
SENATE BILL 5702

State of Washington

67th Legislature

2022 Regular Session

By Senators Trudeau, Dhingra, Lovelett, Lovick, Nguyen, Nobles, Randall, Saldaña, Stanford, Van De Wege, and C. Wilson

Prefiled 01/06/22. Read first time 01/10/22. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to requiring coverage for donor breast milk;
2 amending RCW 41.05.017; adding a new section to chapter 48.43 RCW;
3 and adding a new section to chapter 74.09 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43
6 RCW to read as follows:

7 (1) A health plan issued or renewed on or after January 1, 2023,
8 shall provide coverage for medically necessary donor breast milk for
9 inpatient use when ordered by a licensed health care provider with
10 prescriptive authority or an international board certified lactation
11 consultant certified by the international lactation consultant
12 association for an infant who is medically or physically unable to
13 receive maternal breast milk or participate in chest feeding or whose
14 parent is medically or physically unable to produce maternal breast
15 milk or participate in chest feeding, if the infant meets at least
16 one of the following criteria:

17 (a) Has a documented birth weight of 2,500 grams or less;

18 (b) Has a congenital or acquired intestinal or cardiac condition,
19 and is therefore at a high risk for development of feeding
20 intolerance, necrotizing enterocolitis, and/or infection;

1 (c) Is within the first 72 hours since birth without sufficient
2 maternal breast milk available; or

3 (d) Otherwise requires nourishment by breast milk.

4 (2) Donor breast milk covered under this section must be obtained
5 from a milk bank that meets minimum standards adopted by the
6 department of health under subsection (3) of this section.

7 (3) The department of health must adopt minimum standards for
8 ensuring milk bank safety. The standards adopted by the department of
9 health must be consistent with evidence-based guidelines established
10 by a national accrediting organization and must address donor
11 screening, milk handling and processing, and recordkeeping.

12 (4) A health plan may not require an enrollee to obtain prior
13 authorization to receive coverage for donor breast milk as required
14 under this section.

15 (5) For purposes of this section:

16 (a) "Donor breast milk" means human breast milk that has been
17 contributed to a milk bank by one or more donors without any
18 alterations, additional products, or processing other than to keep
19 the milk safe for human consumption.

20 (b) "Milk bank" means a firm or corporation that engages in the
21 not-for-profit procurement, processing, storage, distribution, or use
22 of human breast milk contributed by donors.

23 (6) The department of health and the commissioner may adopt any
24 rules necessary to implement this section.

25 **Sec. 2.** RCW 41.05.017 and 2021 c 280 s 2 are each amended to
26 read as follows:

27 Each health plan that provides medical insurance offered under
28 this chapter, including plans created by insuring entities, plans not
29 subject to the provisions of Title 48 RCW, and plans created under
30 RCW 41.05.140, are subject to the provisions of RCW 48.43.500,
31 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545,
32 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128,
33 section 1 of this act, and chapter 48.49 RCW.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09
35 RCW to read as follows:

36 (1) The authority shall provide coverage under this chapter for
37 medically necessary donor breast milk for inpatient use when ordered
38 by a licensed health care provider with prescriptive authority or an

1 international board certified lactation consultant certified by the
2 international lactation consultant association for an infant who is
3 medically or physically unable to receive maternal breast milk or
4 participate in chest feeding or whose parent is medically or
5 physically unable to produce maternal breast milk or participate in
6 chest feeding, if the infant meets at least one of the following
7 criteria:

8 (a) Has a documented birth weight of 2,500 grams or less;

9 (b) Has a congenital or acquired intestinal or cardiac condition,
10 and is therefore at a high risk for development of feeding
11 intolerance, necrotizing enterocolitis and/or infection;

12 (c) Is within the first 72 hours since birth without sufficient
13 maternal breast milk available; or

14 (d) Otherwise requires nourishment by breast milk.

15 (2) Donor breast milk covered under this section must be obtained
16 from a milk bank that meets minimum standards adopted by the
17 department of health under subsection (3) of this section.

18 (3) The department of health must adopt minimum standards for
19 ensuring milk bank safety. The standards adopted by the department
20 must be consistent with evidence-based guidelines established by a
21 national accrediting organization and must address donor screening,
22 milk handling and processing, and recordkeeping.

23 (4) The authority may not require an enrollee to obtain prior
24 authorization to receive coverage for donor breast milk as required
25 under this section.

26 (5) In administering this program, the authority must seek any
27 available federal financial participation under the medical
28 assistance program, as codified at Title XIX of the federal social
29 security act, the state children's health insurance program, as
30 codified at Title XXI of the federal social security act, and any
31 other federal funding sources that are now available or may become
32 available.

33 (6) For purposes of this section:

34 (a) "Donor breast milk" means human breast milk that has been
35 contributed to a milk bank by one or more donors without any
36 alterations, additional products, or processing other than to keep
37 the milk safe for human consumption.

1 (b) "Milk bank" means a firm or corporation that engages in the
2 not-for-profit procurement, processing, storage, distribution, or use
3 of human breast milk contributed by donors.

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