

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB 344

House of Origin ☐ Introduced ☐ Substitute ☒ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Barker

3. Committee: -

4. Title: Health insurance; coverage for donated human breast milk

5. Summary: The legislation, as amended, requires health insurers, corporations providing health care coverage subscription contracts, and health maintenance organizations to provide coverage for expenses incurred in the provision of pasteurized donated human breast milk. The requirement applies if the covered person is an infant under the age of six months, the milk is obtained from a human milk bank that meets quality guidelines established by the Department of Health, and a licensed medical practitioner has issued an order for an infant who satisfies certain criteria. The measure applies to policies, contracts, and plans delivered, issued for delivery, or renewed on or after January 1, 2024.

The measure also requires the state plan for medical assistance services to include a provision for payment of medical assistance services incurred in the provision of pasteurized donated human breast milk. The bill requires the Department of Health to establish quality guidelines for human milk banks that operate, sell, distribute, or collect milk in Virginia by July 1, 2023. The provisions of the bill other than the requirement for the Department of Health to establish quality guidelines have a delayed enactment of July 1, 2023.

6. Budget Amendment Necessary: Yes. Items 304 and 493.

7. Fiscal Impact Estimates: Preliminary (See Item 8)

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2023	-	-
2024	\$4,385,520 \$4,649,375	General Nongeneral
2025	\$4,821,806 \$4,895,636	General Nongeneral
2026	\$5,066,395 \$5,154,941	General Nongeneral
2027	\$5,323,939 \$5,427,980	General Nongeneral
2028	\$5,595,125 \$5,715,481	General Nongeneral
2029	\$5,864,681 \$6,001,255	General Nongeneral

8. Fiscal Implications:

Department of Medical Assistance Services

The bill requires the Department of Medical Assistance Services (DMAS) and the department's contracted managed care organizations (MCO) to provide coverage for expenses incurred in the provision of pasteurized donated human milk (HDM). The requirement applies if the covered person is an infant under the age of six months, the milk is obtained from a human milk bank that meets quality guidelines established by the Virginia Department of Health, and a licensed medical practitioner has issued an order for an infant who satisfies certain criteria. It also provides coverage for milk-derived human milk fortifier if indicated in a medical order. Also, based on recent information provided by DMAS, the bill's provision are expected to apply to both Medicaid and FAMIS infants.

DMAS reports that the cost of HDM is covered within the hospital inpatient payment for babies receiving care in neonatal intensive care units (NICU); however, Virginia, does not cover HDM costs once an infant is discharged from the hospital (i.e. outpatient costs). Based on information from the American Academy of Pediatrics, the average cost of pasteurized donated human breast milk ranges from \$4.00 to \$5.00 per ounce, as such this statement assumes a cost of \$4.50 per ounce. Assuming, on average, approximately 25 ounces of breast milk per baby is used each day, and an additional cost of \$5.04 for human milk fortifier, the average daily cost of providing outpatient HDM is approximately \$117.54. As this is a new service, there is no way to readily project the number of children that would receive HDM or length of time HDM may be utilized on an outpatient basis. National data and scholarly articles report a wide range of potential utilization expectations related to the use of HDM. For the purposes of this statement, DMAS estimates that, on average, 200 eligible infants each day could utilize HDM between leaving the hospital and six months of age. This number represents approximately 0.52 percent of the 38,648 births paid for by Medicaid and FAMIS in 2019. However, this assumption is a general estimate and the actual number will largely depend on how many children meet the bill's eligibility criteria. Based on these assumptions, the estimated cost of providing HDM for eligible infants would be approximately \$705,240 per month or \$8,580,420 annually.

The proposal's enactment clause specifies an effective date of July 1, 2023, so it is assumed that coverage would not begin until FY 2024. DMAS presumes a yearly increase that matched the rate of increase in covered newborn members over the past six years (approximately five percent). In addition, it is estimated that 5.4 percent of infants would be covered under FAMIS with the rest covered by Medicaid (ratio of FAMIS to Medicaid newborns in FY 2021). As such, based on the before mentioned assumptions, a general estimate of this bill's impact on Medicaid and FAMIS medical costs is \$9,034,895 (\$4,385,520 general fund) in FY 2024.

DMAS also estimates \$1,000,000 (\$254,275 general fund) for one-time changes to DMAS' Medicaid Enterprise Systems to allow coverage of HDM. System costs are eligible for an enhanced federal match rate of 75 percent for Medicaid.

Virginia Department of Health

The Virginia Department of Health indicates that the bill's requirements to establish quality guidelines by July 1, 2023 can be met with existing resources. As such, no significant fiscal impact is expected.

State Corporation Commission

The Affordable Care Act (ACA) requires all non-grandfathered individual and small-group qualified health plans (QHPs) to cover a core set of healthcare services within 10 Essential Health Benefits (EHBs) categories. States are required to defray the actuarial cost of any new state-mandated benefits added after 2011 and make payments to either issuers or beneficiaries to negate increased premiums. As such, the State Corporation Commission (SCC) reports that requiring this benefit could necessitate the federal defrayal provision the cost of which is estimated to be \$204,000 general fund annually. It is assumed these costs would begin in January 2025 based on the delayed effective date included in the bill.

Department of Human Resources Management

The Department of Human Resources Management is currently assessing the impact of this legislation. This statement will be updated once additional information becomes available.

9. Specific Agency or Political Subdivisions Affected:

Department of Medical Assistance Services

Virginia Department of Health

State Corporation Commission

Department of Human Resources Management

10. Technical Amendment Necessary: No

11. Other Comments: None