

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 314

**Senator Maharath
Cosponsors: Senators Yuko, Antonio**

A BILL

To enact sections 3701.62, 3902.63, and 5164.072 of
the Revised Code to require health benefit plan
and Medicaid coverage of medically necessary
donor human milk.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3701.62, 3902.63, and 5164.072 of
the Revised Code be enacted to read as follows:

Sec. 3701.62. (A) The department of health shall adopt
rules in accordance with Chapter 119. of the Revised Code that
establish standards to ensure the safety of donor human milk and
human milk-derived products. In doing so, the department shall
consider clinical, evidence-based guidelines established by a
national accrediting organization.

(B) The milk safety standards adopted by the department
must address the following:

(1) Donor screening;

(2) Milk handling;

(3) Milk processing;

(4) Recordkeeping. 18

(C) The department shall consider whether any additional 19
testing standards are needed, including testing for the presence 20
of viruses, bacteria, and any prescription or nonprescription 21
drugs. 22

Sec. 3902.63. (A) As used in this section: 23

(1) "Donor human milk" means human milk that has been 24
contributed to a milk bank by one or more donors. 25

(2) "Licensed health professional authorized to prescribe 26
drugs" has the same meaning as in section 4729.01 of the Revised 27
Code, except that it does not include a dentist, certified 28
registered nurse anesthetist, optometrist, or veterinarian. 29

(3) "Milk bank" means an organization that engages in the 30
procurement, processing, storage, distribution, or use of human 31
milk contributed by donors. 32

(B) Notwithstanding section 3901.71 of the Revised Code, a 33
health benefit plan issued, renewed, or amended on or after the 34
effective date of this section shall provide coverage for 35
medically necessary donor human milk for inpatient use. 36

(C) Donor human milk is medically necessary when both of 37
the following conditions are met: 38

(1) The milk is ordered by either of the following: 39

(a) A licensed health professional authorized to prescribe 40
drugs; 41

(b) A lactation consultant board certified by the 42
international lactation consultant association. 43

(2) The milk is ordered for either of the following: 44

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| <u>(a) An infant who is medically or physically unable to</u> | 45 |
| <u>receive maternal human milk or participate in chestfeeding;</u> | 46 |
| <u>(b) An infant whose parent is medically or physically</u> | 47 |
| <u>unable to produce calorically dense milk in sufficient</u> | 48 |
| <u>quantities or participate in chestfeeding, if the infant meets</u> | 49 |
| <u>any of the following criteria or has any of the following</u> | 50 |
| <u>conditions:</u> | 51 |
| <u>(i) An infant birth weight of below two thousand five</u> | 52 |
| <u>hundred grams;</u> | 53 |
| <u>(ii) An infant gestational age equal to or less than</u> | 54 |
| <u>thirty-four weeks;</u> | 55 |
| <u>(iii) Infant hypoglycemia;</u> | 56 |
| <u>(iv) A high risk for development of necrotizing</u> | 57 |
| <u>enterocolitis, bronchopulmonary dysplasia, or retinopathy of</u> | 58 |
| <u>prematurity;</u> | 59 |
| <u>(v) A congenital or acquired gastrointestinal condition</u> | 60 |
| <u>with long-term feeding or malabsorption complications;</u> | 61 |
| <u>(vi) Congenital heart disease requiring surgery in the</u> | 62 |
| <u>first year of life;</u> | 63 |
| <u>(vii) An organ or bone marrow transplant;</u> | 64 |
| <u>(viii) Sepsis;</u> | 65 |
| <u>(ix) Congenital hypotonias associated with feeding</u> | 66 |
| <u>difficulty or malabsorption;</u> | 67 |
| <u>(x) Renal disease requiring dialysis in the first year of</u> | 68 |
| <u>life;</u> | 69 |
| <u>(xi) Craniofacial anomalies;</u> | 70 |

