STATE OF NEW YORK

771--A

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. ROSENTHAL, COOK -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law and the social services law, in relation to requiring coverage for early egg and peanut allergen introduction dietary supplements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 41 to read as follows:

(41) (A) For purposes of this paragraph:

(i) "Dietary supplement" shall have the same meaning as in section three hundred twenty-one of the federal food, drug, and cosmetic act.

(ii) "Early egg allergen introduction dietary supplement" means a dietary supplement that is prescribed to an infant by a health care practitioner and contains sufficient infant-safe, well-cooked egg protein to reduce the risk of food allergies.

(iii) "Early peanut allergen introduction dietary supplement" means a dietary supplement that is prescribed to an infant by a health care practitioner and contains sufficient infant-safe peanut protein to reduce the risk of food allergies.

(iv) "Health care practitioner" means an individual licensed, certified or otherwise authorized to practice, and legally authorized to prescribe, under title eight of the education law.

(v) "Infant" means a child who has not attained the age of one year.

(B) (i) All individual health insurance policies, contracts, or certificates that are delivered, issued for delivery, renewed, extended or modified in this state shall provide coverage for at least one of each of the following:

(1) an early egg allergen introduction dietary supplement; and

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

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(2) an early peanut allergen introduction dietary supplement.

(ii) The coverage required pursuant to item (i) of this subparagraph shall be provided at no cost to a covered individual, including deductible payments and cost-sharing amounts charged once a deductible is met.

(C) Except as provided under subparagraph (B) of this paragraph, nothing in this paragraph shall prevent the operation of a policy provision required by this paragraph as a deductible, coinsurance, allowable charge limitation, coordination of benefits, or a provision restricting coverage to services by a licensed, certified, or carrier-approved provider or facility.

(D) (i) This paragraph shall not apply to accident only, specified disease, hospital indemnity, Medicare supplement, long term care, disability income or other limited benefit health insurance policies.

(ii) The cost-sharing limitation under item (ii) of subparagraph (B) of this paragraph shall not apply to a catastrophic health plan to the extent such cost-sharing limitation would cause such plan to fail to be treated as a catastrophic plan under subsection (e) of section thirteen hundred two of the patient protection and affordable care act.

(iii) (1) The cost-sharing limitation under item (ii) of subparagraph (B) of this paragraph shall not apply to a high deductible health plan to the extent such cost-sharing limitation would cause such plan to fail to be treated as a high deductible health plan under paragraph two of subsection (c) of section two hundred twenty-three of the internal revenue code.

(2) If the cost-sharing limitation under item (ii) of subparagraph (B) of this paragraph would result in an enrollee becoming ineligible for a health savings account under federal law, such cost-sharing limitation shall only apply to a qualified high deductible health plan after such enrollee's deductible has been met.

§ 2. Section 3221 of the insurance law is amended by adding a new subsection (v) to read as follows:

(v) (1) For purposes of this subsection:

(A) "Dietary supplement" shall have the same meaning as in section three hundred twenty-one of the federal food, drug, and cosmetic act.

(B) "Early egg allergen introduction dietary supplement" means a dietary supplement that is prescribed to an infant by a health care practitioner and contains sufficient infant-safe, well-cooked egg protein to reduce the risk of food allergies.

(C) "Early peanut allergen introduction dietary supplement" means a dietary supplement that is prescribed to an infant by a health care practitioner and contains sufficient infant-safe peanut protein to reduce the risk of food allergies.

(D) "Health care practitioner" means an individual licensed, certified or otherwise authorized to practice, and legally authorized to prescribe, under title eight of the education law.

(E) "Infant" means a child who has not attained the age of one year.

(2) (A) All group health insurance policies, contracts, or certificates that are delivered, issued for delivery, renewed, extended or modified in this state shall provide coverage for at least one of each of the following:

(i) an early egg allergen introduction dietary supplement; and

(ii) an early peanut allergen introduction dietary supplement.

(B) The coverage required pursuant to subparagraph (A) of this paragraph shall be provided at no cost to a covered individual, including deductible payments and cost-sharing amounts charged once a deductible is met.

