

118TH CONGRESS  
2D SESSION

# H. R. 7141

To amend titles XIX and XXI of the Social Security Act and title XXVII of the Public Health Service Act to require no-cost coverage of human milk fortifier.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2024

Mr. MCGARVEY (for himself, Ms. DELAURO, and Mr. KRISHNAMOORTHY) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend titles XIX and XXI of the Social Security Act and title XXVII of the Public Health Service Act to require no-cost coverage of human milk fortifier.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Supporting Premature  
5 Infant Nutrition Act of 2024”.

6 **SEC. 2. REQUIRING NO-COST COVERAGE OF HUMAN MILK**  
7 **FORTIFIER.**

8 (a) COVERAGE UNDER MEDICAID.—

9 (1) MANDATORY COVERAGE.—

1 (A) IN GENERAL.—Section 1902(a)(10)(A)  
2 of the Social Security Act (42 U.S.C.  
3 1396a(a)(10)(A)) is amended by striking “and  
4 (30)” and inserting “(30), and (31)”.

5 (B) MEDICALLY NEEDY.—Section  
6 1902(a)(10)(C)(iv) of the Social Security Act  
7 (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by  
8 striking “and (17)” and inserting “(17), and  
9 (31)”.

10 (C) ALTERNATIVE BENEFIT PLANS.—Sec-  
11 tion 1937(b) of the Social Security Act (42  
12 U.S.C. 1396u–7(b)) is amended by adding at  
13 the end the following new paragraph:

14 “(9) HUMAN MILK FORTIFIER.—Notwith-  
15 standing the previous provisions of this section, a  
16 State may not provide for medical assistance  
17 through enrollment of an individual with benchmark  
18 coverage or benchmark-equivalent coverage under  
19 this section unless, beginning on January 1, 2025,  
20 such coverage includes (and does not impose any de-  
21 duction, cost sharing, or similar charge for) human  
22 milk fortifier described in section 1905(a)(31).”.

23 (2) INCLUSION AS MEDICAL ASSISTANCE.—Sec-  
24 tion 1905 of the Social Security Act (42 U.S.C.  
25 1396d) is amended—

1 (A) in subsection (a)—

2 (i) in paragraph (30), by striking

3 “and” at the end;

4 (ii) by redesignating paragraph (31)

5 as paragraph (32); and

6 (iii) by inserting after paragraph (30)

7 the following new paragraph:

8 “(31) beginning January 1, 2025, human milk

9 fortifier (as described in subsection (jj)); and”; and

10 (B) by adding at the end the following new

11 subsection:

12 “(jj) HUMAN MILK FORTIFIER.—

13 “(1) IN GENERAL.—For purposes of subsection

14 (a)(31), the term ‘human milk fortifier’ means a

15 donor human milk-derived product that is furnished

16 to an infant under 1 year of age if a specified pro-

17 fessional determines that such donor human milk-de-

18 rived product is medically necessary for the infant

19 because—

20 “(A) the infant’s gestational age at birth

21 was 34 weeks or less;

22 “(B) the infant—

23 “(i) had a birth weight of less than

24 1800 grams; or

1                   “(ii) has a body weight below healthy  
2                   levels, as determined by the specified pro-  
3                   fessional; or

4                   “(C) the infant has a congenital or ac-  
5                   quired condition and such donor human milk-  
6                   derived product will—

7                   “(i) improve such condition; or

8                   “(ii) aid in the recovery of the infant  
9                   with respect to such condition.

10                  “(2) DEFINITIONS.—For purposes of this sub-  
11                  section, the following definitions apply:

12                   “(A) DONOR HUMAN MILK-DERIVED PROD-  
13                   UCT.—The term ‘donor human milk-derived  
14                   product’ means a specialty nutritional product  
15                   made from donor human milk wherein the  
16                   donor human milk has been concentrated or one  
17                   or more components have been removed.

18                   “(B) SPECIFIED PROFESSIONAL.—The  
19                   term ‘specified professional’ means a physician,  
20                   nurse practitioner, physician’s assistant, reg-  
21                   istered dietician, or other licensed professional  
22                   authorized by State statute to make the deter-  
23                   mination described in paragraph (1).”.

