

1 A bill to be entitled

2 An act relating to donor human milk bank services;  
3 amending s. 409.906, F.S.; authorizing the Agency for  
4 Health Care Administration to pay for donor human milk  
5 bank services as an optional Medicaid service if  
6 certain conditions are met; specifying coverage  
7 requirements; amending s. 409.908, F.S.; adding donor  
8 human milk bank services to the list of Medicaid  
9 services authorized for reimbursement on a fee-for-  
10 service basis; amending s. 409.973, F.S.; adding donor  
11 human milk bank services to the list of minimum  
12 benefits required to be covered by Medicaid managed  
13 care plans; providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Subsection (28) is added to section 409.906,  
18 Florida Statutes, to read:

19 409.906 Optional Medicaid services.—Subject to specific  
20 appropriations, the agency may make payments for services which  
21 are optional to the state under Title XIX of the Social Security  
22 Act and are furnished by Medicaid providers to recipients who  
23 are determined to be eligible on the dates on which the services  
24 were provided. Any optional service that is provided shall be  
25 provided only when medically necessary and in accordance with

26 | state and federal law. Optional services rendered by providers  
 27 | in mobile units to Medicaid recipients may be restricted or  
 28 | prohibited by the agency. Nothing in this section shall be  
 29 | construed to prevent or limit the agency from adjusting fees,  
 30 | reimbursement rates, lengths of stay, number of visits, or  
 31 | number of services, or making any other adjustments necessary to  
 32 | comply with the availability of moneys and any limitations or  
 33 | directions provided for in the General Appropriations Act or  
 34 | chapter 216. If necessary to safeguard the state's systems of  
 35 | providing services to elderly and disabled persons and subject  
 36 | to the notice and review provisions of s. 216.177, the Governor  
 37 | may direct the Agency for Health Care Administration to amend  
 38 | the Medicaid state plan to delete the optional Medicaid service  
 39 | known as "Intermediate Care Facilities for the Developmentally  
 40 | Disabled." Optional services may include:

41 |       (28) DONOR HUMAN MILK BANK SERVICES.—The agency may pay  
 42 | for the cost of donor human milk, for home and inpatient use,  
 43 | for which a licensed physician or nurse practitioner has issued  
 44 | an order for an infant who is medically or physically unable to  
 45 | receive maternal breast milk or breastfeed or whose mother is  
 46 | medically or physically unable to produce maternal breast milk  
 47 | or breastfeed. Such infant must have a documented birth weight  
 48 | of 1,500 grams or less; have a congenital or acquired intestinal  
 49 | condition and be at high risk for developing a feeding  
 50 | intolerance, necrotizing enterocolitis, or an infection; or

51 otherwise require nourishment by breast milk. The donor human  
52 milk must be procured from a nonprofit milk bank certified by  
53 the Human Milk Banking Association of North America (HMBANA).  
54 Coverage for donor human milk may not be less than the  
55 reasonable cost of such milk procured from an HMBANA-certified  
56 milk bank, plus reasonable processing and handling fees.

57 Section 2. Present paragraphs (f) through (t) of  
58 subsection (3) of section 409.908, Florida Statutes, are  
59 redesignated as paragraphs (g) through (u), respectively, and a  
60 new paragraph (f) is added to that subsection, to read:

61 409.908 Reimbursement of Medicaid providers.—Subject to  
62 specific appropriations, the agency shall reimburse Medicaid  
63 providers, in accordance with state and federal law, according  
64 to methodologies set forth in the rules of the agency and in  
65 policy manuals and handbooks incorporated by reference therein.  
66 These methodologies may include fee schedules, reimbursement  
67 methods based on cost reporting, negotiated fees, competitive  
68 bidding pursuant to s. 287.057, and other mechanisms the agency  
69 considers efficient and effective for purchasing services or  
70 goods on behalf of recipients. If a provider is reimbursed based  
71 on cost reporting and submits a cost report late and that cost  
72 report would have been used to set a lower reimbursement rate  
73 for a rate semester, then the provider's rate for that semester  
74 shall be retroactively calculated using the new cost report, and  
75 full payment at the recalculated rate shall be effected

76 retroactively. Medicare-granted extensions for filing cost  
 77 reports, if applicable, shall also apply to Medicaid cost  
 78 reports. Payment for Medicaid compensable services made on  
 79 behalf of Medicaid-eligible persons is subject to the  
 80 availability of moneys and any limitations or directions  
 81 provided for in the General Appropriations Act or chapter 216.  
 82 Further, nothing in this section shall be construed to prevent  
 83 or limit the agency from adjusting fees, reimbursement rates,  
 84 lengths of stay, number of visits, or number of services, or  
 85 making any other adjustments necessary to comply with the  
 86 availability of moneys and any limitations or directions  
 87 provided for in the General Appropriations Act, provided the  
 88 adjustment is consistent with legislative intent.

89 (3) Subject to any limitations or directions provided for  
 90 in the General Appropriations Act, the following Medicaid  
 91 services and goods may be reimbursed on a fee-for-service basis.  
 92 For each allowable service or goods furnished in accordance with  
 93 Medicaid rules, policy manuals, handbooks, and state and federal  
 94 law, the payment shall be the amount billed by the provider, the  
 95 provider's usual and customary charge, or the maximum allowable  
 96 fee established by the agency, whichever amount is less, with  
 97 the exception of those services or goods for which the agency  
 98 makes payment using a methodology based on capitation rates,  
 99 average costs, or negotiated fees.

100 (f) Donor human milk bank services.

HB 1333

2022

101 Section 3. Present paragraphs (e) through (bb) of  
102 subsection (1) of section 409.973, Florida Statutes, are  
103 redesignated as paragraphs (f) through (cc), respectively, and a  
104 new paragraph (e) is added to that subsection, to read:

105 409.973 Benefits.—

106 (1) MINIMUM BENEFITS.—Managed care plans shall cover, at a  
107 minimum, the following services:

108 (e) Donor human milk bank services.

109 Section 4. This act shall take effect July 1, 2022.