

SENATE No. 696

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick M. O'Connor

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to human donor milk coverage.

PETITION OF:

NAME:

Patrick M. O'Connor

DISTRICT/ADDRESS:

First Plymouth and Norfolk

SENATE No. 696

By Mr. O'Connor, a petition (accompanied by bill, Senate, No. 696) of Patrick M. O'Connor for legislation relative to human donor milk coverage. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to human donor milk coverage.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 32A of the General Laws, as appearing in the 2020 Official
2 Edition, is hereby amended by inserting after section 30 the following section:

3 Section 31. (a) Any coverage offered by the commission to any active or retired
4 employee of the commonwealth insured under the group insurance commission shall provide
5 coverage for the provision of pasteurized donor human milk and donor human milk-derived
6 products, provided that:

7 (1) The covered person is an infant under the age of six months;

8 (2) The milk is obtained from a human milk bank that meets quality guidelines
9 established by the Department of Public Health; and

10 (3) A licensed medical practitioner has issued a written order for the provision of such
11 human breast milk for an infant who:

12 (i) Is medically or physically unable to receive maternal breast milk or participate in
13 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk
14 in sufficient quantities and/or caloric density or participate in breastfeeding despite optimal
15 lactation support; and

16 (ii) Meets any of the following conditions:

17 (a) A body weight below healthy levels determined by the licensed medical practitioner;

18 (b) A congenital or acquired condition that places the infant at a high risk for
19 development of necrotizing enterocolitis; or

20 (c) A congenital or acquired condition that may benefit from the use of such human
21 breast milk as determined by the Department of Public Health.

22 (b) Reimbursement provided under subsection (a) of this section for donor human milk
23 and donor human milk-derived products for an infant in an inpatient setting shall be provided
24 separately from the existing hospital payment for inpatient services.

25 SECTION 2. Chapter 118E of the General Laws, as appearing in the 2020 Official
26 Edition, is hereby amended by inserting after section 10N the following section:

27 Section 10O. (a) The division and its contracted health insurers, health plans, health
28 maintenance organizations, behavioral health management firms and third party administrators
29 under contract to a Medicaid managed care organization or primary care clinician plan shall
30 provide coverage for the provision of pasteurized donor human milk and donor human milk-
31 derived products, provided that:

32 (1) The covered person is an infant under the age of six months;

33 (2) The milk is obtained from a human milk bank that meets quality guidelines
34 established by the Department of Public Health; and

35 (3) A licensed medical practitioner has issued a written order for the provision of such
36 human breast milk for an infant who:

37 (i) Is medically or physically unable to receive maternal breast milk or participate in
38 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk
39 in sufficient quantities and/or caloric density or participate in breastfeeding despite optimal
40 lactation support; and

41 (ii) Meets any of the following conditions:

42 (a) A body weight below healthy levels determined by the licensed medical practitioner;

43 (b) A congenital or acquired condition that places the infant at a high risk for
44 development of necrotizing enterocolitis; or

45 (c) A congenital or acquired condition that may benefit from the use of such human
46 breast milk as determined by the Department of Public Health.

47 (b) Reimbursement provided under subsection (a) of this section for donor human milk
48 and donor human milk-derived products for an infant in an inpatient setting shall be provided
49 separately from the existing hospital payment for inpatient services.

50 SECTION 3. Chapter 175 of the General Laws, as appearing in the 2020 Official Edition,
51 is hereby amended by inserting after section 47PP the following:

52 Section 47QQ. (a) An individual policy of accident and sickness insurance issued
53 pursuant to section 108 and sickness insurance issued pursuant to section 110 shall provide
54 benefits for residents of the Commonwealth and all group members having a principal place of
55 employment within the Commonwealth coverage for the provision of pasteurized donor human
56 milk and donor human milk-derived products, provided that:

57 (1) The covered person is an infant under the age of six months;

58 (2) The milk is obtained from a human milk bank that meets quality guidelines
59 established by the Department of Public Health; and

60 (3) A licensed medical practitioner has issued a written order for the provision of such
61 human breast milk for an infant who:

62 (i) Is medically or physically unable to receive maternal breast milk or participate in
63 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk
64 in sufficient quantities and/or caloric density or participate in breastfeeding despite optimal
65 lactation support; and

66 (ii) Meets any of the following conditions:

67 (a) A body weight below healthy levels determined by the licensed medical practitioner;

68 (b) A congenital or acquired condition that places the infant at a high risk for
69 development of necrotizing enterocolitis; or

70 (c) A congenital or acquired condition that may benefit from the use of such human
71 breast milk as determined by the Department of Public Health.

72 (b) Reimbursement provided under subsection (a) of this section for donor human milk
73 and donor human milk-derived products for an infant in an inpatient setting shall be provided
74 separately from the existing hospital payment for inpatient services.

