

8326

I N S E N A T E

June 23, 2010

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.

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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.