

8326

I N   S E N A T E

June 23, 2010

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Introduced by Sen. HASSELL-THOMPSON -- read twice and ordered printed,  
and when printed to be committed to the Committee on Rules

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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph 21 of subsection (i) of section 3216 of the  
2 insurance law, as added by chapter 177 of the laws of 1997, is amended  
3 to read as follows:  
4     (21) Every policy which provides coverage for prescription drugs shall  
5 include coverage for the cost of enteral, INFANT AND BABY formulas for  
6 home use for which a physician or other licensed health care provider  
7 legally authorized to prescribe under title eight of the education law  
8 has issued a written order. Such written order shall state that the  
9 enteral, INFANT OR BABY formula is clearly medically necessary and has  
10 been proven effective as a disease-specific treatment regimen for those  
11 individuals who are or will become malnourished or suffer from disor-  
12 ders, which if left untreated, cause chronic physical disability, mental  
13 retardation or death. Specific diseases for which enteral, INFANT AND  
14 BABY formulas have been proven effective shall include, but are not  
15 limited to, inherited diseases of amino acid or organic acid metabolism;  
16 Crohn's Disease; gastroesophageal reflux with failure to thrive; disor-  
17 ders of gastrointestinal motility such as chronic intestinal pseudo-ob-  
18 struction; and multiple, severe food allergies which if left untreated  
19 will cause malnourishment, chronic physical disability, mental retarda-  
20 tion or death. Enteral, INFANT AND BABY formulas which are medically  
21 necessary and taken under written order from a physician for the treat-  
22 ment of specific diseases shall be distinguished from nutritional  
23 supplements taken electively. Coverage for certain inherited diseases of  
24 amino acid and organic acid metabolism shall include modified solid food  
25 products that are low protein or which contain modified protein which  
26 are medically necessary, and such coverage for such modified solid food  
27 products for any calendar year or for any continuous period of twelve

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

LBD16588-04-0

1 months for any insured individual shall not exceed two thousand five  
2 hundred dollars. COVERAGE FOR INFANT AND BABY FORMULAS FOR ANY CALENDAR  
3 YEAR OR ANY CONTINUOUS PERIOD OF TWELVE MONTHS FOR ANY INSURED INDIVID-  
4 UAL SHALL BE NO LESS THAN THREE THOUSAND DOLLARS.

5 S 2. Paragraph 11 of subsection (k) of section 3221 of the insurance  
6 law, as added by chapter 177 of the laws of 1997, is amended to read as  
7 follows:

8 (11) Every policy which provides coverage for prescription drugs shall  
9 include coverage for the cost of enteral, INFANT AND BABY formulas for  
10 home use for which a physician or other licensed health care provider  
11 legally authorized to prescribe under title eight of the education law  
12 has issued a written order. Such written order shall state that the  
13 enteral, INFANT OR BABY formula is clearly medically necessary and has  
14 been proven effective as a disease-specific treatment regimen for those  
15 individuals who are or will become malnourished or suffer from disor-  
16 ders, which if left untreated, cause chronic physical disability, mental  
17 retardation or death. Specific diseases for which enteral, INFANT AND  
18 BABY formulas have been proven effective shall include, but are not  
19 limited to, inherited diseases of amino-acid or organic acid metabolism;  
20 Crohn's Disease; gastroesophageal reflux with failure to thrive; disor-  
21 ders of gastrointestinal motility such as chronic intestinal pseudo-ob-  
22 struction; and multiple, severe food allergies which if left untreated  
23 will cause malnourishment, chronic physical disability, mental retarda-  
24 tion or death. Enteral, INFANT AND BABY formulas which are medically  
25 necessary and taken under written order from a physician for the treat-  
26 ment of specific diseases shall be distinguished from nutritional  
27 supplements taken electively. Coverage for certain inherited diseases of  
28 amino acid and organic acid metabolism shall include modified solid food  
29 products that are low protein or which contain modified protein which  
30 are medically necessary, and such coverage for such modified solid food  
31 products for any calendar year or for any continuous period of twelve  
32 months for any insured individual shall not exceed two thousand five  
33 hundred dollars. COVERAGE FOR INFANT AND BABY FORMULAS FOR ANY CALENDAR  
34 YEAR OR ANY CONTINUOUS PERIOD OF TWELVE MONTHS FOR ANY INSURED INDIVID-  
35 UAL SHALL BE NO LESS THAN THREE THOUSAND DOLLARS.

