"(A) random rescreeing of cytology specimens determined to be in the benign category;

"(B) focused rescreeing of such preparations in high risk groups; and

"(C) for each abnormal cytological result, rescreeing of all prior cytological specimens for the patient, if available;

"(4) periodic confirmation and evaluation of the proficiency of individuals involved in screening or interpreting cytological preparations, including announced and unannounced on-site proficiency testing of such individuals, with such testing to take place, to the extent practicable, under normal working conditions;

"(5) procedures for detecting inadequately prepared slides, for assuring that no cytological diagnosis is rendered on such slides, and for notifying referring physicians of such slides;

"(6) requirements that all cytological screening be done on the premises of an appropriately qualified laboratory;

"(7) requirements for the retention of cytology slides by laboratories for appropriate periods of time; and

"(8) requirements of periodic inspection of cytology services by persons capable of evaluating the quality of cytology services.

"(e) **ISSUANCE BY SECRETARY OF GUIDELINES WITH RESPECT TO QUALITY OF MAMMOGRAPHY AND CYTOLOGICAL SERVICES.**—

"(1) **IN GENERAL.**—The Secretary shall establish guidelines for assuring the quality of any mammography and cytological screening procedure conducted pursuant to section 1501(a). Such guidelines with respect to mammography shall include the provisions of paragraphs (1) through (4) of subsection (c), and such guidelines with respect to cytological screening procedures shall include the provisions of paragraphs (1) through (8) of subsection (d).

"(2) **APPLICABILITY WITH RESPECT TO GRANTS.**—The Secretary may not make a grant under section 1501 unless the State involved agrees that the State will, with respect to any mammography or cytological screening procedure conducted pursuant to such section, ensure that the procedure is conducted in accordance with the guidelines issued by the Secretary under paragraph (1).

"(3) **RESPONSIBILITY OF STATES IN ABSENCE OF GUIDELINES.**—With respect to circumstances in which a State receives a grant under section 1501 before the issuance of guidelines under paragraph (1), this subsection may not be construed to affect in such circumstances the obligation of the State pursuant to subsection (a)(1) to provide for screening procedures and referrals or the obligations under subsections (c) and (d) with respect to providing for quality in the screening procedures.

42 USC 300n.

"**SEC. 1504. ADDITIONAL REQUIRED AGREEMENTS.**

"(a) **PRIORITY FOR LOW-INCOME WOMEN.**—The Secretary may not make a grant under section 1501 unless the State involved agrees that low-income women will be given priority in the provision of services and activities pursuant to paragraphs (1) and (2) of section 1501(a).

"(b) **LIMITATION ON IMPOSITION OF FEES FOR SERVICES.**—The Secretary may not make a grant under section 1501 unless the State

involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

“(1) will be made according to a schedule of charges that is made available to the public;

“(2) will be adjusted to reflect the income of the woman involved; and

“(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

“(c) STATEWIDE PROVISION OF SERVICES.—

“(1) IN GENERAL.—The Secretary may not make a grant under section 1501 unless the State involved agrees that services and activities under the grant will be made available throughout the State, including availability to members of any Indian tribe or tribal organization (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act).

“(2) WAIVER.—The Secretary may waive the requirement established in paragraph (1) for a State if the Secretary determines that compliance by the State with the requirement would result in an inefficient allocation of resources with respect to carrying out the purpose described in section 1501(a).

“(d) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

“(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

“(2) by an entity that provides health services on a prepaid basis.

“(e) COORDINATION WITH OTHER BREAST AND CERVICAL CANCER PROGRAMS.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the services and activities funded through the grant shall be coordinated with other Federal, State, and local breast and cervical cancer programs.

“(f) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under section 1501 unless the State involved agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

“(g) RESTRICTIONS ON USE OF GRANT.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the grant will not be expended to provide inpatient hospital services for any individual.

“(h) RECORDS AND AUDITS.—The Secretary may not make a grant under section 1501 unless the State involved agrees that—

“(1) the State will establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the State under such section; and

“(2) upon request, the State will provide records maintained pursuant to paragraph (1) to the Secretary or the Comptroller of the United States for purposes of auditing the expenditures by the State of the grant.

"(i) **REPORTS TO SECRETARY.**—The Secretary may not make a grant under section 1501 unless the State involved agrees to submit to the Secretary such reports as the Secretary may require with respect to the grant.

42 USC 300n-1.

"SEC. 1505. DESCRIPTION OF INTENDED USES OF GRANT.

"The Secretary may not make a grant under section 1501 unless—

"(1) the State involved submits to the Secretary a description of the purposes for which the State intends to expend the grant;

"(2) the description identifies the populations, areas, and localities in the State with a need for the services or activities described in section 1501(a);

"(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public or nonprivate entities; and

"(4) the description provides assurances that the grant funds be used in the most cost-effective manner.

42 USC 300n-2.

"SEC. 1506. REQUIREMENT OF SUBMISSION OF APPLICATION.

"The Secretary may not make a grant under section 1501 unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 1505, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

42 USC 300n-3.

"SEC. 1507. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) **TECHNICAL ASSISTANCE.**—The Secretary may provide training and technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to section 1501. The Secretary may provide such technical assistance directly or through grants to, or contracts with, public and private entities.

"(b) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) **IN GENERAL.**—Upon the request of a State receiving a grant under section 1501, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out such section and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) **CORRESPONDING REDUCTION IN PAYMENTS.**—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the grant under section 1501 to the State involved by an amount equal to the costs of detailing personnel (including pay, allowances, and travel expenses) and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 1508. EVALUATIONS AND REPORTS.

42 USC 300n-4.

"(a) **EVALUATIONS.**—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to section 1501.

"(b) **REPORT TO CONGRESS.**—The Secretary shall, not later than 1 year after the date on which amounts are first appropriated pursuant to section 1509(a), and annually thereafter, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing evaluations carried out pursuant to subsection (a) during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this title as the Secretary determines to be appropriate.

"SEC. 1509. FUNDING.

42 USC 300n-5.

"(a) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this title, there are authorized to be appropriated \$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) **SET-ASIDE FOR TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES.**—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall reserve not more than 20 percent for carrying out section 1507."

Approved August 10, 1990.

LEGISLATIVE HISTORY—H.R. 4790 (S. 2283):

HOUSE REPORTS: No. 101-543 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 101-380 accompanying S. 2283 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 136 (1990):

June 18, considered and passed House.

Aug. 3, considered and passed Senate, amended. House concurred in Senate amendment.