

**SENATE . . . . . No. 717**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

*Patrick M. O'Connor*

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*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.

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PETITION OF:

NAME:

*Patrick M. O'Connor*

DISTRICT/ADDRESS:

*Plymouth and Norfolk*

**SENATE . . . . . No. 717**

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By Mr. O'Connor, a petition (accompanied by bill, Senate, No. 717) of Patrick M. O'Connor for legislation relative to human donor milk coverage. Financial Services.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 633 OF 2019-2020.]

**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Second General Court  
(2021-2022)**  
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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 2014 Official  
2 Edition, is hereby amended by inserting after section 27the following section:

3           Section 28. (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:

6           (1) The provision of pasteurized donated human breast milk, which shall include human  
7 milk fortifiers if indicated in a medical order provided by a licensed medical practitioner,  
8 provided that:

9           (i) The covered person is an infant under the age of six months;

- 10           (ii) The milk is obtained from a human milk bank that meets quality guidelines  
11 established by the Department of Health; and
- 12           (iii) A licensed medical practitioner has issued a written order for the provision of such  
13 human breast milk for an infant who:
- 14           (a) Is medically or physically unable to receive maternal breast milk or participate in  
15 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk  
16 in sufficient quantities or participate in breastfeeding despite optimal lactation support; or
- 17           (b) Meets any of the following conditions:
- 18           (1) A body weight below healthy levels determined by the licensed medical practitioner;
- 19           (2) A congenital or acquired condition that places the infant at a high risk for  
20 development of necrotizing enterocolitis; or
- 21           (3) A congenital or acquired condition that may benefit from the use of such human  
22 breast milk as determined by the Department of Health.

23           SECTION 2. Chapter 118E of the General Laws, as so appearing, is hereby amended by  
24 inserting after section 10J the following section:

25           Section 10K. (a) The division and its contracted health insurers, health plans, health  
26 maintenance organizations, behavioral health management firms and third party administrators  
27 under contract to a Medicaid managed care organization or primary care clinician plan shall  
28 provide coverage for:

29 (1) The provision of pasteurized donated human breast milk, which shall include human  
30 milk fortifiers if indicated in a medical order provided by a licensed medical practitioner,  
31 provided that:

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

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

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

37 (a) 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 or participate in breastfeeding despite optimal lactation support; or

40 (b) Meets any of the following conditions:

41 (1) A body weight below healthy levels determined by the licensed medical practitioner;

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

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

46 SECTION 3. Chapter 175 of the General Laws, as so appearing, is hereby amended by  
47 inserting after section 47II the following:

48           Section 47JJ. An individual policy of accident and sickness insurance issued pursuant to  
49 section 108 and sickness insurance issued pursuant to section 110 shall provide benefits for  
50 residents of the Commonwealth and all group members having a principal place of employment  
51 within the Commonwealth coverage for:

52           (1) The provision of pasteurized donated human breast milk, which shall include human  
53 milk fortifiers if indicated in a medical order provided by a licensed medical practitioner,  
54 provided that:

55           (i) The covered person is an infant under the age of six months;

56           (ii) The milk is obtained from a human milk bank that meets quality guidelines  
57 established by the Department of Health; and

58           (iii) A licensed medical practitioner has issued a written order for the provision of such  
59 human breast milk for an infant who:

60           (a) Is medically or physically unable to receive maternal breast milk or participate in  
61 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk  
62 in sufficient quantities or participate in breastfeeding despite optimal lactation support; or

63           (b) Meets any of the following conditions:

64           (1) A body weight below healthy levels determined by the licensed medical practitioner;

65           (2) A congenital or acquired condition that places the infant at a high risk for  
66 development of necrotizing enterocolitis; or

67 (3) A congenital or acquired condition that may benefit from the use of such human  
68 breast milk as determined by the Department of Health.

