

8413--A

2011-2012 Regular Sessions

I N A S S E M B L Y

June 15, 2011

Introduced by M. of A. PAULIN, GUNTHER, MAISEL, REILLY, ZEBROWSKI, CASTELLI, KATZ, BURLING, ROSENTHAL, HOOPER -- Multi-Sponsored by -- M. of A. CERETTO, DINOWITZ -- read once and referred to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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. Short title. This act shall be known and may be cited as
2 "Hannah's law".
3 S 2. Paragraph 21 of subsection (i) of section 3216 of the insurance
4 law, as added by chapter 177 of the laws of 1997, is amended to read as
5 follows:
6 (21) Every policy which provides 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

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

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

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

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

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

44 (y) Every contract which provides coverage for prescription drugs
45 shall include coverage for the cost of enteral formulas for home use,
46 WHETHER ADMINISTERED ORALLY OR VIA TUBE FEEDING, for which a physician
47 or other licensed health care provider legally authorized to prescribe
48 under title eight of the education law has issued a written order. Such
49 written 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.