

# STATE OF NEW YORK

10576

## IN ASSEMBLY

May 7, 2018

Introduced by M. of A. JEAN-PIERRE -- 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 Assembly, 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.

LBD07096-01-7

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 § 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 § 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 § 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.

45 Health maintenance 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 § 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.