

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3159

STATE OF NEW JERSEY
218th LEGISLATURE

DATED: MARCH 22, 2019

SUMMARY

- Synopsis:** Requires Medicaid coverage for pasteurized donated human breast milk under certain circumstances.
- Type of Impact:** Indeterminate impact on State costs and revenue.
- Agencies Affected:** Department of Human Services, Division of Medical Assistance and Health Services.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost	Indeterminate impact
State Revenue	Indeterminate impact

- The Office of Legislative Services (OLS) estimates that this bill may cause the State to incur annual costs to provide pasteurized donated human breast milk to individuals who receive health care services under the State’s Medicaid program, and to receive and expend federal Medicaid matching funds.
- The cost to provide these services cannot be quantified with any certainty as: (1) the cost for these services is unknown and (2) the number of individuals who will receive these services is unpredictable.
- Some of the expenditures may result in a decrease in medical costs associated with the care of infants; however, the OLS cannot quantify with any certainty any savings that may be attributed to the provisions of the bill.

BILL DESCRIPTION

This bill provides that coverage under the Medicaid program includes expenses incurred for the provision of pasteurized donated human breast milk, which will include human milk

fortifiers, if indicated in a medical order provided by a licensed medical practitioner, to an infant under the age of six months. In order for the Medicaid program to cover such expenses, the milk must be obtained from a human milk bank that meets quality guidelines established by the Department of Health. In addition, a licensed medical practitioner must have issued a medical order for the infant under at least one of the following circumstances:

(1) the infant is medically or physically unable to receive maternal breast milk or participate in breast feeding or the infant's mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or

(2) the infant meets any of the following conditions: a body weight below healthy levels, as determined by the licensed medical practitioner; a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis; or a congenital or acquired condition that may benefit from the use of donor breast milk and human milk fortifiers as determined by the Department of Health.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

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The fiscal impact on the State of offering pasteurized donated human breast milk as a Medicaid benefit would depend on the level of benefit provided. The bill does not specify a reimbursement rate for this benefit, and instead permits the Commissioner of Human Services to establish regulations to implement the bill. Current costs for pasteurized donated human breast milk can vary widely, from \$3 to \$5 per ounce.

Five states and the District of Columbia currently provide pasteurized donated human breast milk under their Medicaid programs. In New York, hospitals are directed to bill for the benefit per actual acquisition cost which, if purchased from the New York Milk Bank, is \$4.50 per ounce.¹ According to a 2017 survey by the Center for Evidenced Based Policy, in Texas the reimbursement rate is \$2.00 per ounce; in California, \$2.94 per ounce; and in the District of Columbia, \$3.30 per ounce.² Generally, infants between one and six months of age need approximately 25 ounces of milk a day. Using the low and high range of the reimbursement rate examples provided above, it may cost between \$1,500 and \$3,375 to provide 25 ounces of pasteurized donated human breast milk a month to a qualifying infant under the bill.

¹https://www.health.ny.gov/health_care/medicaid/program/update/2017/2017-11.htm;

<https://nonprofitquarterly.org/2017/04/27/liquid-gold-6-states-allow-medicaid-access-breast-milk/>

² https://www.health.ny.gov/health_care/medicaid/ebbrac/docs/2017-06-13_donor_human_milk.pdf

Another factor of the bill's impact on State expenditures is the number of infants who would annually qualify for pasteurized donated human breast milk. The OLS, however, cannot predict what portion of Medicaid births may meet one of the several circumstances for the provision of pasteurized donated human breast milk enumerated under the bill. For reference, according to the New Jersey Health Assessment Data website, 31,151 of the 101,154 births in New Jersey in CY 2017 were financed by Medicaid, in CY 2016, there were 31,877 Medicaid births and in CY 2015 there were 30,986. Under the bill, one of the circumstances that can qualify an infant for the pasteurized donated human breast milk benefit is body weight below health levels, as determined by a licensed medical practitioner. For reference, of the 31,151 live Medicaid births in CY 2017, 2,752 had a birth weight of less than 2500 grams.

Providing a pasteurized donated human breast milk benefit may also lead to certain indeterminate State savings. According to a National Association of Neonatal Nurses (NANN) position paper, human milk provides many specific health benefits to a vulnerable infant, both during the hospital stay and following discharge.³ These benefits include a 72 percent decrease in respiratory tract infections, a 64 percent decrease in gastrointestinal tract infections, and a lower incidence and severity of hospital-acquired infections. Furthermore, human milk reduces the incidence of necrotizing enterocolitis, a disease that affects the intestines of premature infants, by 77 percent. NANN asserts that these health benefits suggest that for every dollar spent on banked donor milk, a state can save up to \$11 in other medical costs.⁴ While the OLS cannot confirm this statement, it is possible that the State may experience long-term savings in overall healthcare costs due to the aforementioned improved medical outcomes for infants who qualify for the benefit under the bill.

Section: Human Services

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

³http://nann.org/uploads/About/PositionPDFS/1.4.3_Use%20of%20Human%20Milk%20and%20Breastfeeding%20in%20the%20NICU.pdf

⁴http://nann.org/uploads/Advocacy_Fact_Sheets/2016_Donor_Breast_Milk.pdf