

STATE OF NEW YORK

1500

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. JEAN-PIERRE, GUNTHER, WILLIAMS, JOYNER, TAYLOR, COOK, DICKENS, McDONOUGH, PEOPLES-STOKES, JACKSON, ZEBROWSKI -- 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 section 6 of subpart B of part J of chapter 57 of the laws of 2019, is amended to read as follows:

(21) Every policy that 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 that are medically necessary and taken under written order from a physician for the treatment of specific diseases shall be distin-

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

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guished 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, contain modified protein, or are amino acid based that are medically necessary. 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 section 14 of subpart B of part J of chapter 57 of the laws of 2019, is amended to read as follows:

(11) Every policy that 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 that 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, contain modified protein, or are amino acid based that are medically necessary. 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 section 27 of subpart B of part J of chapter 57 of the laws of 2019, is amended to read as follows:

(y) Every contract that 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

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

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

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