

5282

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 22, 2013

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Introduced by M. of A. MOYA -- read once and referred 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.