

# STATE OF NEW YORK

6674

2023-2024 Regular Sessions

## IN SENATE

May 4, 2023

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Women's Issues

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[~~7 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[~~7~~  
24 ~~for inpatient use~~], for which a licensed medical practitioner has issued  
25 an order for an infant who is medically or physically unable to receive

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

LBD11129-02-3

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.