

3270

2011-2012 Regular Sessions

I N S E N A T E

February 15, 2011

Introduced by Sen. HASSELL-THOMPSON -- 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 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

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

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

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

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

39 S 3. 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 coverage for prescription drugs
42 shall include coverage for the cost of enteral, INFANT AND BABY formulas
43 for home use for which a physician or other licensed health care provid-
44 er legally authorized to prescribe under title eight of the education
45 law has issued a written order. Such written order shall state that the
46 enteral, INFANT OR BABY formula is clearly medically necessary and has
47 been proven effective as a disease-specific treatment regimen for those
48 individuals who are or will become malnourished or suffer from disor-
49 ders, which if left untreated, cause chronic disability, mental retarda-
50 tion or death. Specific diseases for which enteral, INFANT AND BABY
51 formulas have been proven effective shall include, but are not limited
52 to, inherited diseases of amino-acid or organic acid metabolism; Crohn's
53 Disease; gastroesophageal reflux with failure to thrive; disorders of
54 gastrointestinal motility such as chronic intestinal pseudo-obstruction;
55 and multiple, severe food allergies which if left untreated will cause
56 malnourishment, chronic physical disability, mental retardation or

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

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

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

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