

# STATE OF NEW YORK

2305

2019-2020 Regular Sessions

## IN SENATE

January 24, 2019

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 469 of the laws of 2018, 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. Specific diseases and disorders  
12 for which enteral, infant and baby formulas have been proven effective  
13 shall include, but are not limited to, inherited diseases of amino acid  
14 or organic acid metabolism; Crohn's Disease; gastroesophageal reflux;  
15 disorders of gastrointestinal motility such as chronic intestinal pseu-  
16 do-obstruction; and multiple, severe food allergies including, but not  
17 limited to immunoglobulin E and nonimmunoglobulin E-mediated allergies  
18 to multiple food proteins; severe food protein induced enterocolitis  
19 syndrome; eosinophilic disorders; and impaired absorption of nutrients  
20 caused by disorders affecting the absorptive surface, function, length,  
21 and motility of the gastrointestinal tract. Enteral, infant and baby  
22 formulas which are medically necessary and taken under written order  
23 from a physician for the treatment of specific diseases shall be distin-  
24 guished from nutritional supplements taken electively. Coverage for

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

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1 certain inherited diseases of amino acid and organic acid metabolism as  
2 well as severe protein allergic conditions shall include modified solid  
3 food products that are low protein or which contain modified protein, or  
4 are amino acid based which are medically necessary, and such coverage  
5 for such modified solid food products for any calendar year or for any  
6 continuous period of twelve months for any insured individual shall not  
7 exceed two thousand five hundred dollars. Coverage for infant and baby  
8 formulas for any calendar year or any continuous period of twelve months  
9 for any insured individual shall be no less than three thousand dollars.

10 § 2. Paragraph 11 of subsection (k) of section 3221 of the insurance  
11 law, as amended by chapter 469 of the laws of 2018, is amended to read  
12 as follows:

13 (11) Every policy which provides coverage for prescription drugs shall  
14 include coverage for the cost of enteral, infant and baby formulas for  
15 home use, whether administered orally or via tube feeding, for which a  
16 physician or other licensed health care provider legally authorized to  
17 prescribe under title eight of the education law has issued a written  
18 order. Such written order shall state that the enteral, infant and baby  
19 formula is clearly medically necessary and has been proven effective as  
20 a disease-specific treatment regimen. Specific diseases and disorders  
21 for which enteral, infant and baby formulas have been proven effective  
22 shall include, but are not limited to, inherited diseases of amino-acid  
23 or organic acid metabolism; Crohn's Disease; gastroesophageal reflux;  
24 disorders of gastrointestinal motility such as chronic intestinal pseu-  
25 do-obstruction; and multiple, severe food allergies including, but not  
26 limited to immunoglobulin E and nonimmunoglobulin E-mediated allergies  
27 to multiple food proteins; severe food protein induced enterocolitis  
28 syndrome; eosinophilic disorders and impaired absorption of nutrients  
29 caused by disorders affecting the absorptive surface, function, length,  
30 and motility of the gastrointestinal tract. Enteral, infant and baby  
31 formulas which are medically necessary and taken under written order  
32 from a physician for the treatment of specific diseases shall be distin-  
33 guished from nutritional supplements taken electively. Coverage for  
34 certain inherited diseases of amino acid and organic acid metabolism as  
35 well as severe protein allergic conditions shall include modified solid  
36 food products that are low protein or which contain modified protein, or  
37 are amino acid based which are medically necessary, and such coverage  
38 for such modified solid food products for any calendar year or for any  
39 continuous period of twelve months for any insured individual shall not  
40 exceed two thousand five hundred dollars. Coverage for infant and baby  
41 formulas for any calendar year or any continuous period of twelve months  
42 for any insured individual shall be no less than three thousand dollars.

43 § 3. Subsection (y) of section 4303 of the insurance law, as amended  
44 by chapter 469 of the laws of 2018, is amended to read as follows:

45 (y) Every contract which provides coverage for prescription drugs  
46 shall include coverage for the cost of enteral, infant and baby formulas  
47 for home use, whether administered orally or via tube feeding, for which  
48 a physician or other licensed health care provider legally authorized to  
49 prescribe under title eight of the education law has issued a written  
50 order. Such written order shall state that the enteral, infant and baby  
51 formula is clearly medically necessary and has been proven effective as  
52 a disease-specific treatment regimen. Specific diseases and disorders  
53 for which enteral, infant and baby formulas have been proven effective  
54 shall include, but are not limited to, inherited diseases of amino-acid  
55 or organic acid metabolism; Crohn's Disease; gastroesophageal reflux;  
56 disorders of gastrointestinal motility such as chronic intestinal pseu-

1 do-obstruction; and multiple, severe food allergies including, but not  
2 limited to immunoglobulin E and nonimmunoglobulin E-mediated allergies  
3 to multiple food proteins; severe food protein induced enterocolitis  
4 syndrome; eosinophilic disorders; and impaired absorption of nutrients  
5 caused by disorders affecting the absorptive surface, function, length,  
6 and motility of the gastrointestinal tract. Enteral, infant and baby  
7 formulas which are medically necessary and taken under written order  
8 from a physician for the treatment of specific diseases shall be distin-  
9 guished from nutritional supplements taken electively. Coverage for  
10 certain inherited diseases of amino acid and organic acid metabolism as  
11 well as severe protein allergic conditions shall include modified solid  
12 food products that are low protein, or which contain modified protein,  
13 or are amino acid based which are medically necessary, and such coverage  
14 for such modified solid food products for any calendar year or for any  
15 continuous period of twelve months for any insured individual shall not  
16 exceed two thousand five hundred dollars. Coverage for infant and baby  
17 formulas for any calendar year or any continuous period of twelve months  
18 for any insured individual shall be no less than three thousand dollars.

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

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

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