

## CHAPTER 309

**AN ACT** concerning health benefits coverage for donated human breast milk and supplementing various parts of the statutory law.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.17:48-6qq Hospital service corporation to provide coverage for donated human breast milk.

1. a. A hospital service corporation contract that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage for expenses incurred in the provision of pasteurized donated human breast milk, which may include human milk fortifiers if indicated by the prescribing licensed medical practitioner, provided that:

- (1) the covered person is an infant under the age of six months;
- (2) the milk is obtained from a human milk bank that meets quality guidelines established by the Department of Health; and
- (3) a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or
- (4) a licensed medical practitioner has issued an order for an infant who meets any of the following conditions:
  - (a) a body weight below healthy levels determined by the licensed medical practitioner;
  - (b) a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis; or
  - (c) a congenital or acquired condition that may benefit from the use of donor breast milk as determined by the Department of Health.

b. The provisions of this section shall apply to those hospital service corporation contracts in which the hospital service corporation has reserved the right to change the premium.

c. Nothing in this section shall preclude the hospital service corporation from performing utilization review, including periodic review of the medical necessity of a particular service.

d. The benefits shall be provided to the same extent as for any other prescribed items under the contract.

e. If there is no supply of human breast milk that meets the requirements of paragraph (2) of subsection a. of this section, the hospital service corporation shall not be required to provide coverage of expenses pursuant to this section.

C.17:48A-7nn Medical service corporation to provide coverage for donated human breast milk.

2. a. A medical service corporation contract that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage for expenses incurred in the provision of pasteurized donated human breast milk, which may include human milk fortifiers if indicated by the prescribing licensed medical practitioner, provided that:

- (1) the covered person is an infant under the age of six months;
- (2) the milk is obtained from a human milk bank that meets quality guidelines established by the Department of Health; and
- (3) a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose

mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or

(4) a licensed medical practitioner has issued an order for an infant who meets any of the following conditions:

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

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

(c) a congenital or acquired condition that may benefit from the use of donor breast milk as determined by the Department of Health.

b. The provisions of this section shall apply to those medical service corporation contracts in which the medical service corporation has reserved the right to change the premium.

c. Nothing in this section shall preclude the medical service corporation from performing utilization review, including periodic review of the medical necessity of a particular service.

d. The benefits shall be provided to the same extent as for any other prescribed items under the contract.

e. If there is no supply of human breast milk that meets the requirements of paragraph (2) of subsection a. of this section, the medical service corporation shall not be required to provide coverage of expenses pursuant to this section.

C.17:48E-35.41 Health service corporation to provide coverage for donated human breast milk.

3. a. A health service corporation contract that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage for expenses incurred in the provision of pasteurized donated human breast milk, which may include human milk fortifiers if indicated by the prescribing licensed medical practitioner, provided that:

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

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

(3) a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or

(4) a licensed medical practitioner has issued an order for an infant who meets any of the following conditions:

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

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

(c) a congenital or acquired condition that may benefit from the use of donor breast milk as determined by the Department of Health.

b. The provisions of this section shall apply to those health service corporation contracts in which the health service corporation has reserved the right to change the premium.

c. Nothing in this section shall preclude the health service corporation from performing utilization review, including periodic review of the medical necessity of a particular service.

d. The benefits shall be provided to the same extent as for any other prescribed items under the contract.

e. If there is no supply of human breast milk that meets the requirements of paragraph (2) of subsection a. of this section, the health service corporation shall not be required to provide coverage of expenses pursuant to this section.

C.17B:26-2.1kk Individual health insurance policy to provide coverage for donated human breast milk.

4. a. An individual health insurance policy that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage for expenses incurred in the provision of pasteurized donated human breast milk, which may include human milk fortifiers if indicated by the prescribing licensed medical practitioner, provided that:

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

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

(3) a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or

(4) a licensed medical practitioner has issued an order for an infant who meets any of the following conditions:

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

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

(c) a congenital or acquired condition that may benefit from the use of donor breast milk as determined by the Department of Health.

b. The provisions of this section shall apply to those policies in which the insurer has reserved the right to change the premium.

c. Nothing in this section shall preclude the insurer from performing utilization review, including periodic review of the medical necessity of a particular service.

d. The benefits shall be provided to the same extent as for any other prescribed items under the policy.

e. If there is no supply of human breast milk that meets the requirements of paragraph (2) of subsection a. of this section, the insurer shall not be required to provide coverage of expenses pursuant to this section.

C.17B:27-46.1qq Group health insurance policy to provide coverage for donated human breast milk.

5. a. A group health insurance policy that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage for expenses incurred in the provision of pasteurized donated human breast milk, which may include human milk fortifiers if indicated by the prescribing licensed medical practitioner, provided that:

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

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

(3) a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or

(4) a licensed medical practitioner has issued an order for an infant who meets any of the following conditions:

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

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

(c) a congenital or acquired condition that may benefit from the use of donor breast milk as determined by the Department of Health.

b. The provisions of this section shall apply to those policies in which the insurer has reserved the right to change the premium.

c. Nothing in this section shall preclude the insurer from performing utilization review, including periodic review of the medical necessity of a particular service.

d. The benefits shall be provided to the same extent as for any other prescribed items under the policy.

e. If there is no supply of human breast milk that meets the requirements of paragraph (2) of subsection a. of this section, the insurer shall not be required to provide coverage of expenses pursuant to this section.

