S T A T E O F N E W Y O R K

2188

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. BALL, BURLING, KOLB, P. RIVERA, WALKER, MOLINARO -- Multi-Sponsored by -- M. of A. CALHOUN, CONTE, CROUCH, McDONOUGH, QUINN, SEMINERIO -- 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 enteral formulas for the treatment of eosinophilic esophagitis and related eosinophilic disorders

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

Section 1. This act shall be known and may be cited as "Hannah's law".

S 2. Paragraph 21 of subsection (i) of section 3216 of the insurance law, as added by chapter 177 of the laws of 1997, is amended to read as follows:

(21) Every policy which provides MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE OR coverage for prescription drugs shall include coverage for the cost of enteral formulas for home use, WHETHER ADMINISTERED ORALLY OR VIA TUBE FEEDING, for which a physician or other licensed health care provider legally authorized to prescribe under title eight of the education law has issued a written order. Such written order shall state that the enteral formula is clearly medically necessary and has been proven effective as a disease-specific treatment regimen for those individuals who are or will become malnourished or suffer from disorders, which if left untreated, cause chronic physical disability, mental retardation or death. Specific diseases for which enteral formulas have been proven effective shall include, but are not limited to, inherited diseases of amino acid or organic acid metabolism; Crohn's Disease; EOSINOPHILIC ESOPHAGITIS AND RELATED EOSINOPHILIC DISORDERS; gastroesophageal reflux with failure to thrive; disorders of gastrointestinal motility such as chronic intestinal pseudo-obstruction; and multiple, severe food allergies which if left untreated will cause

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

LBD05214-01-9

malnourishment, chronic physical disability, mental retardation or death. Enteral formulas which are medically necessary and taken under written order from a physician for the treatment of specific diseases shall be distinguished from nutritional supplements taken electively. Coverage for certain inherited diseases of amino acid and organic acid metabolism shall include modified solid food products that are low protein or which contain modified protein which are medically necessary[, and such coverage for such modified solid food products for any calendar year or for any continuous period of twelve months for any insured individual shall not exceed two thousand five hundred dollars].

S 3. Paragraph 11 of subsection (k) of section 3221 of the insurance law, as added by chapter 177 of the laws of 1997, is amended to read as follows:

(11) Every policy which provides MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE OR coverage for prescription drugs shall include coverage for the cost of enteral formulas for home use, WHETHER ADMINISTERED ORALLY OR VIA TUBE FEEDING, for which a physician or other licensed health care provider legally authorized to prescribe under title eight of the education law has issued a written order. Such written order shall state that the enteral formula is clearly medically necessary and has been proven effective as a disease-specific treatment regimen for those individuals who are or will become malnourished or suffer from disorders, which if left untreated, cause chronic physical disability, mental retardation or death. Specific diseases for which enteral formulas have been proven effective shall include, but are not limited to, inherited diseases of amino-acid or organic acid metabolism; Crohn's Disease; EOSINOPHILIC ESOPHAGITIS AND RELATED EOSINOPHILIC DISORDERS; gastroesophageal reflux with failure to thrive; disorders of gastrointestinal motility such as chronic intestinal pseudo-obstruction; and multiple, severe food allergies which if left untreated will cause malnourishment, chronic physical disability, mental retardation or death. Enteral formulas which are medically necessary and taken under written order from a physician for the treatment of specific diseases shall be distinguished from nutritional supplements taken electively. Coverage for certain inherited diseases of amino acid and organic acid metabolism shall include modified solid food products that are low protein or which contain modified protein which are medically necessary[, and such coverage for such modified solid food products for any calendar year or for any continuous period of twelve months for any insured individual shall not exceed two thousand five hundred dollars].

S 4. Subsection (y) of section 4303 of the insurance law, as added by chapter 177 of the laws of 1997, is amended to read as follows:

(y) Every contract which provides MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE OR coverage for prescription drugs shall include coverage for the cost of enteral formulas for home use, WHETHER ADMINISTERED ORALLY OR VIA TUBE FEEDING, for which a physician or other licensed health care provider legally authorized to prescribe under title eight of the education law has issued a written order. Such written order shall state that the enteral formula is clearly medically necessary and has been proven effective as a disease-specific treatment regimen for those individuals who are or will become malnourished or suffer from disorders, which if left untreated, cause chronic disability, mental retardation or death. Specific diseases for which enteral formulas have been proven effective shall include, but are not limited to, inherited diseases of amino-acid or organic acid metabolism; Crohn's Disease; EOSINOPHILIC ESOPHAGITIS AND RELATED EOSINOPHILIC DISORDERS;

gastroesophageal reflux with failure to thrive; disorders of gastrointestinal motility such as chronic intestinal pseudo-obstruction; and multiple, severe food allergies which if left untreated will cause malnourishment, chronic physical disability, mental retardation or death. Enteral formulas which are medically necessary and taken under written order from a physician for the treatment of specific diseases shall be distinguished from nutritional supplements taken electively. Coverage for certain inherited diseases of amino acid and organic acid metabolism shall include modified solid food products that are low protein, or which contain modified protein which are medically necessary[, and such coverage for such modified solid food products for any calendar year or for any continuous period of twelve months for any insured individual shall not exceed two thousand five hundred dollars].

S 5. The opening paragraph of paragraph 25 of subsection (b) of section 4322 of the insurance law, as amended by chapter 554 of the laws of 2002, is amended to read as follows:

Prescription drugs, including contraceptive drugs or devices approved by the federal food and drug administration or generic equivalents approved as substitutes by such food and drug administration and nutritional supplements (formulas), WHETHER ADMINISTERED ORALLY OR VIA A FEEDING TUBE for the therapeutic treatment of phenylketonuria, branched-chain ketonuria, galactosemia, EOSINOPHILIC ESOPHAGITIS AND RELATED EOSINOPHILIC DISORDERS, and homocystinuria, obtained at a participating pharmacy under a prescription written by an in-plan or out-of-plan provider. Health maintenance organizations, in addition to providing coverage for prescription drugs at a participating pharmacy, may utilize a mail order prescription drug program. Health maintenance organizations may provide prescription drugs pursuant to a drug formulary; however, health maintenance organizations must implement an appeals process so that the use of non-formulary prescription drugs may be requested by a physician or other provider.

S 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to all policies and contracts issued, renewed, modified, altered, or amended on or after such date.