

STATE OF NEW YORK

7790

2023-2024 Regular Sessions

IN ASSEMBLY

June 15, 2023

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Insurance

AN ACT to amend the social services law and the insurance law, in relation to expanding coverage requirements for human donor milk

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (dd) of subdivision 2 of section 365-a of the
2 social services law, as added by section 3 of part S of chapter 57 of
3 the laws of 2017, is amended to read as follows:

4 (dd) pasteurized donor human milk (PDHM), which may include fortifiers
5 as medically indicated[~~for inpatient use~~], for which a licensed
6 medical practitioner has issued an order for an infant who is medically
7 or physically unable to receive maternal breast milk or participate in
8 breast feeding or whose mother is medically or physically unable to
9 produce maternal breast milk at all or in sufficient quantities or
10 participate in breast feeding despite optimal lactation support. Such
11 infant shall: (i) have a documented birth weight of less than one thou-
12 sand five hundred grams; or (ii) have a congenital or acquired condition
13 that places the infant at a high risk for development of necrotizing
14 enterocolitis; or (iii) have a congenital or acquired condition that may
15 benefit from the use of donor breast milk as determined by the commis-
16 sioner of health or his or her designee.

17 § 2. Paragraph 38 of subsection (i) of section 3216 of the insurance
18 law, as added by section 10 of part MM of chapter 57 of the laws of 2018
19 and as renumbered by chapter 739 of the laws of 2022, is amended to read
20 as follows:

21 (38) Every policy that provides coverage for hospital, surgical or
22 medical care shall provide the following coverage for pasteurized donor
23 human milk (PDHM), which may include fortifiers as medically indicated[~~for inpatient use~~], for which a licensed medical practitioner has issued
24 an order for an infant who is medically or physically unable to receive
25

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

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1 maternal breast milk or participate in breast feeding or whose mother is
2 medically or physically unable to produce maternal breast milk at all or
3 in sufficient quantities or participate in breast feeding despite opti-
4 mal lactation support. Such infant shall: (i) have a documented birth
5 weight of less than one thousand five hundred grams; or (ii) have a
6 congenital or acquired condition that places the infant at a high risk
7 for development of necrotizing enterocolitis.

8 § 3. Paragraph 20 of subsection (l) of section 3221 of the insurance
9 law, as added by section 11 of part MM of chapter 57 of the laws of
10 2018, is amended to read as follows:

11 (20) Every insurer delivering a group or blanket policy or issuing a
12 group or blanket policy for delivery in this state that provides cover-
13 age for hospital, surgical or medical care shall provide the following
14 coverage for pasteurized donor human milk (PDHM), which may include
15 fortifiers as medically indicated[, ~~for inpatient use~~], for which a
16 licensed medical practitioner has issued an order for an infant who is
17 medically or physically unable to receive maternal breast milk or
18 participate in breast feeding or whose mother is medically or physically
19 unable to produce maternal breast milk at all or in sufficient quanti-
20 ties or participate in breast feeding despite optimal lactation support.
21 Such infant shall: (i) have a documented birth weight of less than one
22 thousand five hundred grams; or (ii) have a congenital or acquired
23 condition that places the infant at a high risk for development of
24 necrotizing enterocolitis.

25 § 4. Subsection (oo) of section 4303 of the insurance law, as added by
26 section 12 of part MM of chapter 57 of the laws of 2018, is amended to
27 read as follows:

28 (oo) A medical expense indemnity corporation, a hospital service
29 corporation or a health service corporation that provides coverage for
30 hospital, surgical or medical care shall provide the following coverage
31 for pasteurized donor human milk (PDHM), which may include fortifiers as
32 medically indicated[, ~~for inpatient use~~], for which a licensed medical
33 practitioner has issued an order for an infant who is medically or phys-
34 ically unable to receive maternal breast milk or participate in breast
35 feeding or whose mother is medically or physically unable to produce
36 maternal breast milk at all or in sufficient quantities or participate
37 in breast feeding despite optimal lactation support. Such infant shall:
38 (i) have a documented birth weight of less than one thousand five
39 hundred grams; or (ii) have a congenital or acquired condition that
40 places the infant at a high risk for development of necrotizing entero-
41 colitis.

42 § 5. This act shall take effect on the first of January next succeed-
43 ing the date on which it shall have become a law and shall apply to all
44 policies issued, renewed, modified, or altered on or after such date.
45 Effectively immediately, the addition, amendment and/or repeal of any
46 rule or regulation necessary for the implementation of this act on its
47 effective date are authorized to be made and completed on or before such
48 date.