

2043

2015-2016 Regular Sessions

I N S E N A T E

January 21, 2015

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 amended by chapter 388 of the laws of 2013, 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, whether administered orally or via tube feeding, for which a
7 physician or other licensed health care provider legally authorized to
8 prescribe under title eight of the education law has issued a written
9 order. Such written order shall state that the enteral, INFANT AND BABY
10 formula is clearly medically necessary and has been proven effective as
11 a disease-specific treatment regimen for those individuals who are or
12 will become malnourished or suffer from disorders, which if left
13 untreated, cause chronic physical disability, mental retardation or
14 death. Specific diseases for which enteral, INFANT AND BABY formulas
15 have been proven effective shall include, but are not limited to, inher-
16 ited diseases of amino acid or organic acid metabolism; Crohn's Disease;
17 gastroesophageal reflux with failure to thrive; disorders of gastroin-
18 testinal motility such as chronic intestinal pseudo-obstruction; and
19 multiple, severe food allergies which if left untreated will cause maln-
20 ourishment, chronic physical disability, mental retardation or death.
21 Enteral, INFANT AND BABY formulas which are medically necessary and
22 taken under written order from a physician for the treatment of specific
23 diseases shall be distinguished from nutritional supplements taken elec-
24 tively. Coverage for certain inherited diseases of amino acid and organ-
25 ic acid metabolism shall include modified solid food products that are
26 low protein or which contain modified protein which are medically neces-
27 sary, and such coverage for such modified solid food products for any

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

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1 calendar year or for any continuous period of twelve months for any
2 insured individual shall not exceed two thousand five hundred dollars.
3 COVERAGE FOR INFANT AND BABY FORMULAS FOR ANY CALENDAR YEAR OR ANY
4 CONTINUOUS PERIOD OF TWELVE MONTHS FOR ANY INSURED INDIVIDUAL SHALL BE
5 NO LESS THAN THREE THOUSAND DOLLARS.

6 S 2. Paragraph 11 of subsection (k) of section 3221 of the insurance
7 law, as amended by chapter 388 of the laws of 2013, is amended to read
8 as follows:

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

38 S 3. Subsection (y) of section 4303 of the insurance law, as amended
39 by chapter 388 of the laws of 2013, is amended to read as follows:

40 (y) Every contract which provides coverage for prescription drugs
41 shall include coverage for the cost of enteral, INFANT AND BABY formulas
42 for home use, whether administered orally or via tube feeding, for which
43 a physician or other licensed health care provider legally authorized to
44 prescribe under title eight of the education law has issued a written
45 order. Such written order shall state that the enteral, INFANT AND BABY
46 formula is clearly medically necessary and has been proven effective as
47 a disease-specific treatment regimen for those individuals who are or
48 will become malnourished or suffer from disorders, which if left
49 untreated, cause chronic disability, mental retardation or death.
50 Specific diseases for which enteral, INFANT AND BABY formulas have been
51 proven effective shall include, but are not limited to, inherited
52 diseases of amino-acid or organic acid metabolism; Crohn's Disease;
53 gastroesophageal reflux with failure to thrive; disorders of gastroin-
54 testinal motility such as chronic intestinal pseudo-obstruction; and
55 multiple, severe food allergies which if left untreated will cause maln-
56 ourishment, chronic physical disability, mental retardation or death.

1 Enteral, INFANT AND BABY formulas which are medically necessary and
2 taken under written order from a physician for the treatment of specific
3 diseases shall be distinguished from nutritional supplements taken elec-
4 tively. Coverage for certain inherited diseases of amino acid and organ-
5 ic acid metabolism shall include modified solid food products that are
6 low protein, or which contain modified protein which are medically
7 necessary, and such coverage for such modified solid food products for
8 any calendar year or for any continuous period of twelve months for any
9 insured individual shall not exceed two thousand five hundred dollars.
10 COVERAGE FOR INFANT AND BABY FORMULAS FOR ANY CALENDAR YEAR OR ANY
11 CONTINUOUS PERIOD OF TWELVE MONTHS FOR ANY INSURED INDIVIDUAL SHALL BE
12 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 388 of the laws
15 of 2013, 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 whether administered orally or via a feeding tube for the therapeutic
22 treatment of phenylketonuria, branched-chain ketonuria, galactosemia and
23 homocystinuria[, obtained at a participating pharmacy under a
24 prescription written by an in-plan or out-of-plan provider] AND INFANT
25 AND BABY FORMULAS FOR HOME USE FOR WHICH A PHYSICIAN OR OTHER LICENSED
26 HEALTH CARE PROVIDER LEGALLY AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT
27 OF THE EDUCATION LAW HAS ISSUED A WRITTEN ORDER. SUCH WRITTEN ORDER
28 SHALL STATE THAT THE INFANT OR BABY FORMULA IS CLEARLY MEDICALLY NECES-
29 SARY AND HAS BEEN PROVEN EFFECTIVE AS A DISEASE-SPECIFIC TREATMENT REGI-
30 MEN FOR THOSE INDIVIDUALS WHO ARE OR WILL BECOME MALNOURISHED OR SUFFER
31 FROM DISORDERS, WHICH IF LEFT UNTREATED, CAUSE CHRONIC PHYSICAL DISABIL-
32 ITY, MENTAL RETARDATION OR DEATH. SPECIFIC DISEASES FOR WHICH INFANT AND
33 BABY FORMULAS HAVE BEEN PROVEN EFFECTIVE SHALL INCLUDE, BUT ARE NOT
34 LIMITED TO, INHERITED DISEASES OF AMINO ACID OR ORGANIC ACID METABOLISM;
35 CROHN'S DISEASE; GASTROESOPHAGEAL REFLUX WITH FAILURE TO THRIVE; DISOR-
36 DERS OF GASTROINTESTINAL MOTILITY SUCH AS CHRONIC INTESTINAL PSEUDO-OB-
37 STRUCTION; AND MULTIPLE, SEVERE FOOD ALLERGIES WHICH IF LEFT UNTREATED
38 WILL CAUSE MALNOURISHMENT, CHRONIC PHYSICAL DISABILITY, MENTAL RETARDA-
39 TION OR DEATH. INFANT AND BABY FORMULAS WHICH ARE MEDICALLY NECESSARY
40 AND TAKEN UNDER WRITTEN ORDER FROM A PHYSICIAN FOR THE TREATMENT OF
41 SPECIFIC DISEASES SHALL BE DISTINGUISHED FROM NUTRITIONAL SUPPLEMENTS
42 TAKEN ELECTIVELY. COVERAGE FOR INFANT AND BABY FORMULAS FOR ANY CALENDAR
43 YEAR OR ANY CONTINUOUS PERIOD OF TWELVE MONTHS FOR ANY INSURED INDIVID-
44 UAL SHALL BE NO LESS THAN THREE THOUSAND DOLLARS. Health maintenance
45 organizations, in addition to providing coverage for prescription drugs
46 at a participating pharmacy, may utilize a mail order prescription drug
47 program. Health maintenance organizations may provide prescription drugs
48 pursuant to a drug formulary; however, health maintenance organizations
49 must implement an appeals process so that the use of non-formulary
50 prescription drugs may be requested by a physician or 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.