

STATE OF NEW YORK

3345

2017-2018 Regular Sessions

IN SENATE

January 20, 2017

Introduced by Sen. BAILEY -- 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 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-

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

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ic acid metabolism shall include modified solid food products that are low protein or which contain modified protein which are medically necessary, and such coverage for such modified solid food products for any calendar year or for any continuous period of twelve months for any insured individual shall not exceed two thousand five hundred dollars.

Coverage for infant and baby formulas for any calendar year or any continuous period of twelve months for any insured individual shall be no less than three thousand dollars.

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

(11) Every policy which provides coverage for prescription drugs shall include coverage for the cost of enteral, infant and baby formulas for home use, whether administered orally or via tube feeding, for which a physician or other licensed health care provider legally authorized to prescribe under title eight of the education law has issued a written order. Such written order shall state that the enteral, infant and baby formula is clearly medically necessary and has been proven effective as a disease-specific treatment regimen for those individuals who are or will become malnourished or suffer from disorders, which if left untreated, cause chronic physical disability, mental retardation or death. Specific diseases for which enteral, infant and baby formulas have been proven effective shall include, but are not limited to, inherited diseases of amino-acid or organic acid metabolism; Crohn's Disease; gastroesophageal reflux with failure to thrive; disorders of gastrointestinal motility such as chronic intestinal pseudo-obstruction; and multiple, severe food allergies which if left untreated will cause malnourishment, chronic physical disability, mental retardation or death. Enteral, infant and baby formulas which are medically necessary and taken under written order from a physician for the treatment of specific diseases shall be distinguished from nutritional supplements taken electively. Coverage for certain inherited diseases of amino acid and organic acid metabolism shall include modified solid food products that are low protein or which contain modified protein which are medically necessary, and such coverage for such modified solid food products for any calendar year or for any continuous period of twelve months for any insured individual shall not exceed two thousand five hundred dollars. Coverage for infant and baby formulas for any calendar year or any continuous period of twelve months for any insured individual shall be no less than three thousand dollars.

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

(y) Every contract which provides coverage for prescription drugs shall include coverage for the cost of enteral, infant and baby formulas for home use, whether administered orally or via tube feeding, for which a physician or other licensed health care provider legally authorized to prescribe under title eight of the education law has issued a written order. Such written order shall state that the enteral, infant and baby formula is clearly medically necessary and has been proven effective as a disease-specific treatment regimen for those individuals who are or will become malnourished or suffer from disorders, which if left untreated, cause chronic disability, mental retardation or death. Specific diseases for which enteral, infant and baby formulas have been proven effective shall include, but are not limited to, inherited diseases of amino-acid or organic acid metabolism; Crohn's Disease; gastroesophageal reflux with failure to thrive; disorders of gastroin-

1 testinal motility such as chronic intestinal pseudo-obstruction; and
2 multiple, severe food allergies which if left untreated will cause maln-
3 ourishment, chronic physical disability, mental retardation or death.
4 Enteral, infant and baby formulas which are medically necessary and
5 taken 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
10 necessary, and such coverage for such modified solid food products for
11 any calendar year or for any continuous period of twelve months for any
12 insured individual shall not exceed two thousand five hundred dollars.
13 Coverage for infant and baby formulas for any calendar year or any
14 continuous period of twelve months for any insured individual shall be
15 no less than three thousand dollars.

16 § 4. The opening paragraph of paragraph 25 of subsection (b) of
17 section 4322 of the insurance law, as amended by chapter 388 of the laws
18 of 2013, is amended to read as follows:

19 Prescription drugs, obtained at a participating pharmacy under a
20 prescription written by an in-plan or out-of-plan provider, including
21 contraceptive drugs or devices approved by the federal food and drug
22 administration or generic equivalents approved as substitutes by such
23 food and drug administration ~~[and]~~, nutritional supplements (formulas),
24 whether administered orally or via a feeding tube for the therapeutic
25 treatment of phenylketonuria, branched-chain ketonuria, galactosemia and
26 homocystinuria~~[, obtained at a participating pharmacy under a~~
27 ~~prescription written by an in-plan or out-of-plan provider]~~ and infant
28 and baby formulas for home use for which a physician or other licensed
29 health care provider legally authorized to prescribe under title eight
30 of the education law has issued a written order. Such written order
31 shall state that the infant or baby formula is clearly medically neces-
32 sary and has been proven effective as a disease-specific treatment regi-
33 men for those individuals who are or will become malnourished or suffer
34 from disorders, which if left untreated, cause chronic physical disabil-
35 ity, mental retardation or death. Specific diseases for which infant and
36 baby formulas have been proven effective shall include, but are not
37 limited to, inherited diseases of amino acid or organic acid metabolism;
38 Crohn's Disease; gastroesophageal reflux with failure to thrive; disor-
39 ders of gastrointestinal motility such as chronic intestinal pseudo-ob-
40 struction; and multiple, severe food allergies which if left untreated
41 will cause malnourishment, chronic physical disability, mental retarda-
42 tion or death. Infant and baby formulas which are medically necessary
43 and taken under written order from a physician for the treatment of
44 specific diseases shall be distinguished from nutritional supplements
45 taken electively. Coverage for infant and baby formulas for any calendar
46 year or any continuous period of twelve months for any insured individ-
47 ual shall be no less than three thousand dollars. Health maintenance
48 organizations, in addition to providing coverage for prescription drugs
49 at a participating pharmacy, may utilize a mail order prescription drug
50 program. Health maintenance organizations may provide prescription drugs
51 pursuant to a drug formulary; however, health maintenance organizations
52 must implement an appeals process so that the use of non-formulary
53 prescription drugs may be requested by a physician or other provider.

54 § 5. This act shall take effect on the first of January next succeed-
55 ing the date on which it shall have become a law and shall apply to all

1 policies and contracts issued, renewed, modified, altered, or amended on
2 or after such date.