



General Assembly

February Session, 2020

Raised Bill No. 5369

LCO No. 1605



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT CONCERNING DONOR BREAST MILK AND HUMAN MILK PRODUCTS DERIVED FROM DONOR BREAST MILK.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2021*) Except as provided in
2 section 2 of this act, each group health insurance policy providing
3 coverage of the type specified in subdivisions (1), (2), (4), (11) and (12)
4 of section 38a-469 of the general statutes delivered, issued for delivery,
5 renewed, amended or continued in this state on or after January 1, 2021,
6 shall provide coverage for pasteurized donor breast milk and human
7 milk products derived from donor breast milk if a physician or
8 physician assistant, licensed pursuant to chapter 370 of the general
9 statutes, or an advanced practice registered nurse, licensed pursuant to
10 chapter 378 of the general statutes, signs an order, in a form and manner
11 prescribed by the Insurance Commissioner, stating that such milk or
12 product is medically necessary for an insured infant, and:

13 (1) In the case of pasteurized donor breast milk:

14 (A) The insured infant is medically or physically unable to receive
15 maternal breast milk or participate in breastfeeding; or

16 (B) The insured infant's mother is medically or physically unable to
17 produce maternal breast milk in sufficient quantities; or

18 (2) In the case of a human milk product derived from donor breast
19 milk:

20 (A) The insured infant is younger than six months of age; or

21 (B) The physician, physician assistant or advanced practice registered
22 nurse:

23 (i) Determines that such insured infant's body weight is below a
24 healthy level established by such physician, physician assistant or
25 advanced practice registered nurse; or

26 (ii) Diagnoses such insured infant with a congenital or acquired
27 condition that:

28 (I) Places such insured infant at a high risk for development of
29 necrotizing enterocolitis; or

30 (II) May benefit from the use of such product.

31 Sec. 2. (NEW) (*Effective July 1, 2020*) (a) (1) The Commissioner of
32 Public Health shall establish a program to regulate:

33 (A) The donation, processing and distribution in this state of donor
34 breast milk and human milk products derived from donor breast milk;
35 and

36 (B) Milk banks that donate, process or distribute in this state donor
37 breast milk or human milk products derived from donor breast milk.

38 (2) The program established by the Commissioner of Public Health
39 pursuant to subdivision (1) of this subsection shall require that donor
40 breast milk and human milk products derived from donor breast milk
41 be tested for adulterants and drugs, including, but not limited to,
42 amphetamines, benzodiazepines, cocaine, opiates, methamphetamines,
43 nicotine and their metabolites, before such milk or products are

44 donated, processed or distributed in this state.

45 (3) No donor breast milk or human milk product derived from donor
46 breast milk shall be donated, processed or distributed in this state except
47 in accordance with the provisions of this section.

48 (b) The Commissioner of Public Health may adopt regulations, in
49 accordance with the provisions of chapter 54 of the general statutes, to
50 carry out the purposes of this section.

51 Sec. 3. Section 17b-277c of the 2020 supplement to the general statutes
52 is repealed and the following is substituted in lieu thereof (*Effective July*
53 *1, 2020*):

54 (a) [The] Except as provided in section 2 of this act, the Commissioner
55 of Social Services, to the extent permissible under federal law, shall
56 provide Medicaid coverage for [medically necessary] pasteurized donor
57 breast milk [provided: (1) A] and human milk products derived from
58 donor breast milk if a physician [, physician's] or physician assistant,
59 licensed pursuant to chapter 370, or an advanced practice registered
60 nurse, licensed pursuant to chapter [370 or] 378, signs an order, in a form
61 and manner prescribed by the commissioner, stating that such milk or
62 product is medically necessary for an infant Medicaid beneficiary in
63 accordance with section 17b-259b₂ [;] and: [(2) (A) the]

64 (1) In the case of pasteurized donor breast milk:

65 (A) The infant Medicaid beneficiary is medically or physically unable
66 to receive maternal breast milk or participate in breastfeeding; [.] or [(B)
67 the infant's]

68 (B) The infant Medicaid beneficiary's mother is medically or
69 physically unable to produce maternal breast milk in sufficient
70 quantities; or

71 (2) In the case of a human milk product derived from donor breast
72 milk:

73 (A) The infant Medicaid beneficiary is younger than six months of
74 age; or

75 (B) The physician, physician assistant or advanced practice registered
76 nurse:

77 (i) Determines that such infant Medicaid beneficiary's body weight is
78 below a healthy level established by such physician, physician assistant
79 or advanced practice registered nurse; or

80 (ii) Diagnoses such infant Medicaid beneficiary with a congenital or
81 acquired condition that:

82 (I) Places such infant Medicaid beneficiary at a high risk for
83 development of necrotizing enterocolitis; or

84 (II) May benefit from the use of such product.

85 (b) The commissioner shall adopt or amend regulations to implement
86 the provisions of this section, including, but not limited to, [establishing
87 infant birth weight and health conditions that may make the provision
88 of pasteurized donor breast milk medically necessary and] time limits
89 for Medicaid coverage of pasteurized donor breast milk and human
90 milk products derived from donor breast milk. The commissioner may
91 adopt a policy or procedure to implement the provisions of this section
92 while in the process of adopting regulations, provided such policy or
93 procedure is posted on the Internet web site of the Department of Social
94 Services and on the eRegulations System prior to adoption of the policy.

95 (c) The commissioner, if necessary, shall seek federal approval for a
96 Medicaid waiver or state plan amendment to implement the provisions
97 of this section in accordance with the provisions of section 17b-8.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2021	New section
Sec. 2	July 1, 2020	New section

Sec. 3	July 1, 2020	17b-277c
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Statement of Purpose:

To: (1) Require certain group health insurance policies to provide coverage for pasteurized donor breast milk and human milk products derived from donor breast milk; (2) require the Commissioner of Public Health to establish a program to regulate the donation, processing and distribution of donor breast milk and human milk products derived from donor breast milk; and (3) require the Commissioner of Social Services, to the extent permissible under federal law, to provide Medicaid coverage for pasteurized donor breast milk and human milk products derived from donor breast milk.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]