

FINAL BILL REPORT

E2SSB 5702

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Synopsis as Enacted

Brief Description: Requiring coverage for donor human milk.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Trudeau, Dhingra, Lovelett, Lovick, Nguyen, Nobles, Randall, Saldaña, Stanford, Van De Wege and Wilson, C.).

Senate Committee on Health & Long Term Care
Senate Committee on Ways & Means
House Committee on Health Care & Wellness

Background: Under the Affordable Care Act (ACA), health benefit plans must provide, at a minimum, coverage with no cost sharing, for preventive or wellness services that have a rating of A or B in the current recommendations of the United States Preventive Services Task Force (USPSTF). The USPSTF recommends, at a B grade, providing interventions before and after pregnancy to support breastfeeding. These interventions can be categorized as professional support, peer support, and formal education and may include promoting the benefits of breastfeeding, providing practical advice and direct support on how to breastfeed, and providing psychological support.

According to the American Academy of Pediatrics, breastfeeding and human milk are the standards for infant feeding and nutrition. Mother's own milk, fresh or frozen, should be the primary diet, however, if mother's milk is unavailable despite significant lactation support, pasteurized donor milk should be used.

An International Board Certified Lactation Consultant (IBCLC) is a health care professional who specializes in the clinical management of breastfeeding. An IBCLC is certified by the International Board of Lactation Consultant Examiners. An IBCLC works in a variety of health care settings, including hospitals, pediatric offices, public health clinics, and private practice.

Summary: Group health plans, other than small group health plans, issued or renewed on

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or after January 1, 2023, and the state Medicaid program must provide coverage for medically necessary donor human milk for inpatient use when ordered by a licensed health care provider with prescriptive authority or an IBCLC for an infant who is medically or physically unable to receive maternal human milk or participate in chest feeding, or whose parent is medically or physically unable to produce maternal human milk or participate in chest feeding, if the infant meets any of the following criteria:

- an infant birth weight below 2500 grams;
- an infant gestational age equal to or less than 34 weeks;
- infant hypoglycemia;
- a high risk for development of necrotizing enterocolitis, bronchopulmonary dysplasia, or retinopathy of prematurity;
- a congenital or acquired gastrointestinal condition with long-term feeding or malabsorption complications;
- congenital heart disease requiring surgery in the first year of life;
- an organ or bone marrow transplant;
- sepsis;
- congenital hypotonias associated with feeding difficulty or malabsorption;
- renal disease requiring dialysis in the first year of life;
- craniofacial anomalies;
- an immunologic deficiency;
- neonatal abstinence syndrome;
- any other serious congenital or acquired condition for which the use of pasteurized donor human milk and donor human milk derived products is medically necessary and supports the treatment and recovery of the child; or
- any baby still inpatient within 72 hours of birth without sufficient human milk available.

The Health Care Authority may require expedited prior authorization to obtain donor human milk.

HCA must seek any available federal financial participation under the Medical Assistance Program, the state Children's Health Insurance Program, and any other available federal funding sources.

The Insurance Commissioner must include coverage for donor human milk upon authorization by the Legislature to modify the state's essential health benefits benchmark plan.

The Department of Health (DOH) must adopt minimum standards for ensuring milk bank safety. The standards adopted by DOH must be consistent with clinical, evidence-based guidelines established by a national accrediting organization and must address donor screening, milk handling and processing, and record keeping. DOH must also review and consider requiring additional standards, including but not limited to testing for the presence of viruses, bacteria, and prescription and nonprescription drugs in donated milk.

Donor human milk is human milk that has been contributed to a milk bank by one or more donors. A milk bank means an organization that engages in the procurement, processing, storage, distribution, or use of human milk contributed by donors.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 9, 2022