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**SUBSTITUTE SENATE BILL 5702**

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**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)

READ FIRST TIME 02/01/22.

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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