STATE OF NEW YORK

5053

2019-2020 Regular Sessions

IN ASSEMBLY

February 7, 2019

Introduced by M. of A. JEAN-PIERRE, ZEBROWSKI, FERNANDEZ, ORTIZ, GUNTHER, ENGLEBRIGHT, WILLIAMS, PICHARDO, JOYNER, TAYLOR, MOSLEY, ARROYO, DICKENS, D'URSO, SIMON, GOTTFRIED, BARRON, COOK, McDONOUGH, PEOPLES-STOKES, MONTESANO, RICHARDSON -- Multi-Sponsored by -- M. of A. ABBATE -- 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:

Section 1. Paragraph 21 of subsection (i) of section 3216 of the insurance law, as amended by chapter 469 of the laws of 2018, is amended to read as follows:

(21) 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. Specific diseases and disorders 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; disorders of gastrointestinal motility such as chronic intestinal pseudo-obstruction; and multiple, severe food allergies including, but not limited to immunoglobulin E and nonimmunoglobulin E-mediated allergies to multiple food proteins; severe food protein induced enterocolitis syndrome; eosinophilic disorders; and impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. Enteral*, infant and baby*

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

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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 as well as severe protein allergic conditions shall include modified solid food products that are low protein or which contain modified protein, or are amino acid based 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 469 of the laws of 2018, 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. Specific diseases and disorders 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; disorders of gastrointestinal motility such as chronic intestinal pseudo-obstruction; and multiple, severe food allergies including, but not limited to immunoglobulin E and nonimmunoglobulin E-mediated allergies to multiple food proteins; severe food protein induced enterocolitis syndrome; eosinophilic disorders and impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. 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 as well as severe protein allergic conditions shall include modified solid food products that are low protein or which contain modified protein, or are amino acid based 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 469 of the laws of 2018, 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. Specific diseases and disorders 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; disorders of gastrointestinal motility such as chronic intestinal pseudo-obstruction; and multiple, severe food allergies including, but not limited to immunoglobulin E and nonimmunoglobulin E-mediated allergies to multiple food proteins; severe food protein induced enterocolitis syndrome; eosinophilic disorders; and impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. 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 as well as severe protein allergic conditions shall include modified solid food products that are low protein, or which contain modified protein, or are amino acid based 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.**

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

Prescription drugs, **obtained at a participating pharmacy under a prescription written by an in-plan or out-of-plan provider,** including contraceptive drugs or devices approved by the federal food and drug administration or generic equivalents approved as substitutes by such food and drug administration [~~and~~]**,** nutritional supplements (formulas), whether administered orally or via a feeding tube for the therapeutic treatment of phenylketonuria, branched-chain ketonuria, galactosemia and homocystinuria[~~, obtained at a participating pharmacy under a prescription written by an in-plan or out-of-plan provider~~] **and infant and baby formulas for home use 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 infant or 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 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. 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 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**. Health maintenance organizations, in addition to providing coverage for prescription drugs at a participating pharmacy, may utilize a mail order prescription drug program. Health maintenance organizations may provide prescription drugs pursuant to a drug formulary; however, health maintenance organizations must implement an appeals process so that the use of non-formulary prescription drugs may be requested by a physician or other provider.

§ 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to all policies and contracts issued, renewed, modified, altered, or amended on or after such date.