

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:

1     Section 1. This act shall be known and may be cited as "Hannah's law".  
2     S 2. Paragraph 21 of subsection (i) of section 3216 of the insurance  
3 law, as added by chapter 177 of the laws of 1997, is amended to read as  
4 follows:  
5     (21) Every policy which provides MEDICAL, MAJOR MEDICAL OR SIMILAR  
6 COMPREHENSIVE-TYPE COVERAGE OR coverage for prescription drugs shall  
7 include coverage for the cost of enteral formulas for home use, WHETHER  
8 ADMINISTERED ORALLY OR VIA TUBE FEEDING, for which a physician or other  
9 licensed health care provider legally authorized to prescribe under  
10 title eight of the education law has issued a written order. Such writ-  
11 ten order shall state that the enteral formula is clearly medically  
12 necessary and has been proven effective as a disease-specific treatment  
13 regimen for those individuals who are or will become malnourished or  
14 suffer from disorders, which if left untreated, cause chronic physical  
15 disability, mental retardation or death. Specific diseases for which  
16 enteral formulas have been proven effective shall include, but are not  
17 limited to, inherited diseases of amino acid or organic acid metabolism;  
18 Crohn's Disease; EOSINOPHILIC ESOPHAGITIS AND RELATED EOSINOPHILIC  
19 DISORDERS; gastroesophageal reflux with failure to thrive; disorders of  
20 gastrointestinal motility such as chronic intestinal pseudo-obstruction;  
21 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

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

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

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

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

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

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

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

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

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