

10450

I N A S S E M B L Y

March 26, 2010

Introduced by M. of A. MENG -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring certain health insurance policies to include coverage for the cost of certain infant and baby formulas

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (i) of section 3216 of the insurance law is  
2 amended by adding a new paragraph 21-a to read as follows:  
3 (21-A) EVERY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS  
4 SHALL INCLUDE COVERAGE FOR THE COST OF INFANT AND BABY FORMULAS FOR HOME  
5 USE FOR WHICH A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROVIDER LEGALLY  
6 AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT OF THE EDUCATION LAW HAS  
7 ISSUED A WRITTEN ORDER. SUCH WRITTEN ORDER SHALL STATE THAT THE INFANT  
8 OR BABY FORMULA IS CLEARLY MEDICALLY NECESSARY AND HAS BEEN PROVEN  
9 EFFECTIVE AS A DISEASE-SPECIFIC TREATMENT REGIMEN FOR THOSE INDIVIDUALS  
10 WHO ARE OR WILL BECOME MALNOURISHED OR SUFFER FROM DISORDERS, WHICH IF  
11 LEFT UNTREATED, CAUSE CHRONIC PHYSICAL DISABILITY, MENTAL RETARDATION OR  
12 DEATH. SPECIFIC DISEASES FOR WHICH INFANT AND BABY FORMULAS HAVE BEEN  
13 PROVEN EFFECTIVE SHALL INCLUDE, BUT ARE NOT LIMITED TO, INHERITED  
14 DISEASES OF AMINO ACID OR ORGANIC ACID METABOLISM; CROHN'S DISEASE;  
15 GASTROESOPHAGEAL REFLUX WITH FAILURE TO THRIVE; DISORDERS OF GASTROIN-  
16 TESTINAL MOTILITY SUCH AS CHRONIC INTESTINAL PSEUDO-OBSTRUCTION; AND  
17 MULTIPLE, SEVERE FOOD ALLERGIES WHICH IF LEFT UNTREATED WILL CAUSE MALN-  
18 OURISHMENT, CHRONIC PHYSICAL DISABILITY, MENTAL RETARDATION OR DEATH.  
19 INFANT AND BABY FORMULAS WHICH ARE MEDICALLY NECESSARY AND TAKEN UNDER  
20 WRITTEN ORDER FROM A PHYSICIAN FOR THE TREATMENT OF SPECIFIC DISEASES  
21 SHALL BE DISTINGUISHED FROM NUTRITIONAL SUPPLEMENTS TAKEN ELECTIVELY.  
22 COVERAGE FOR CERTAIN INFANT AND BABY FORMULAS FOR ANY CALENDAR YEAR OR  
23 FOR ANY CONTINUOUS PERIOD OF TWELVE MONTHS FOR ANY INSURED INDIVIDUAL  
24 SHALL NOT EXCEED THREE THOUSAND DOLLARS.  
25 S 2. Subsection (k) of section 3221 of the insurance law is amended by  
26 adding a new paragraph 11-a to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 (11-A) EVERY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS  
2 SHALL INCLUDE COVERAGE FOR THE COST OF INFANT AND BABY FORMULAS FOR HOME  
3 USE FOR WHICH A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROVIDER LEGALLY  
4 AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT OF THE EDUCATION LAW HAS  
5 ISSUED A WRITTEN ORDER. SUCH WRITTEN ORDER SHALL STATE THAT THE INFANT  
6 OR BABY FORMULA IS CLEARLY MEDICALLY NECESSARY AND HAS BEEN PROVEN  
7 EFFECTIVE AS A DISEASE-SPECIFIC TREATMENT REGIMEN FOR THOSE INDIVIDUALS  
8 WHO ARE OR WILL BECOME MALNOURISHED OR SUFFER FROM DISORDERS, WHICH IF  
9 LEFT UNTREATED, CAUSE CHRONIC PHYSICAL DISABILITY, MENTAL RETARDATION OR  
10 DEATH. SPECIFIC DISEASES FOR WHICH INFANT AND BABY FORMULAS HAVE BEEN  
11 PROVEN EFFECTIVE SHALL INCLUDE, BUT ARE NOT LIMITED TO, INHERITED  
12 DISEASES OF AMINO ACID OR ORGANIC ACID METABOLISM; CROHN'S DISEASE;  
13 GASTROESOPHAGEAL REFLUX WITH FAILURE TO THRIVE; DISORDERS OF GASTROIN-  
14 TESTINAL MOTILITY SUCH AS CHRONIC INTESTINAL PSEUDO-OBSTRUCTION; AND  
15 MULTIPLE, SEVERE FOOD ALLERGIES WHICH IF LEFT UNTREATED WILL CAUSE MALN-  
16 OURISHMENT, CHRONIC PHYSICAL DISABILITY, MENTAL RETARDATION OR DEATH.  
17 INFANT AND BABY FORMULAS WHICH ARE MEDICALLY NECESSARY AND TAKEN UNDER  
18 WRITTEN ORDER FROM A PHYSICIAN FOR THE TREATMENT OF SPECIFIC DISEASES  
19 SHALL BE DISTINGUISHED FROM NUTRITIONAL SUPPLEMENTS TAKEN ELECTIVELY.  
20 COVERAGE FOR CERTAIN INFANT AND BABY FORMULAS FOR ANY CALENDAR YEAR OR  
21 FOR ANY CONTINUOUS PERIOD OF TWELVE MONTHS FOR ANY INSURED INDIVIDUAL  
22 SHALL NOT EXCEED THREE THOUSAND DOLLARS.

