

STATE OF NEW YORK

3386

2021-2022 Regular Sessions

IN SENATE

January 29, 2021

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 section 6 of subpart B of part J of chapter
3 57 of the laws of 2019, is amended to read as follows:
4 (21) Every policy that 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 that are medically necessary and taken under written order from
23 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, contain modified protein, or are
4 amino acid based that are medically necessary. Coverage for infant and
5 baby formulas for any calendar year or any continuous period of twelve
6 months for any insured individual shall be no less than three thousand
7 dollars.

8 § 2. Paragraph 11 of subsection (k) of section 3221 of the insurance
9 law, as amended by section 14 of subpart B of part J of chapter 57 of
10 the laws of 2019, is amended to read as follows:

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

39 § 3. Subsection (y) of section 4303 of the insurance law, as amended
40 by section 27 of subpart B of part J of chapter 57 of the laws of 2019,
41 is amended to read as follows:

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

1 syndrome; eosinophilic disorders; and impaired absorption of nutrients
2 caused by disorders affecting the absorptive surface, function, length,
3 and motility of the gastrointestinal tract. Enteral, infant and baby
4 formulas that are medically necessary and taken under written order from
5 a physician for the treatment of specific diseases shall be distin-
6 guished from nutritional supplements taken electively. Coverage for
7 certain inherited diseases of amino acid and organic acid metabolism as
8 well as severe protein allergic conditions shall include modified solid
9 food products that are low protein, contain modified protein, or are
10 amino acid based that are medically necessary. Coverage for infant and
11 baby formulas for any calendar year or any continuous period of twelve
12 months for any insured individual shall be no less than three thousand
13 dollars.

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

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

46 Health maintenance organizations, in addition to providing coverage for prescription drugs
47 at a participating pharmacy, may utilize a mail order prescription drug
48 program. Health maintenance organizations may provide prescription drugs
49 pursuant to a drug formulary; however, health maintenance organizations
50 must implement an appeals process so that the use of non-formulary
51 prescription drugs may be requested by a physician or other provider.

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