

E2SSB 5702 - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED 03/02/2022

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43
4 RCW to read as follows:

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

- 17 (a) An infant birth weight of below 2,500 grams;
18 (b) An infant gestational age equal to or less than 34 weeks;
19 (c) Infant hypoglycemia;
20 (d) A high risk for development of necrotizing enterocolitis,
21 bronchopulmonary dysplasia, or retinopathy of prematurity;
22 (e) A congenital or acquired gastrointestinal condition with
23 long-term feeding or malabsorption complications;
24 (f) Congenital heart disease requiring surgery in the first year
25 of life;
26 (g) An organ or bone marrow transplant;
27 (h) Sepsis;
28 (i) Congenital hypotonias associated with feeding difficulty or
29 malabsorption;
30 (j) Renal disease requiring dialysis in the first year of life;
31 (k) Craniofacial anomalies;

1 (l) An immunologic deficiency;

2 (m) Neonatal abstinence syndrome;

3 (n) Any other serious congenital or acquired condition for which
4 the use of pasteurized donor human milk and donor human milk derived
5 products is medically necessary and supports the treatment and
6 recovery of the child; or

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

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

12 (3) For purposes of this section:

13 (a) "Donor human milk" means human milk that has been contributed
14 to a milk bank by one or more donors.

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

18 (4) The commissioner may adopt any rules necessary to implement
19 this section.

20 **Sec. 2.** RCW 48.43.715 and 2019 c 33 s 9 are each amended to read
21 as follows:

22 (1) The commissioner, in consultation with the board and the
23 health care authority, shall, by rule, select the largest small group
24 plan in the state by enrollment as the benchmark plan for the
25 individual and small group market for purposes of establishing the
26 essential health benefits in Washington state.

27 (2) If the essential health benefits benchmark plan for the
28 individual and small group market does not include all of the ten
29 essential health benefits categories, the commissioner, in
30 consultation with the board and the health care authority, shall, by
31 rule, supplement the benchmark plan benefits as needed.

32 (3) All individual and small group health plans must cover the
33 ten essential health benefits categories, other than a health plan
34 offered through the federal basic health program, a grandfathered
35 health plan, or medicaid. Such a health plan may not be offered in
36 the state unless the commissioner finds that it is substantially
37 equal to the benchmark plan. When making this determination, the
38 commissioner:

1 (a) Must ensure that the plan covers the ten essential health
2 benefits categories;

3 (b) May consider whether the health plan has a benefit design
4 that would create a risk of biased selection based on health status
5 and whether the health plan contains meaningful scope and level of
6 benefits in each of the ten essential health benefits categories;

7 (c) Notwithstanding (a) and (b) of this subsection, for benefit
8 years beginning January 1, 2015, must establish by rule the review
9 and approval requirements and procedures for pediatric oral services
10 when offered in stand-alone dental plans in the nongrandfathered
11 individual and small group markets outside of the exchange; and

12 (d) Must allow health carriers to also offer pediatric oral
13 services within the health benefit plan in the nongrandfathered
14 individual and small group markets outside of the exchange.

15 (4) Beginning December 15, 2012, and every year thereafter, the
16 commissioner shall submit to the legislature a list of state-mandated
17 health benefits, the enforcement of which will result in federally
18 imposed costs to the state related to the plans sold through the
19 exchange because the benefits are not included in the essential
20 health benefits designated under federal law. The list must include
21 the anticipated costs to the state of each state-mandated health
22 benefit on the list and any statutory changes needed if funds are not
23 appropriated to defray the state costs for the listed mandate. The
24 commissioner may enforce a mandate on the list for the entire market
25 only if funds are appropriated in an omnibus appropriations act
26 specifically to pay the state portion of the identified costs.

27 (5) Upon authorization by the legislature to modify the state's
28 essential health benefits benchmark plan under 45 C.F.R. Sec.
29 156.111, the commissioner shall include coverage for donor human milk
30 in the updated plan.

31 **Sec. 3.** RCW 41.05.017 and 2021 c 280 s 2 are each amended to
32 read as follows:

33 Each health plan that provides medical insurance offered under
34 this chapter, including plans created by insuring entities, plans not
35 subject to the provisions of Title 48 RCW, and plans created under
36 RCW 41.05.140, are subject to the provisions of RCW 48.43.500,
37 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545,
38 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128,
39 section 1 of this act, and chapter 48.49 RCW.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.09
2 RCW to read as follows:

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

- 13 (a) An infant birth weight of below 2,500 grams;
- 14 (b) An infant gestational age equal to or less than 34 weeks;
- 15 (c) Infant hypoglycemia;
- 16 (d) A high risk for development of necrotizing enterocolitis,
17 bronchopulmonary dysplasia, or retinopathy of prematurity;
- 18 (e) A congenital or acquired gastrointestinal condition with
19 long-term feeding or malabsorption complications;
- 20 (f) Congenital heart disease requiring surgery in the first year
21 of life;
- 22 (g) An organ or bone marrow transplant;
- 23 (h) Sepsis;
- 24 (i) Congenital hypotonias associated with feeding difficulty or
25 malabsorption;
- 26 (j) Renal disease requiring dialysis in the first year of life;
- 27 (k) Craniofacial anomalies;
- 28 (l) An immunologic deficiency;
- 29 (m) Neonatal abstinence syndrome;
- 30 (n) Any other serious congenital or acquired condition for which
31 the use of pasteurized donor human milk and donor human milk derived
32 products is medically necessary and supports the treatment and
33 recovery of the child; or
- 34 (o) Any baby still inpatient within 72 hours of birth without
35 sufficient human milk available.

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

1 (3) The authority may require an enrollee to obtain expedited
2 prior authorization to receive coverage for donor human milk as
3 required under this section.

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

11 (5) For purposes of this section:

12 (a) "Donor human milk" means human milk that has been contributed
13 to a milk bank by one or more donors.

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

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.70
18 RCW to read as follows:

19 The department shall adopt standards for ensuring milk bank
20 safety. The standards adopted by the department must, at a minimum,
21 consider the clinical, evidence-based guidelines established by a
22 national accrediting organization. The standards must address donor
23 screening, milk handling and processing, and recordkeeping. The
24 department shall also review and consider requiring additional
25 testing standards, including but not limited to testing for the
26 presence of viruses, bacteria, and prescription and nonprescription
27 drugs in donated milk."

28 Correct the title.

EFFECT: Limits the application of the requirement to cover donor
human milk in certain circumstances to group health plans, other than
small group health plans, offered by health carriers or for public
employees.

Removes the prohibition on a health plan from requiring prior
authorization for coverage of donor human milk.

Requires the Insurance Commissioner to include coverage for donor
human milk upon authorization by the legislature to modify the
state's essential health benefits benchmark plan.

--- END ---