23 S 3. Section 4303 of the insurance law is amended by adding a new  
24 subsection (y-1) to read as follows:

25 (Y-1) EVERY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS  
26 SHALL INCLUDE COVERAGE FOR THE COST OF INFANT AND BABY FORMULAS FOR HOME  
27 USE FOR WHICH A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROVIDER LEGALLY  
28 AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT OF THE EDUCATION LAW HAS  
29 ISSUED A WRITTEN ORDER. SUCH WRITTEN ORDER SHALL STATE THAT THE INFANT  
30 OR BABY FORMULA IS CLEARLY MEDICALLY NECESSARY AND HAS BEEN PROVEN  
31 EFFECTIVE AS A DISEASE-SPECIFIC TREATMENT REGIMEN FOR THOSE INDIVIDUALS  
32 WHO ARE OR WILL BECOME MALNOURISHED OR SUFFER FROM DISORDERS, WHICH IF  
33 LEFT UNTREATED, CAUSE CHRONIC PHYSICAL DISABILITY, MENTAL RETARDATION OR  
34 DEATH. SPECIFIC DISEASES FOR WHICH INFANT AND BABY FORMULAS HAVE BEEN  
35 PROVEN EFFECTIVE SHALL INCLUDE, BUT ARE NOT LIMITED TO, INHERITED  
36 DISEASES OF AMINO ACID OR ORGANIC ACID METABOLISM; CROHN'S DISEASE;  
37 GASTROESOPHAGEAL REFLUX WITH FAILURE TO THRIVE; DISORDERS OF GASTROIN-  
38 TESTINAL MOTILITY SUCH AS CHRONIC INTESTINAL PSEUDO-OBSTRUCTION; AND  
39 MULTIPLE, SEVERE FOOD ALLERGIES WHICH IF LEFT UNTREATED WILL CAUSE MALN-  
40 OURISHMENT, CHRONIC PHYSICAL DISABILITY, MENTAL RETARDATION OR DEATH.  
41 INFANT AND BABY FORMULAS WHICH ARE MEDICALLY NECESSARY AND TAKEN UNDER  
42 WRITTEN ORDER FROM A PHYSICIAN FOR THE TREATMENT OF SPECIFIC DISEASES  
43 SHALL BE DISTINGUISHED FROM NUTRITIONAL SUPPLEMENTS TAKEN ELECTIVELY.  
44 COVERAGE FOR CERTAIN INFANT AND BABY FORMULAS FOR ANY CALENDAR YEAR OR  
45 FOR ANY CONTINUOUS PERIOD OF TWELVE MONTHS FOR ANY INSURED INDIVIDUAL  
46 SHALL NOT EXCEED THREE THOUSAND DOLLARS.

47 S 4. The opening paragraph of paragraph 25 of subsection (b) of  
48 section 4322 of the insurance law, as amended by chapter 554 of the laws  
49 of 2002, is amended to read as follows:

50 Prescription drugs, including contraceptive drugs or devices approved  
51 by the federal food and drug administration or generic equivalents  
52 approved as substitutes by such food and drug administration, INFANT OR  
53 BABY FORMULA WHICH IS CLEARLY MEDICALLY NECESSARY AND HAS BEEN PROVEN  
54 EFFECTIVE AS A DISEASE-SPECIFIC TREATMENT REGIMEN FOR THOSE INDIVIDUALS  
55 WHO ARE OR WILL BECOME MALNOURISHED OR SUFFER FROM DISORDERS, WHICH IF  
56 LEFT UNTREATED, CAUSE CHRONIC PHYSICAL DISABILITY, MENTAL RETARDATION OR

1 DEATH and nutritional supplements (formulas) for the therapeutic treat-  
2 ment of phenylketonuria, branched-chain ketonuria, galactosemia and  
3 homocystinuria, obtained at a participating pharmacy under a  
4 prescription written by an in-plan or out-of-plan provider. Health main-  
5 tenance organizations, in addition to providing coverage for  
6 prescription drugs at a participating pharmacy, may utilize a mail order  
7 prescription drug program. Health maintenance organizations may provide  
8 prescription drugs pursuant to a drug formulary; however, health mainte-  
9 nance organizations must implement an appeals process so that the use of  
10 non-formulary prescription drugs may be requested by a physician or  
11 other provider.

12 S 5. This act shall take effect on the first of January next succeed-  
13 ing the date on which it shall have become a law and shall apply to all  
14 policies and contracts issued, renewed, modified, altered, or amended on  
15 or after such date.