69 SECTION 4. Chapter 176A of the General Laws, as so appearing, is hereby amended by  
70 inserting after section 8KK the following:

71 Section 8LL. Any contract between a subscriber and the corporation under an individual  
72 or group hospital service plan that is delivered, issued or renewed within or without the  
73 Commonwealth shall provide to all individual subscribers and members within the  
74 Commonwealth and to all group members having a principal place of employment within the  
75 Commonwealth coverage for:

76 (1) The provision of pasteurized donated human breast milk, which shall include human  
77 milk fortifiers if indicated in a medical order provided by a licensed medical practitioner,  
78 provided that:

79 (i) The covered person is an infant under the age of six months;

80 (ii) The milk is obtained from a human milk bank that meets quality guidelines  
81 established by the Department of Health; and

82 (iii) A licensed medical practitioner has issued a written order for the provision of such  
83 human breast milk for an infant who:

84 (a) Is medically or physically unable to receive maternal breast milk or participate in  
85 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk  
86 in sufficient quantities or participate in breastfeeding despite optimal lactation support; or

87 (b) Meets any of the following conditions:

88 (1) A body weight below healthy levels determined by the licensed medical practitioner;

89 (2) A congenital or acquired condition that places the infant at a high risk for  
90 development of necrotizing enterocolitis; or

91 (3) A congenital or acquired condition that may benefit from the use of such human  
92 breast milk as determined by the Department of Health.

93 SECTION 5. Chapter 176B of the General Laws, as so appearing, is hereby amended by  
94 inserting after section 4KK the following:

95 Section 4LL. Any subscription certificate under an individual or group medical service  
96 agreement that is delivered, issued or renewed within or without the Commonwealth shall  
97 provide to all individual subscribers and members within the Commonwealth and to all group  
98 members having a principal place of employment within the Commonwealth coverage for:

99 (1) The provision of pasteurized donated human breast milk, which shall include human  
100 milk fortifiers if indicated in a medical order provided by a licensed medical practitioner,  
101 provided that:

102 (i) The covered person is an infant under the age of six months;

103 (ii) The milk is obtained from a human milk bank that meets quality guidelines  
104 established by the Department of Health; and

105 (iii) A licensed medical practitioner has issued a written order for the provision of such  
106 human breast milk for an infant who:

107 (a) Is medically or physically unable to receive maternal breast milk or participate in  
108 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk  
109 in sufficient quantities or participate in breastfeeding despite optimal lactation support; or

110 (b) Meets any of the following conditions:

111 (1) A body weight below healthy levels determined by the licensed medical practitioner;

112 (2) A congenital or acquired condition that places the infant at a high risk for  
113 development of necrotizing enterocolitis; or

114 (3) A congenital or acquired condition that may benefit from the use of such human  
115 breast milk as determined by the Department of Health.

116 SECTION 6. Chapter 176G of the General Laws, as so appearing, is hereby amended by  
117 inserting after section 4CC the following:

118 Section 4DD: Any individual or group health maintenance contract that is issued,  
119 renewed or delivered within or without the Commonwealth shall provide to residents of the  
120 Commonwealth and to persons having a principal place of employment within the  
121 Commonwealth coverage for:

122 (1) The provision of pasteurized donated human breast milk, which shall include human  
123 milk fortifiers if indicated in a medical order provided by a licensed medical practitioner,  
124 provided that:

125 (i) The covered person is an infant under the age of six months;



126 (ii) The milk is obtained from a human milk bank that meets quality guidelines  
127 established by the Department of Health; and

128 (iii) A licensed medical practitioner has issued a written order for the provision of such  
129 human breast milk for an infant who:

130 (a) Is medically or physically unable to receive maternal breast milk or participate in  
131 breastfeeding or whose mother is medically or physically unable to produce maternal breast milk  
132 in sufficient quantities or participate in breastfeeding despite optimal lactation support; or

133 (b) Meets any of the following conditions:

134 (1) A body weight below healthy levels determined by the licensed medical practitioner;

135 (2) A congenital or acquired condition that places the infant at a high risk for  
136 development of necrotizing enterocolitis; or

137 (3) A congenital or acquired condition that may benefit from the use of such human  
138 breast milk as determined by the Department of Health.

139 SECTION 7. Sections 1 through 6 of this act shall apply to all policies, contracts and  
140 certificates of health insurance subject to chapters 32A, chapter 118E, chapter 175, chapter  
141 176A, chapter 176B, and chapter 176G which are delivered, issued or renewed on or after  
142 September 1, 2021.