



(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend titles XIX and XXI of the Social Security Act and title XXVII of the Public Health Service Act to require no-cost coverage of human milk fortifier.

IN THE HOUSE OF REPRESENTATIVES

Mr. MCGARVEY introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend titles XIX and XXI of the Social Security Act and title XXVII of the Public Health Service Act to require no-cost coverage of human milk fortifier.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Supporting Premature
5 Infant Nutrition Act of 2024”.

6 **SEC. 2. REQUIRING NO-COST COVERAGE OF HUMAN MILK**
7 **FORTIFIER.**

8 (a) COVERAGE UNDER MEDICAID.—

1 (1) MANDATORY COVERAGE.—

2 (A) IN GENERAL.—Section 1902(a)(10)(A)
3 of the Social Security Act (42 U.S.C.
4 1396a(a)(10)(A)) is amended by striking “and
5 (30)” and inserting “(30), and (31)”.

6 (B) MEDICALLY NEEDY.—Section
7 1902(a)(10)(C)(iv) of the Social Security Act
8 (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by
9 striking “and (17)” and inserting “(17), and
10 (31)”.

11 (C) ALTERNATIVE BENEFIT PLANS.—Sec-
12 tion 1937(b) of the Social Security Act (42
13 U.S.C. 1396u–7(b)) is amended by adding at
14 the end the following new paragraph:

15 “(9) HUMAN MILK FORTIFIER.—Notwith-
16 standing the previous provisions of this section, a
17 State may not provide for medical assistance
18 through enrollment of an individual with benchmark
19 coverage or benchmark-equivalent coverage under
20 this section unless, beginning on January 1, 2025,
21 such coverage includes (and does not impose any de-
22 duction, cost sharing, or similar charge for) human
23 milk fortifier described in section 1905(a)(31).”.

1 (2) INCLUSION AS MEDICAL ASSISTANCE.—Sec-
2 tion 1905 of the Social Security Act (42 U.S.C.
3 1396d) is amended—

4 (A) in subsection (a)—

5 (i) in paragraph (30), by striking
6 “and” at the end;

7 (ii) by redesignating paragraph (31)
8 as paragraph (32); and

9 (iii) by inserting after paragraph (30)
10 the following new paragraph:

11 “(31) beginning January 1, 2025, human milk
12 fortifier (as described in subsection (jj)); and”;

13 (B) by adding at the end the following new
14 subsection:

15 “(jj) HUMAN MILK FORTIFIER.—

16 “(1) IN GENERAL.—For purposes of subsection
17 (a)(31), the term ‘human milk fortifier’ means a
18 donor human milk-derived product that is furnished
19 to an infant under 1 year of age if a specified pro-
20 fessional determines that such donor human milk-de-
21 rived product is medically necessary for the infant
22 because—

23 “(A) the infant’s gestational age at birth
24 was 34 weeks or less;

25 “(B) the infant—

1 “(i) had a birth weight of less than
2 1800 grams; or

3 “(ii) has a body weight below healthy
4 levels, as determined by the specified pro-
5 fessional; or

6 “(C) the infant has a congenital or ac-
7 quired condition and such donor human milk-
8 derived product will—

9 “(i) improve such condition; or

10 “(ii) aid in the recovery of the infant
11 with respect to such condition.

12 “(2) DEFINITIONS.—For purposes of this sub-
13 section, the following definitions apply:

14 “(A) DONOR HUMAN MILK-DERIVED PROD-
15 UCT.—The term ‘donor human milk-derived
16 product’ means a specialty nutritional product
17 made from donor human milk wherein the
18 donor human milk has been concentrated or one
19 or more components have been removed.

20 “(B) SPECIFIED PROFESSIONAL.—The
21 term ‘specified professional’ means a physician,
22 nurse practitioner, physician’s assistant, reg-
23 istered dietician, or other licensed professional
24 authorized by State statute to make the deter-
25 mination described in paragraph (1).”.