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| <u>(xii) An immunologic deficiency;</u> | 71 |
| <u>(xiii) Neonatal abstinence syndrome;</u> | 72 |
| <u>(xiv) The infant is still inpatient within seventy-two</u> <u>hours of birth without sufficient milk available;</u> | 73 74 |
| <u>(xv) Any other serious congenital or acquired condition</u> <u>for which the use of pasteurized donor human milk or donor human</u> <u>milk-derived products is medically necessary and supports the</u> <u>treatment and recovery of the child.</u> | 75 76 77 78 |
| <u>(D) Donor human milk covered under this section shall be</u> <u>obtained from a milk bank that meets the standards adopted by</u> <u>the department of health pursuant to section 3701.62 of the</u> <u>Revised Code.</u> | 79 80 81 82 |
| <u>(E) A health benefit plan may impose a prior authorization</u> <u>requirement in relation to the coverage required under this</u> <u>section. If prior authorization is required, an order for donor</u> <u>human milk shall be considered an urgent care service, as</u> <u>defined in section 1751.72 or 3923.041 of the Revised Code, as</u> <u>applicable.</u> | 83 84 85 86 87 88 |
| <u>Sec. 5164.072.</u> (A) <u>As used in this section "donor human</u> <u>milk," "licensed health professional authorized to prescribe</u> <u>drugs," and "milk bank" have the same meanings as in section</u> <u>3902.63 of the Revised Code.</u> | 89 90 91 92 |
| <u>(B) The medicaid program shall provide coverage for</u> <u>medically necessary donor human milk for inpatient use.</u> | 93 94 |
| <u>(C) Donor human milk is medically necessary when both of</u> <u>the following conditions are met:</u> | 95 96 |
| <u>(1) The milk is ordered by either of the following:</u> | 97 |

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| <u>(a) A licensed health professional authorized to prescribe</u> | 98 |
| <u>drugs;</u> | 99 |
| <u>(b) A lactation consultant board certified by the</u> | 100 |
| <u>international lactation consultant association.</u> | 101 |
| <u>(2) The milk is ordered for either of the following:</u> | 102 |
| <u>(a) An infant who is medically or physically unable to</u> | 103 |
| <u>receive maternal human milk or participate in chestfeeding;</u> | 104 |
| <u>(b) An infant whose parent is medically or physically</u> | 105 |
| <u>unable to produce calorically dense milk in sufficient</u> | 106 |
| <u>quantities or participate in chestfeeding, if the infant meets</u> | 107 |
| <u>any of the following criteria or has any of the following</u> | 108 |
| <u>conditions:</u> | 109 |
| <u>(i) An infant birth weight below two thousand five hundred</u> | 110 |
| <u>grams;</u> | 111 |
| <u>(ii) An infant gestational age less than or equal to</u> | 112 |
| <u>thirty-four weeks;</u> | 113 |
| <u>(iii) Infant hypoglycemia;</u> | 114 |
| <u>(iv) A high risk for development of necrotizing</u> | 115 |
| <u>enterocolitis, bronchopulmonary dysplasia, or retinopathy of</u> | 116 |
| <u>prematurity;</u> | 117 |
| <u>(v) A congenital or acquired gastrointestinal condition</u> | 118 |
| <u>with long-term feeding or malabsorption complications;</u> | 119 |
| <u>(vi) Congenital heart disease requiring surgery in the</u> | 120 |
| <u>first year of life;</u> | 121 |
| <u>(vii) Organ or bone marrow transplant;</u> | 122 |
| <u>(viii) Sepsis;</u> | 123 |

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| <u>(ix) Congenital hypotonias associated with feeding</u> | 124 |
| <u>difficulty or malabsorption;</u> | 125 |
| <u>(x) Renal disease requiring dialysis in the first year of</u> | 126 |
| <u>life;</u> | 127 |
| <u>(xi) Craniofacial anomalies;</u> | 128 |
| <u>(xii) An immunologic deficiency;</u> | 129 |
| <u>(xiii) Neonatal abstinence syndrome;</u> | 130 |
| <u>(xiv) The infant is still inpatient within seventy-two</u> | 131 |
| <u>hours of birth without sufficient human milk available;</u> | 132 |
| <u>(xv) Any other serious congenital or acquired condition</u> | 133 |
| <u>for which the use of pasteurized donor milk or donor human milk-</u> | 134 |
| <u>derived products is medically necessary and supports the</u> | 135 |
| <u>treatment and recovery of the child.</u> | 136 |
| <u>(D) Donor human milk covered under this section shall be</u> | 137 |
| <u>obtained from a milk bank that meets the standards adopted by</u> | 138 |
| <u>the department of health pursuant to section 3701.62 of the</u> | 139 |
| <u>Revised Code.</u> | 140 |
| <u>(E) The medicaid program may require a recipient to obtain</u> | 141 |
| <u>prior authorization to receive coverage for donor human milk. If</u> | 142 |
| <u>prior authorization is required, an order for donor human milk</u> | 143 |
| <u>shall be considered an urgent care service as defined under</u> | 144 |
| <u>section 5160.34 of the Revised Code.</u> | 145 |
| <u>(F) The medicaid director may adopt rules under section</u> | 146 |
| <u>5164.02 of the Revised Code to implement this section.</u> | 147 |