

628

2009-2010 Regular Sessions

I N S E N A T E

January 9, 2009

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.