1 (3) PROHIBITION OF COST SHARING.—

2 (A) IN GENERAL.—Section 1916 of the So-
3 cial Security Act (42 U.S.C. 1396o) is amend-
4 ed—

5 (i) in subsection (a)(2)—

6 (I) in subparagraph (I), by strik-
7 ing at the end “or”;

8 (II) in subparagraph (J), by
9 striking at the end “; and” and in-
10 sserting “, or”; and

11 (III) by adding at the end the
12 following new subparagraph:

13 “(K) beginning January 1, 2025, human
14 milk fortifier (as described in section
15 1905(a)(31)); and”;

16 (ii) in subsection (b)(2)—

17 (I) in subparagraph (I), by strik-
18 ing at the end “or”;

19 (II) in subparagraph (J), by
20 striking at the end “; and” and in-
21 sserting “, or”; and

22 (III) by adding at the end the
23 following new subparagraph:

1 “(K) beginning January 1, 2025, human
2 milk fortifier (as described in section
3 1905(a)(31)); and”.

4 (B) APPLICATION TO ALTERNATIVE COST
5 SHARING.—Section 1916A(b)(3)(B) of the So-
6 cial Security Act (42 U.S.C. 1396o–1(b)(3)(B))
7 is amended by adding at the end the following
8 new clause:

9 “(xv) Beginning January 1, 2025,
10 human milk fortifier (as described in sec-
11 tion 1905(a)(31)).”.

12 (b) COVERAGE UNDER THE CHILDREN’S HEALTH
13 INSURANCE PLAN.—

14 (1) IN GENERAL.—Section 2103 of the Social
15 Security Act (42 U.S.C. 1397cc) is amended—

16 (A) in subsection (a), by striking “and
17 (8)” and inserting “, (8), and (13)”; and

18 (B) in subsection (c), by adding at the end
19 the following new paragraph:

20 “(13) REQUIRED COVERAGE OF HUMAN MILK
21 FORTIFIER.—The child health assistance provided to
22 a targeted low-income child shall include coverage of
23 human milk fortifier (as described in section
24 1905(a)(31)).”.

1 (2) PROHIBITION OF COST SHARING.—Section
2 2103(e)(2) of the Social Security Act (42 U.S.C.
3 1397cc(e)(2)) is amended—

4 (A) in the paragraph heading, by inserting
5 “HUMAN MILK FORTIFIER,” before “OR PREG-
6 NANCY-RELATED ASSISTANCE”; and

7 (B) by inserting “human milk fortifier de-
8 scribed in section 1905(a)(31),” before “or for
9 pregnancy-related assistance”.

10 (3) EFFECTIVE DATE.—

11 (A) IN GENERAL.—Subject to subpara-
12 graph (B), the amendments made by this sub-
13 section shall apply with respect to child health
14 assistance furnished on or after January 1,
15 2025.

16 (B) EXCEPTION IF STATE LEGISLATION
17 REQUIRED.—In the case of a State child health
18 plan for child health assistance under title XXI
19 of the Social Security Act which the Secretary
20 of Health and Human Services determines re-
21 quires State legislation (other than legislation
22 appropriating funds) in order for the plan to
23 meet the additional requirement imposed by the
24 amendments made by this subsection, the State
25 child health plan shall not be regarded as fail-

1 ing to comply with the requirements of such
2 title solely on the basis of its failure to meet
3 this additional requirement before the first day
4 of the first calendar quarter beginning after the
5 close of the first regular session of the State
6 legislature that begins after the date of the en-
7 actment of this Act. For purposes of the pre-
8 vious sentence, in the case of a State that has
9 a 2-year legislative session, each year of such
10 session shall be deemed to be a separate regular
11 session of the State legislature.

12 (c) **COVERAGE UNDER GROUP HEALTH PLANS AND**
13 **GROUP AND INDIVIDUAL HEALTH INSURANCE.—**

14 (1) **IN GENERAL.**—Subpart II of part A of title
15 XXVII of the Public Health Service Act (42 U.S.C.
16 300gg–11 et seq.) is amended by adding at the end
17 the following new section:

18 **“SEC. 2730. NO-COST COVERAGE OF HUMAN MILK FOR-**
19 **TIFIER.**

20 “A group health plan, and a health insurance issuer
21 offering group or individual health insurance coverage,
22 shall provide coverage for, and shall not impose any cost
23 sharing requirements for, human milk fortifier (as de-
24 scribed in section 1905(a)(jj) of the Social Security Act).”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to plan years begin-
3 ning on or after January 1, 2025.