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## Health Care & Wellness Committee

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### E2SSB 5702

**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.).

**Brief Summary of Engrossed Second Substitute Bill**

- Requires health plans and Medicaid to provide coverage for donor human milk for inpatient use when medically necessary.
- Requires the Department of Health to adopt minimum standards for milk bank safety.

**Hearing Date:** 2/21/22

**Staff:** Kim Weidenaar (786-7120).

**Background:**

In 2015 the Department of Health (DOH) completed a mandated benefit sunrise review for banked human milk. The proposal required state-regulated health plans and Medicaid to cover medically necessary banked human milk if: (1) the covered person is an infant under the age of 11 months; (2) a licensed provider with prescriptive authority orders the milk for the covered person; (3) the covered person's parent or legal guardian signs an informed consent form; and (4) the milk is obtained from a milk bank that meets minimum standards adopted by the DOH. The DOH strongly supported the concept of the proposed mandate, finding that there was sufficient evidence supporting the efficacy and medical necessity of banked human milk for a narrow population of preterm infants, however, the DOH concluded that the proposal did not meet the criteria for mandating coverage of banked human milk.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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.

Providers in Washington with prescriptive authority include allopathic and osteopathic physicians and physician assistants, advanced registered nurse practitioners, dentists, naturopaths, optometrists, and podiatric physicians.

### **Summary of Bill:**

Health plans issued or renewed on or after January 1, 2023, health plans offered to public employees, and the Health Care Authority (HCA) for Medicaid enrollees 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 International Board Certified Lactation Consultant 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 of below 2,500 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.

A health plan may not require an enrollee to obtain prior authorization for donor human milk. The HCA may require an enrollee to obtain expedited prior authorization to receive coverage for donor human milk. The 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.

Donor human milk must be obtained through a milk bank that meets standards adopted by the Department of Health (DOH). The DOH must establish standards for ensuring milk bank safety and at a minimum the standards must consider the clinical, evidence-based guidelines established by a national accrediting organization. The standards must address donor screening, milk handling and processing, and recordkeeping. The DOH must also review and consider requiring additional testing standards. "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.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available. New fiscal note requested on February 8, 2022.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.