
SUBSTITUTE SENATE BILL 5702

State of Washington

67th Legislature

2022 Regular Session

By Senate Health & Long Term Care (originally sponsored by Senators Trudeau, Dhingra, Lovelett, Lovick, Nguyen, Nobles, Randall, Saldaña, Stanford, Van De Wege, and C. Wilson)

1 AN ACT Relating to requiring coverage for donor human milk;
2 amending RCW 41.05.017; adding a new section to chapter 48.43 RCW;
3 adding a new section to chapter 74.09 RCW; and adding a new section
4 to chapter 43.70 RCW.

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

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

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

- 19 (a) An infant birth weight of below 2,500 grams;
20 (b) An infant gestational age equal to or less than 34 weeks;
21 (c) Infant hypoglycemia;

1 (d) A high risk for development of necrotizing enterocolitis,
2 bronchopulmonary dysplasia, or retinopathy of prematurity;

3 (e) A congenital or acquired gastrointestinal condition with
4 long-term feeding or malabsorption complications;

5 (f) Congenital heart disease requiring surgery in the first year
6 of life;

7 (g) An organ or bone marrow transplant;

8 (h) Sepsis;

9 (i) Congenital hypotonias associated with feeding difficulty or
10 malabsorption;

11 (j) Renal disease requiring dialysis in the first year of life;

12 (k) Craniofacial anomalies;

13 (l) An immunologic deficiency;

14 (m) Neonatal abstinence syndrome;

15 (n) Any other serious congenital or acquired condition for which
16 the use of pasteurized donor human milk and donor human milk derived
17 products is medically necessary and supports the treatment and
18 recovery of the child; or

19 (o) Any baby still inpatient within 72 hours of birth without
20 sufficient human milk available.

21 (2) Donor human milk covered under this section must be obtained
22 from a milk bank that meets minimum standards adopted by the
23 department of health pursuant to section 4 of this act.

24 (3) A health plan may not require an enrollee to obtain prior
25 authorization to receive coverage for donor human milk as required
26 under this section.

27 (4) For purposes of this section:

28 (a) "Donor human milk" means human milk that has been contributed
29 to a milk bank by one or more donors without any additional products
30 or processing other than to keep the milk safe for human consumption.

31 (b) "Milk bank" means an organization that engages in the
32 procurement, processing, storage, distribution, or use of human milk
33 contributed by donors.

34 (5) The department of health and the commissioner may adopt any
35 rules necessary to implement this section.

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

38 Each health plan that provides medical insurance offered under
39 this chapter, including plans created by insuring entities, plans not

1 subject to the provisions of Title 48 RCW, and plans created under
2 RCW 41.05.140, are subject to the provisions of RCW 48.43.500,
3 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545,
4 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128,
5 section 1 of this act, and chapter 48.49 RCW.

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

8 (1) The authority shall provide coverage under this chapter for
9 medically necessary donor human milk for inpatient use when ordered
10 by a licensed health care provider with prescriptive authority or an
11 international board certified lactation consultant certified by the
12 international lactation consultant association for an infant who is
13 medically or physically unable to receive maternal human milk or
14 participate in chest feeding or whose parent is medically or
15 physically unable to produce maternal human milk in sufficient
16 quantities or caloric density or participate in chest feeding, if the
17 infant meets at least one of the following criteria:

- 18 (a) An infant birth weight of below 2,500 grams;
19 (b) An infant gestational age equal to or less than 34 weeks;
20 (c) Infant hypoglycemia;
21 (d) A high risk for development of necrotizing enterocolitis,
22 bronchopulmonary dysplasia, or retinopathy of prematurity;
23 (e) A congenital or acquired gastrointestinal condition with
24 long-term feeding or malabsorption complications;
25 (f) Congenital heart disease requiring surgery in the first year
26 of life;
27 (g) An organ or bone marrow transplant;
28 (h) Sepsis;
29 (i) Congenital hypotonias associated with feeding difficulty or
30 malabsorption;
31 (j) Renal disease requiring dialysis in the first year of life;
32 (k) Craniofacial anomalies;
33 (l) An immunologic deficiency;
34 (m) Neonatal abstinence syndrome;
35 (n) Any other serious congenital or acquired condition for which
36 the use of pasteurized donor human milk and donor human milk derived
37 products is medically necessary and supports the treatment and
38 recovery of the child; or

1 (o) Any baby still inpatient within 72 hours of birth without
2 sufficient human milk available.

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

6 (3) The authority may not require an enrollee to obtain prior
7 authorization to receive coverage for donor human milk as required
8 under this section.

9 (4) In administering this program, the authority must seek any
10 available federal financial participation under the medical
11 assistance program, as codified at Title XIX of the federal social
12 security act, the state children's health insurance program, as
13 codified at Title XXI of the federal social security act, and any
14 other federal funding sources that are now available or may become
15 available.

16 (5) For purposes of this section:

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

20 (b) "Milk bank" means an organization that engages in the
21 procurement, processing, storage, distribution, or use of human milk
22 contributed by donors.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.70
24 RCW to read as follows:

25 The department shall adopt minimum standards for ensuring milk
26 bank safety. The standards adopted by the department must be
27 consistent with evidence-based guidelines established by a national
28 accrediting organization and must address donor screening, milk
29 handling and processing, and recordkeeping.

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