

2287--A

Cal. No. 414

2013-2014 Regular Sessions

I N S E N A T E

January 15, 2013

Introduced by Sens. BALL, O'BRIEN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the insurance law, in relation to requiring certain health insurance policies to include coverage for the cost of enteral formulas whether administered orally or via tube feeding

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; gastroesophageal reflux with failure to thrive; disor-

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

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1 ders of gastrointestinal motility such as chronic intestinal pseudo-ob-
2 struction; and multiple, severe food allergies which if left untreated
3 will cause malnourishment, chronic physical disability, mental retarda-
4 tion or death. Enteral formulas which are medically necessary and taken
5 under written order from a physician for the treatment of specific
6 diseases shall be distinguished from nutritional supplements taken elec-
7 tively. Coverage for certain inherited diseases of amino acid and organ-
8 ic acid metabolism shall include modified solid food products that are
9 low protein or which contain modified protein which are medically neces-
10 sary, and such coverage for such modified solid food products for any
11 calendar year or for any continuous period of twelve months for any
12 insured individual 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; gastroesophageal reflux with failure to thrive; disor-
29 ders of gastrointestinal motility such as chronic intestinal pseudo-ob-
30 struction; and multiple, severe food allergies which if left untreated
31 will cause malnourishment, chronic physical disability, mental retarda-
32 tion or death. Enteral formulas which are medically necessary and taken
33 under written order from a physician for the treatment of specific
34 diseases shall be distinguished from nutritional supplements taken elec-
35 tively. Coverage for certain inherited diseases of amino acid and organ-
36 ic acid metabolism shall include modified solid food products that are
37 low protein or which contain modified protein which are medically neces-
38 sary, and such coverage for such modified solid food products for any
39 calendar year or for any continuous period of twelve months for any
40 insured individual shall not exceed two thousand five hundred dollars.

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

43 (y) Every contract which provides coverage for prescription drugs
44 shall include coverage for the cost of enteral formulas for home use,
45 WHETHER ADMINISTERED ORALLY OR VIA TUBE FEEDING, for which a physician
46 or other licensed health care provider legally authorized to prescribe
47 under title eight of the education law has issued a written order. Such
48 written order shall state that the enteral formula is clearly medically
49 necessary and has been proven effective as a disease-specific treatment
50 regimen for those individuals who are or will become malnourished or
51 suffer from disorders, which if left untreated, cause chronic disabili-
52 ty, mental retardation or death. Specific diseases for which enteral
53 formulas have been proven effective shall include, but are not limited
54 to, inherited diseases of amino-acid or organic acid metabolism; Crohn's
55 Disease; gastroesophageal reflux with failure to thrive; disorders of
56 gastrointestinal motility such as chronic intestinal pseudo-obstruction;

1 and multiple, severe food allergies which if left untreated will cause
2 malnourishment, chronic physical disability, mental retardation or
3 death. Enteral formulas which are medically necessary and taken under
4 written order from a physician for the treatment of specific diseases
5 shall be distinguished from nutritional supplements taken electively.
6 Coverage for certain inherited diseases of amino acid and organic acid
7 metabolism shall include modified solid food products that are low
8 protein, or which contain modified protein which are medically neces-
9 sary, and such coverage for such modified solid food products for any
10 calendar year or for any continuous period of twelve months for any
11 insured individual 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 and homocystinuria, obtained at a partic-
21 ipating pharmacy under a prescription written by an in-plan or out-of-
22 plan provider. Health maintenance organizations, in addition to
23 providing coverage for prescription drugs at a participating pharmacy,
24 may utilize a mail order prescription drug program. Health maintenance
25 organizations may provide prescription drugs pursuant to a drug formu-
26 lary; however, health maintenance organizations must implement an
27 appeals process so that the use of non-formulary prescription drugs may
28 be requested by a physician or other provider.

29 S 6. This act shall take effect on the first of January next succeed-
30 ing the date on which it shall have become a law and shall apply to all
31 policies and contracts issued, renewed, modified, altered, or amended on
32 or after such date.