C.17B:27A-7.24 Individual health benefits plan to provide coverage for donated human breast milk.

6. a. An individual health benefits plan that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage for expenses incurred in the provision of pasteurized donated human breast milk, which may include human milk fortifiers if indicated by the prescribing licensed medical practitioner, provided that:

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

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

(3) a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or

(4) a licensed medical practitioner has issued an order for an infant who meets any of the following conditions:

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

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

(c) a congenital or acquired condition that may benefit from the use of donor breast milk as determined by the Department of Health.

b. The provisions of this section shall apply to those individual health benefits plans in which the carrier has reserved the right to change the premium.

c. Nothing in this section shall preclude the carrier from performing utilization review, including periodic review of the medical necessity of a particular service.

d. The benefits shall be provided to the same extent as for any other prescribed items under the plan.

e. If there is no supply of human breast milk that meets the requirements of paragraph (2) of subsection a. of this section, the carrier shall not be required to provide coverage of expenses pursuant to this section.

C.17B:27A-19.28 Small employer health benefits plan to provide coverage for donated human breast milk.

7. a. A small employer health benefits plan that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage for expenses incurred in the provision of pasteurized donated human breast milk, which may include human milk fortifiers if indicated by the prescribing licensed medical practitioner, provided that:

- (1) the covered person is an infant under the age of six months;
  - (2) the milk is obtained from a human milk bank that meets quality guidelines established by the Department of Health; and
  - (3) a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or
  - (4) a licensed medical practitioner has issued an order for an infant who meets any of the following conditions:
    - (a) a body weight below healthy levels determined by the licensed medical practitioner;
    - (b) a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis; or
    - (c) a congenital or acquired condition that may benefit from the use of donor breast milk as determined by the Department of Health.
- b. The provisions of this section shall apply to those small employer health benefits plans in which the carrier has reserved the right to change the premium.
- c. Nothing in this section shall preclude the carrier from performing utilization review, including periodic review of the medical necessity of a particular service.
- d. The benefits shall be provided to the same extent as for any other prescribed items under the plan.
- e. If there is no supply of human breast milk that meets the requirements of paragraph (2) of subsection a. of this section, the carrier shall not be required to provide coverage of expenses pursuant to this section.

C.26:2J-4.42 HMO to provide coverage for donated human breast milk.

8. a. A health maintenance organization contract that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage for expenses incurred in the provision of pasteurized donated human breast milk, which may include human milk fortifiers if indicated by the prescribing licensed medical practitioner, provided that:
- (1) the covered person is an infant under the age of six months;
  - (2) the milk is obtained from a human milk bank that meets quality guidelines established by the Department of Health; and
  - (3) a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or
  - (4) a licensed medical practitioner has issued an order for an infant who meets any of the following conditions:
    - (a) a body weight below healthy levels determined by the licensed medical practitioner;
    - (b) a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis; or
    - (c) a congenital or acquired condition that may benefit from the use of donor breast milk as determined by the Department of Health.
- b. The provisions of this section shall apply to those contracts for health care services by health maintenance organizations under which the health maintenance organization has reserved the right to change the schedule of charges.
- c. Nothing in this section shall preclude the health maintenance organization from performing utilization review, including periodic review of the medical necessity of a particular service.

d. The benefits shall be provided to the same extent as for any other prescribed items under the contract.

e. If there is no supply of human breast milk that meets the requirements of paragraph (2) of subsection a. of this section, the health maintenance organization shall not be required to provide coverage of expenses pursuant to this section.

C.52:14-17.29z SHBC to provide coverage for donated human breast milk.

9. a. The State Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of this act that provides hospital or medical expense benefits shall provide coverage for expenses incurred in the provision of pasteurized donated human breast milk, which may include human milk fortifiers if indicated by the prescribing licensed medical practitioner, provided that:

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

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

(3) a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or

(4) a licensed medical practitioner has issued an order for an infant who meets any of the following conditions:

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

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

(c) a congenital or acquired condition that may benefit from the use of donor breast milk as determined by the Department of Health.

b. Nothing in this section shall preclude the carrier from performing utilization review, including periodic review of the medical necessity of a particular service.

c. The benefits shall be provided to the same extent as for any other prescribed items under the contract.

d. If there is no supply of human breast milk that meets the requirements of paragraph (2) of subsection a. of this section, the carrier shall not be required to provide coverage of expenses pursuant to this section.

C.52:14-17.46.6k School Employees' Health Benefits Commission to provide coverage for donated human breast milk.

10. a. The School Employees' Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of this act that provides hospital or medical expense benefits shall provide coverage for expenses incurred in the provision of pasteurized donated human breast milk, which may include human milk fortifiers if indicated by the prescribing licensed medical practitioner, provided that:

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

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

(3) a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk in sufficient quantities or participate in breast feeding despite optimal lactation support; or

(4) a licensed medical practitioner has issued an order for an infant who meets any of the following conditions:

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

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

(c) a congenital or acquired condition that may benefit from the use of donor breast milk as determined by the Department of Health.

b. Nothing in this section shall preclude the carrier from performing utilization review, including periodic review of the medical necessity of a particular service.

c. The benefits shall be provided to the same extent as for any other prescribed items under the contract.

d. If there is no supply of human breast milk that meets the requirements of paragraph (2) of subsection a. of this section, the carrier shall not be required to provide coverage of expenses pursuant to this section.

11. This act shall take effect on January 1st of the year following enactment

Approved January 16, 2018.