STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
BUREAU OF INSURANCE

Janet T. Mills
Governor

Anne L. Head
DPFR Commissioner

Timothy N. Schott
Acting Superintendent

March 23, 2023

Senator Donna Bailey, Chair
Representative Anne Perry, Chair
Joint Standing Committee on Health Coverage, Insurance and Financial Services
100 State House Station
Augusta, ME 04333-0100

Re: L.D. 0267, An Act to Require Private Insurance Coverage for Donor Breast Milk

Dear Senator Bailey, Representative Perry, and Members of the Committee:

The Bureau of Insurance takes no position on L.D. 0267. The purpose of this letter is to provide you with background information. This bill would require carriers offering health plans in the State to provide coverage for donor breast milk if an infant is medically or physically unable to receive maternal breast milk or the parent is medically or physically unable to produce maternal breastmilk. The bill would apply to health plans issued or renewed on or after January 1, 2024.

The requirement to prohibit insurers from imposing any cost-sharing requirement conflicts with federal laws as it relates to high-deductible plans. Under these plans, cost-sharing does not begin until the insured has met their deductible at least $1,500 for individual coverage, and $3,000 for family coverage. The Committee may want to consider the unintended consequences associated with imposing a requirement that would conflict with or be preempted by federal law.

Beginning in 2014, states were required to defray the costs of all mandates that are included in Qualified Health Plans, unless those mandates are required as part of the essential benefit package. The Affordable Care Act (ACA) directs states to make payments either to the individual enrollee or to the insurer.[1] Generally, any mandate adopted by a state after December 31, 2011, is subject to the requirement for the state to defray the additional premium cost of that mandate, unless it is an extension of an existing mandate, a provider mandate or a cost-sharing requirement.

Title 24-A M.R.S. § 2752 requires a review and evaluation of a mandated benefit proposal by the Bureau of Insurance before the bill may be enacted. These reviews include an evaluation of the financial impact, social impact and medical efficacy of the mandate. If a report is requested it could cost the Bureau up to $13,500 for outside contract consulting work plus staff time, estimated at a cost of $1,600 to collect information, review consultant work, and prepare the final report. We anticipate that current resources will allow us to conduct up to two studies during the current session, and we will need eight weeks for each report to ensure a high-quality evaluation.

[1] See 45 CFR § 155.170, implementing ACA § 1311(d)(3)(B).

Office Location: 76 Northern Avenue, Gardiner, Maine 04345
Mailing Address: 34 State House Station, Augusta, Maine 04333
www.maine.gov/insurance
Phone: (207) 624-8475 TTY: Please Call Maine Relay 711 Consumer Assistance: 1-800-300-5000 Fax: (207) 624-8599

I hope this information is useful to the Committee. Please let me know if I can provide any further assistance.

Sincerely,

Timothy N. Schott
Acting Superintendent