36 S 3. Subsection (y) of section 4303 of the insurance law, as added by  
37 chapter 177 of the laws of 1997, is amended to read as follows:

38 (y) Every contract which provides coverage for prescription drugs  
39 shall include coverage for the cost of enteral, INFANT AND BABY formulas  
40 for home use for which a physician or other licensed health care provid-  
41 er legally authorized to prescribe under title eight of the education  
42 law has issued a written order. Such written order shall state that the  
43 enteral, INFANT OR BABY formula is clearly medically necessary and has  
44 been proven effective as a disease-specific treatment regimen for those  
45 individuals who are or will become malnourished or suffer from disor-  
46 ders, which if left untreated, cause chronic disability, mental retarda-  
47 tion or death. Specific diseases for which enteral, INFANT AND BABY  
48 formulas have been proven effective shall include, but are not limited  
49 to, inherited diseases of amino-acid or organic acid metabolism; Crohn's  
50 Disease; gastroesophageal reflux with failure to thrive; disorders of  
51 gastrointestinal motility such as chronic intestinal pseudo-obstruction;  
52 and multiple, severe food allergies which if left untreated will cause  
53 malnourishment, chronic physical disability, mental retardation or  
54 death. Enteral, INFANT AND BABY formulas which are medically necessary  
55 and taken under written order from a physician for the treatment of  
56 specific diseases shall be distinguished from nutritional supplements

1 taken electively. Coverage for certain inherited diseases of amino acid  
2 and organic acid metabolism shall include modified solid food products  
3 that are low protein, or which contain modified protein which are  
4 medically necessary, and such coverage for such modified solid food  
5 products for any calendar year or for any continuous period of twelve  
6 months for any insured individual shall not exceed two thousand five  
7 hundred dollars. COVERAGE FOR INFANT AND BABY FORMULAS FOR ANY CALENDAR  
8 YEAR OR ANY CONTINUOUS PERIOD OF TWELVE MONTHS FOR ANY INSURED INDIVID-  
9 UAL SHALL BE NO LESS THAN THREE THOUSAND DOLLARS.

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

13 Prescription drugs, OBTAINED AT A PARTICIPATING PHARMACY UNDER A  
14 PRESCRIPTION WRITTEN BY AN IN-PLAN OR OUT-OF-PLAN PROVIDER, including  
15 contraceptive drugs or devices approved by the federal food and drug  
16 administration or generic equivalents approved as substitutes by such  
17 food and drug administration [and], nutritional supplements (formulas)  
18 for the therapeutic treatment of phenylketonuria, branched-chain ketonu-  
19 ria, galactosemia and homocystinuria[, obtained at a participating phar-  
20 macy under a prescription written by an in-plan or out-of-plan provider]  
21 AND INFANT AND BABY FORMULAS FOR HOME USE FOR WHICH A PHYSICIAN OR OTHER  
22 LICENSED HEALTH CARE PROVIDER LEGALLY AUTHORIZED TO PRESCRIBE UNDER  
23 TITLE EIGHT OF THE EDUCATION LAW HAS ISSUED A WRITTEN ORDER. SUCH WRIT-  
24 TEN ORDER SHALL STATE THAT THE INFANT OR BABY FORMULA IS CLEARLY  
25 MEDICALLY NECESSARY AND HAS BEEN PROVEN EFFECTIVE AS A DISEASE-SPECIFIC  
26 TREATMENT REGIMEN FOR THOSE INDIVIDUALS WHO ARE OR WILL BECOME MALNOUR-  
27 ISHED OR SUFFER FROM DISORDERS, WHICH IF LEFT UNTREATED, CAUSE CHRONIC  
28 PHYSICAL DISABILITY, MENTAL RETARDATION OR DEATH. SPECIFIC DISEASES FOR  
29 WHICH INFANT AND BABY FORMULAS HAVE BEEN PROVEN EFFECTIVE SHALL INCLUDE,  
30 BUT ARE NOT LIMITED TO, INHERITED DISEASES OF AMINO ACID OR ORGANIC ACID  
31 METABOLISM; CROHN'S DISEASE; GASTROESOPHAGEAL REFLUX WITH FAILURE TO  
32 THRIVE; DISORDERS OF GASTROINTESTINAL MOTILITY SUCH AS CHRONIC INTES-  
33 TINAL PSEUDO-OBSTRUCTION; AND MULTIPLE, SEVERE FOOD ALLERGIES WHICH IF  
34 LEFT UNTREATED WILL CAUSE MALNOURISHMENT, CHRONIC PHYSICAL DISABILITY,  
35 MENTAL RETARDATION OR DEATH. INFANT AND BABY FORMULAS WHICH ARE  
36 MEDICALLY NECESSARY AND TAKEN UNDER WRITTEN ORDER FROM A PHYSICIAN FOR  
37 THE TREATMENT OF SPECIFIC DISEASES SHALL BE DISTINGUISHED FROM NUTRI-  
38 TIONAL SUPPLEMENTS TAKEN ELECTIVELY. COVERAGE FOR INFANT AND BABY FORMU-  
39 LAS FOR ANY CALENDAR YEAR OR ANY CONTINUOUS PERIOD OF TWELVE MONTHS FOR  
40 ANY INSURED INDIVIDUAL SHALL BE NO LESS THAN THREE THOUSAND DOLLARS.  
41 Health maintenance organizations, in addition to providing coverage for  
42 prescription drugs at a participating pharmacy, may utilize a mail order  
43 prescription drug program. Health maintenance organizations may provide  
44 prescription drugs pursuant to a drug formulary; however, health mainte-  
45 nance organizations must implement an appeals process so that the use of  
46 non-formulary prescription drugs may be requested by a physician or  
47 other provider.

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