75 SECTION 4. Chapter 176A of the General Laws, as appearing in the 2020 Official
76 Edition, is hereby amended by inserting after section 8QQ the following:

77 Section 8RR. (a) Any contract between a subscriber and the corporation under an
78 individual or group hospital service plan that is delivered, issued or renewed within or without
79 the Commonwealth shall provide to all individual subscribers and members within the
80 Commonwealth and to all group members having a principal place of employment within the
81 Commonwealth coverage for the provision of pasteurized donor human milk and donor human
82 milk-derived products, provided that:

83 (1) The covered person is an infant under the age of six months;

84 (2) The milk is obtained from a human milk bank that meets quality guidelines
85 established by the Department of Public Health; and

86 (3) A licensed medical practitioner has issued a written order for the provision of such
87 human breast milk for an infant who:

88 (i) Is medically or physically unable to receive maternal breast milk or participate in
89 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk
90 in sufficient quantities and/or caloric density or participate in breastfeeding despite optimal
91 lactation support; and

92 (ii) Meets any of the following conditions:

93 (a) A body weight below healthy levels determined by the licensed medical practitioner;

94 (b) A congenital or acquired condition that places the infant at a high risk for
95 development of necrotizing enterocolitis; or

96 (c) A congenital or acquired condition that may benefit from the use of such human
97 breast milk as determined by the Department of Public Health.

98 (b) Reimbursement provided under subsection (a) of this section for donor human milk
99 and donor human milk-derived products for an infant in an inpatient setting shall be provided
100 separately from the existing hospital payment for inpatient services.

101 SECTION 5. Chapter 176B of the General Laws, as appearing in the 2020 Official
102 Edition, is hereby amended by inserting after section 4QQ the following:

103 Section 4RR. (a) Any subscription certificate under an individual or group medical
104 service agreement that is delivered, issued or renewed within or without the Commonwealth
105 shall provide to all individual subscribers and members within the Commonwealth and to all
106 group members having a principal place of employment within the Commonwealth coverage for
107 the provision of pasteurized donor human milk and donor human milk-derived products,
108 provided that:

109 (1) The covered person is an infant under the age of six months;

110 (2) The milk is obtained from a human milk bank that meets quality guidelines
111 established by the Department of Public Health; and

112 (3) A licensed medical practitioner has issued a written order for the provision of such
113 human breast milk for an infant who:

114 (i) Is medically or physically unable to receive maternal breast milk or participate in
115 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk
116 in sufficient quantities and/or caloric density or participate in breastfeeding despite optimal
117 lactation support; and

118 (ii) Meets any of the following conditions:

119 (a) A body weight below healthy levels determined by the licensed medical practitioner;

120 (b) A congenital or acquired condition that places the infant at a high risk for
121 development of necrotizing enterocolitis; or

122 (c) A congenital or acquired condition that may benefit from the use of such human
123 breast milk as determined by the Department of Public Health.

124 (b) Reimbursement provided under subsection (a) of this section for donor human milk
125 and donor human milk-derived products for an infant in an inpatient setting shall be provided
126 separately from the existing hospital payment for inpatient services.

127 SECTION 6. Chapter 176G of the General Laws, as appearing in the 2020 Official
128 Edition, is hereby amended by inserting after section 4GG the following:

129 Section 4HH: (a) Any individual or group health maintenance contract that is issued,
130 renewed or delivered within or without the Commonwealth shall provide to residents of the
131 Commonwealth and to persons having a principal place of employment within the
132 Commonwealth coverage for the provision of pasteurized donor human milk and donor human
133 milk-derived products, provided that:

134 (1) The covered person is an infant under the age of six months;

135 (2) The milk is obtained from a human milk bank that meets quality guidelines
136 established by the Department of Public Health; and

137 (3) A licensed medical practitioner has issued a written order for the provision of such
138 human breast milk for an infant who:

139 (i) Is medically or physically unable to receive maternal breast milk or participate in
140 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk
141 in sufficient quantities and/or caloric density or participate in breastfeeding despite optimal
142 lactation support; and

143 (ii) Meets any of the following conditions:

144 (a) A body weight below healthy levels determined by the licensed medical practitioner;

145 (b) A congenital or acquired condition that places the infant at a high risk for
146 development of necrotizing enterocolitis; or

147 (c) A congenital or acquired condition that may benefit from the use of such human
148 breast milk as determined by the Department of Public Health.

149 (b) Reimbursement provided under subsection (a) of this section for donor human milk
150 and donor human milk-derived products for an infant in an inpatient setting shall be provided
151 separately from the existing hospital payment for inpatient services.

152 SECTION 7. Sections 1 through 6 of this act shall apply to all policies, contracts and
153 certificates of health insurance subject to chapters 32A, chapter 118E, chapter 175, chapter
154 176A, chapter 176B, and chapter 176G which are delivered, issued or renewed on or after
155 September 1, 2023.