

By Senator Book

32-00150-22

20221770\_\_

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.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
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,

32-00150-22

20221770\_\_

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 for  
42 the cost of donor human milk, for home and inpatient use, for  
43 which a licensed physician or nurse practitioner has issued an  
44 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 subsection  
58 (3) of section 409.908, Florida Statutes, are redesignated as

32-00150-22

20221770\_\_

59 paragraphs (g) through (u), respectively, and a new paragraph  
60 (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

32-00150-22

20221770\_\_

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.

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.