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576-03083-22

Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to donor human milk bank services;  
amending s. 409.906, F.S.; authorizing the Agency for  
Health Care Administration to pay for donor human milk  
bank services as an optional Medicaid service if  
certain conditions are met; specifying coverage  
requirements; requiring the agency to adopt rules;  
authorizing the agency to seek federal approval;  
amending s. 409.908, F.S.; adding donor human milk  
bank services to the list of Medicaid services  
authorized for reimbursement on a fee-for-service  
basis; amending s. 409.973, F.S.; adding donor human  
milk bank services to the list of minimum benefits  
required to be covered by Medicaid managed care plans;  
providing an effective date.

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

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

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



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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 for  
44 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 to 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



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57 derivates. The agency may seek federal approval necessary to  
58 implement this subsection.

59 Section 2. Present paragraphs (f) through (t) of subsection  
60 (3) of 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,



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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. Present paragraphs (e) through (bb) of  
104 subsection (1) of section 409.973, Florida Statutes, are  
105 redesignated as paragraphs (f) through (cc), respectively, and a  
106 new paragraph (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.