

Department of Planning and Budget 2022 Fiscal Impact Statement

1. **Bill Number:** HB 726

House of Origin Introduced Substitute Engrossed
 Second House In Committee Substitute Enrolled

2. **Patron:** Gooditis

3. **Committee:** Commerce and Energy

4. **Title:** Health insurance; coverage for donated human breast milk

5. **Summary:** This legislation requires health insurers, corporations providing health care coverage subscription contracts, and health maintenance organizations to provide coverage for expenses incurred in the provision of pasteurized donated human breast milk. The requirement applies if the covered person is an infant under the age of six months, the milk is obtained from a human milk bank that meets quality guidelines established by the Department of Health, and a licensed medical practitioner has issued an order for an infant who satisfies certain criteria. The measure applies to policies, contracts, and plans delivered, issued for delivery, or renewed on or after January 1, 2023. The measure also requires the state plan for medical assistance services to include a provision for payment of medical assistance services incurred in the provision of pasteurized donated human breast milk.

6. **Budget Amendment Necessary:** Yes. Items 304 and 493.

7. **Fiscal Impact Estimates:** Preliminary.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2023	\$2,558,728	General
	\$2,877,072	Nongeneral
2024	\$4,530,727	General
	\$4,585,160	Nongeneral
2025	\$4,758,899	General
	\$4,828,020	Nongeneral
2026	\$5,001,209	General
	\$5,083,743	Nongeneral
2027	\$5,255,300	General
	\$5,353,012	Nongeneral
2028	\$5,522,850	General
	\$5,636,542	Nongeneral
2029	\$5,788,649	General
	\$5,920,649	Nongeneral

8. Fiscal Implications:

Department of Medical Assistance Services

The bill requires the Department of Medical Assistance Services (DMAS) and the department's contracted managed care organizations (MCO) to provide coverage for expenses incurred in the provision of pasteurized donated human milk (HDM). The requirement applies if the covered person is an infant under the age of six months, the milk is obtained from a human milk bank that meets quality guidelines established by the Virginia Department of Health, and a licensed medical practitioner has issued an order for an infant who satisfies certain criteria. It also provides coverage for human milk fortifier if indicated in a medical order.

DMAS reports that the cost of HDM is covered within the hospital inpatient payment for babies receiving care in neonatal intensive care units (NICU); however, Virginia, does not cover HDM costs once an infant is discharged from the hospital (i.e. outpatient costs). Based on information from the American Academy of Pediatrics, the average cost of pasteurized donated human breast milk ranges from \$4.00 to \$5.00 per ounce, as such this statement assumes a cost of \$4.50 per ounce. Assuming, on average, approximately 25 ounces of breast milk per baby is used each day, and an additional cost of \$5.05 for human milk fortifier, the average daily cost of providing outpatient HDM is approximately \$117.55. As this is a new service, there is no way to readily project the number of children that would receive HDM or length of time HDM may be utilized on an outpatient basis. National data and scholarly articles report a wide range of potential utilization expectations related to the use of HDM. For the purposes of this statement, DMAS estimates that, on average, 200 eligible infants each day would utilize HDM between leaving the hospital and six months of age. This number represents approximately 0.52 percent of the 38,648 births paid for by Medicaid and FAMIS in 2019. However, this assumption is a general estimate and the actual number will largely depend on how many children meet the bill's eligibility criteria. Based on these assumptions, the estimated cost of providing HDM for eligible infants would be approximately \$705,300 per month or \$8,463,600 (\$4,057,981 general fund) annually. The proposal specifies a start date of January 1, 2023, so the total for the first year has been adjusted accordingly. DMAS presumes a yearly increase that matched the rate of increase in covered newborn members over the past six years (approximately five percent). In addition, it is estimated that 5.4 percent of infants would be under FAMIS with the rest covered by Medicaid based on the ratio of FAMIS to Medicaid newborns in FY 2021. As such, based on the before mentioned assumptions, a general estimate of this bill's impact on Medicaid and FAMIS medical costs is \$4,231,800 (\$2,100,453 general fund) in FY 2023 and \$8,911,887 (\$4,326,727 general fund) in FY 2024.

DMAS also estimates \$1,000,000 (\$254,275 general fund) for one-time changes to DMAS' Medicaid Enterprise Systems to allow coverage of HDM. System costs are eligible for an enhanced federal match rate of 75 percent for Medicaid and 65 percent for FAMIS.

Virginia Department of Health

Since there is currently only one Human Milk Banking Association of North America (HMBNA)-accredited milk bank in Virginia, only one inspection is necessary at this time.

The Virginia Department of Health (VDH) has indicated that the inspection of the milk bank could be assumed by an existing Medical Facilities Inspector (MFI), therefore, no new position(s) would be required at this time. It also is assumed that VDH would be able to absorb the costs associated with this legislation (i.e. promulgation of regulations, travel, and indirect expenses) to license and monitor the one existing facility in Virginia.

Hospitals are generally providing HDM at their own expense for those babies in the pediatric and neonatal intensive care units. Expectations are that the introduction of this bill may change this situation, adding to the number of facilities serving as human breast milk banks. Should the number of facilities increase, there may be increased demand on VDH resources which would necessitate additional positions. At this time, however, it cannot be determined how many facilities may seek licensure in the future.

State Corporation Commission

The Affordable Care Act (ACA) requires all non-grandfathered individual and small-group qualified health plans (QHPs) to cover a core set of healthcare services within 10 Essential Health Benefits (EHBs) categories. States are required to defray the actuarial cost of any new state-mandated benefits added after 2011 and make payments to either issuers or beneficiaries to negate increased premiums. As such, the State Corporation Commission (SCC) reports that requiring this benefit could necessitate the federal defrayal provision the cost of which is estimated to be \$204,000 general fund annually.

Department of Human Resources Management

The Department of Human Resources Management is currently assessing the impact of this legislation. This statement will be updated once additional information becomes available.

9. Specific Agency or Political Subdivisions Affected:

Department of Medical Assistance Services
Virginia Department of Health
State Corporation Commission
Department of Human Resources Management

10. Technical Amendment Necessary: No

11. Other Comments: This bill is a companion to SB 344.