

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; requiring the agency to adopt rules;
8 authorizing the agency to seek federal approval;
9 amending s. 409.908, F.S.; adding donor human milk
10 bank services to the list of Medicaid services
11 authorized for reimbursement on a fee-for-service
12 basis; amending s. 409.973, F.S.; adding donor human
13 milk bank services to the list of minimum benefits
14 required to be covered by Medicaid managed care plans;
15 providing an effective date.

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

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

21 409.906 Optional Medicaid services.—Subject to specific
22 appropriations, the agency may make payments for services which
23 are optional to the state under Title XIX of the Social Security
24 Act and are furnished by Medicaid providers to recipients who
25 are determined to be eligible on the dates on which the services

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

43 | (28) DONOR HUMAN MILK BANK SERVICES.—The agency may pay
44 | for the provision of donor human milk and human milk products
45 | derived therefrom for inpatient use, for which a licensed
46 | physician, nurse practitioner, physician assistant, or dietitian
47 | has issued an order for an infant who is medically or physically
48 | unable to receive maternal breast milk or breastfeed or whose
49 | mother is medically or physically unable to produce maternal
50 | breast milk or breastfeed. Such infant must have a documented

51 birth weight of 1,800 grams or less; have a congenital or
52 acquired condition and be at high risk for developing a feeding
53 intolerance, necrotizing enterocolitis, or an infection; or
54 otherwise have a medical indication for a human milk diet. The
55 agency shall adopt rules that include, but are not limited to,
56 eligible providers of donor human milk and donor human milk
57 derivates. The agency may seek federal approval necessary to
58 implement this subsection.

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

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

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

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

101 average costs, or negotiated fees.

102 (f) Donor human milk bank services.

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

107 409.973 Benefits.—

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

110 (e) Donor human milk bank services.

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