

LEGAL NOTICE

NEW HAMPSHIRE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Coverage of Donor Breast Milk

6/29/23 public notice posted to:

<https://www.dhhs.nh.gov/programs-services/medicaid/medicaid-state-plan-public-notice>

Notice is hereby given that the New Hampshire (NH) Department of Health and Human Services (the Department) is proposing to amend the Title XIX State Plan and the Medicaid Alternative Benefit Plan in response to Chapter 79, Laws of 2023, whereby the NH Legislature appropriated funds to cover donor breast milk, effective July 1, 2023.

The Department is proposing to provide reimbursement for donor breast milk provided to an infant if prescribed by a physician, physician assistant, or an advanced practice registered nurse licensed in the state of NH with the following parameters:

- (a) The infant is medically or physically unable to receive maternal breast milk or participate in breastfeeding or the infant's mother is medically or physically unable to produce maternal breast milk in quantities sufficient for the infant; and
- (b) The infant:
 - (1) Was born at a birth weight of less than 1,500 grams;
 - (2) Has a gastrointestinal anomaly or metabolic or digestive disorder or is recovering from intestinal surgery and the infant's digestive needs require additional support;
 - (3) Is not appropriately gaining weight or growing;
 - (4) Has formula intolerance and is experiencing weight loss or difficulty feeding;
 - (5) Has low blood sugar;
 - (6) Has congenital heart disease;
 - (7) Has received or will receive an organ transplant; or
 - (8) Has another medical condition for which donor breast milk is medically necessary.

This proposed change will result in an estimated increase in federal expenditures of \$2,500 for federal fiscal year 2023 and an estimated increase in federal expenditures of \$10,000 in federal fiscal year 2024.

The State will update the Medicaid Alternative Benefit Plan (ABP; this is for Medicaid's expansion group eligibility category, called Granite Advantage) assure compliance with 42 CFR 440.345 to provide full access to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services for individuals in the expansion population who are under age 21 as required by law and regulation, and consistent with current state policy regarding the delivery of these services. Any EPSDT services not included in the Medicaid managed care plan benefit package will be provided through the State's fee-for-service Medicaid program. Other covered services will include medically necessary services as prior authorized, as well as other services required to be covered pursuant to state or federal law, regulation or policy. The State will describe the process to access these benefits in notices sent to all individuals receiving the ABP benefit package.

The State also assures compliance with the provisions of Section 5006 (e) of the American Recovery and Reinvestment Act of 2009 regarding certain protections for American Indian/Alaskan Native (AI/AN) populations. This includes sending notice to individuals who are AI/AN and informing them that they are exempt from co-payments if they are eligible for or have ever received services from an Indian Health Care Provider. Notice shall also include information about the continuing ability to receive care from Indian Health Care providers in or out of state and/or the managed care provider network.

Copies of draft State Plan pages will be available by August 15, 2023. Please contact Jody Farwell at (603) 271-9421, or via e-mail at jody.l.farwell@dhhs.nh.gov, to request copies. The amendments to the State Plan pages may undergo further revisions before and after submittal to the Centers for Medicare and Medicaid Services (CMS) based upon public comment or CMS feedback. Comments will be due by August 29, 2023 and should be e-mailed to jody.l.farwell@dhhs.nh.gov or mailed to the Department of Health and Human Services, Division of Medicaid Services, 129 Pleasant Street–Brown Building, Concord, NH 03301-3857, ATTN: Jody Farwell.