

2009-2010 Regular Sessions

I N   S E N A T E

January 9, 2009

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Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed 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  
22 malnourishment, chronic physical disability, mental retardation or  
23 death. Enteral formulas which are medically necessary and taken under

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

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

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

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

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

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

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

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

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

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