24                  (3) PROHIBITION OF COST SHARING.—

1 (A) IN GENERAL.—Section 1916 of the So-  
2 cial Security Act (42 U.S.C. 1396o) is amend-  
3 ed—

4 (i) in subsection (a)(2)—

5 (I) in subparagraph (I), by strik-  
6 ing at the end “or”;

7 (II) in subparagraph (J), by  
8 striking at the end “; and” and in-  
9 sserting “, or”; and

10 (III) by adding at the end the  
11 following new subparagraph:

12 “(K) beginning January 1, 2025, human  
13 milk fortifier (as described in section  
14 1905(a)(31)); and”; and

15 (ii) in subsection (b)(2)—

16 (I) in subparagraph (I), by strik-  
17 ing at the end “or”;

18 (II) in subparagraph (J), by  
19 striking at the end “; and” and in-  
20 sserting “, or”; and

21 (III) by adding at the end the  
22 following new subparagraph:

23 “(K) beginning January 1, 2025, human  
24 milk fortifier (as described in section  
25 1905(a)(31)); and”.

1 (B) APPLICATION TO ALTERNATIVE COST  
2 SHARING.—Section 1916A(b)(3)(B) of the So-  
3 cial Security Act (42 U.S.C. 1396o–1(b)(3)(B))  
4 is amended by adding at the end the following  
5 new clause:

6 “(xv) Beginning January 1, 2025,  
7 human milk fortifier (as described in sec-  
8 tion 1905(a)(31)).”.

9 (b) COVERAGE UNDER THE CHILDREN’S HEALTH  
10 INSURANCE PLAN.—

11 (1) IN GENERAL.—Section 2103 of the Social  
12 Security Act (42 U.S.C. 1397cc) is amended—

13 (A) in subsection (a), by striking “and  
14 (8)” and inserting “, (8), and (13)”; and

15 (B) in subsection (c), by adding at the end  
16 the following new paragraph:

17 “(13) REQUIRED COVERAGE OF HUMAN MILK  
18 FORTIFIER.—The child health assistance provided to  
19 a targeted low-income child shall include coverage of  
20 human milk fortifier (as described in section  
21 1905(a)(31)).”.

22 (2) PROHIBITION OF COST SHARING.—Section  
23 2103(e)(2) of the Social Security Act (42 U.S.C.  
24 1397cc(e)(2)) is amended—

1 (A) in the paragraph heading, by inserting  
2 “HUMAN MILK FORTIFIER,” before “OR PREG-  
3 NANCY-RELATED ASSISTANCE”; and

4 (B) by inserting “human milk fortifier de-  
5 scribed in section 1905(a)(31),” before “or for  
6 pregnancy-related assistance”.

7 (3) EFFECTIVE DATE.—

8 (A) IN GENERAL.—Subject to subpara-  
9 graph (B), the amendments made by this sub-  
10 section shall apply with respect to child health  
11 assistance furnished on or after January 1,  
12 2025.

13 (B) EXCEPTION IF STATE LEGISLATION  
14 REQUIRED.—In the case of a State child health  
15 plan for child health assistance under title XXI  
16 of the Social Security Act which the Secretary  
17 of Health and Human Services determines re-  
18 quires State legislation (other than legislation  
19 appropriating funds) in order for the plan to  
20 meet the additional requirement imposed by the  
21 amendments made by this subsection, the State  
22 child health plan shall not be regarded as fail-  
23 ing to comply with the requirements of such  
24 title solely on the basis of its failure to meet  
25 this additional requirement before the first day

1 of the first calendar quarter beginning after the  
2 close of the first regular session of the State  
3 legislature that begins after the date of the en-  
4 actment of this Act. For purposes of the pre-  
5 vious sentence, in the case of a State that has  
6 a 2-year legislative session, each year of such  
7 session shall be deemed to be a separate regular  
8 session of the State legislature.

9 (c) COVERAGE UNDER GROUP HEALTH PLANS AND  
10 GROUP AND INDIVIDUAL HEALTH INSURANCE.—

11 (1) IN GENERAL.—Subpart II of part A of title  
12 XXVII of the Public Health Service Act (42 U.S.C.  
13 300gg–11 et seq.) is amended by adding at the end  
14 the following new section:

15 **“SEC. 2730. NO-COST COVERAGE OF HUMAN MILK FOR-**  
16 **TIFIER.**

17 “A group health plan, and a health insurance issuer  
18 offering group or individual health insurance coverage,  
19 shall provide coverage for, and shall not impose any cost  
20 sharing requirements for, human milk fortifier (as de-  
21 scribed in section 1905(a)(jj) of the Social Security Act).”.

22 (2) EFFECTIVE DATE.—The amendments made  
23 by this subsection shall apply to plan years begin-  
24 ning on or after January 1, 2025.

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