(3) Except as provided under paragraph two of this subsection, nothing in this subsection shall prevent the operation of a policy provision required by this subsection as a deductible, coinsurance, allowable charge limitation, coordination of benefits, or a provision restricting coverage to services by a licensed, certified, or carrier-approved provider or facility.

(4) (A) This subsection shall not apply to accident only, specified disease, hospital indemnity, Medicare supplement, long term care, disability income or other limited benefit health insurance policies.

(B) The cost-sharing limitation under subparagraph (B) of paragraph two of this subsection shall not apply to a catastrophic health plan to the extent such cost-sharing limitation would cause such plan to fail to be treated as a catastrophic plan under subsection (e) of section thirteen hundred two of the patient protection and affordable care act.

(C) (i) The cost-sharing limitation under subparagraph (B) of paragraph two of this subsection shall not apply to a high deductible health plan to the extent such cost-sharing limitation would cause such plan to fail to be treated as a high deductible health plan under paragraph two of subsection (c) of section two hundred twenty-three of the internal revenue code.

(ii) If the cost-sharing limitation under subparagraph (B) of paragraph two of this subsection would result in an enrollee becoming ineligible for a health savings account under federal law, such cost-sharing limitation shall only apply to a qualified high deductible health plan after such enrollee's deductible has been met.

§ 3. Section 4303 of the insurance law is amended by adding a new subsection (ww) to read as follows:

(ww) (1) For purposes of this subsection:

(A) "Dietary supplement" shall have the same meaning as in section three hundred twenty-one of the federal food, drug, and cosmetic act.

(B) "Early egg allergen introduction dietary supplement" means a dietary supplement that is prescribed to an infant by a health care practitioner and contains sufficient infant-safe, well-cooked egg protein to reduce the risk of food allergies.

(C) "Early peanut allergen introduction dietary supplement" means a dietary supplement that is prescribed to an infant by a health care practitioner and contains sufficient infant-safe peanut protein to reduce the risk of food allergies.

(D) "Health care practitioner" means an individual licensed, certified or otherwise authorized to practice, and legally authorized to prescribe, under title eight of the education law.

(E) "Infant" means a child who has not attained the age of one year.

(2) (A) Every policy which provides hospital, medical or surgical coverage shall provide coverage for at least one of each of the following:

(i) an early egg allergen introduction dietary supplement; and

(ii) an early peanut allergen introduction dietary supplement.

(B) The coverage required pursuant to paragraph two of this subsection shall be provided at no cost to a covered individual, including deductible payments and cost-sharing amounts charged once a deductible is met.

(3) Except as provided under paragraph two of this subsection, nothing in this subsection shall prevent the operation of a policy provision required by this subsection as a deductible, coinsurance, allowable charge limitation, coordination of benefits, or a provision restricting coverage to services by a licensed, certified, or carrier-approved provider or facility.

(4) (A) This subsection shall not apply to accident only, specified disease, hospital indemnity, Medicare supplement, long term care, disability income or other limited benefit health insurance policies.

(B) The cost-sharing limitation under subparagraph (B) of paragraph two of this subsection shall not apply to a catastrophic health plan to the extent such cost-sharing limitation would cause such plan to fail to be treated as a catastrophic plan under subsection (e) of section thirteen hundred two of the patient protection and affordable care act.

(C) (i) The cost-sharing limitation under subparagraph (B) of paragraph two of this subsection shall not apply to a high deductible health plan to the extent such cost-sharing limitation would cause such plan to fail to be treated as a high deductible health plan under paragraph two of subsection (c) of section two hundred twenty-three of the internal revenue code.

(ii) If the cost-sharing limitation under subparagraph (B) of paragraph two of this subsection would result in an enrollee becoming ineligible for a health savings account under federal law, such cost-sharing limitation shall only apply to a qualified high deductible health plan after such enrollee's deductible has been met.

§ 4. Subdivision 2 of section 365-a of the social services law is amended by adding a new paragraph (oo) to read as follows:

(oo) (i) at least one early egg allergen introduction dietary supplement and at least one early peanut allergen introduction dietary supplement at no cost.

(ii) as used in this paragraph, the following terms shall have the following meanings:

(1) "Early egg allergen introduction dietary supplement" means a dietary supplement that is prescribed to an infant by a health care practitioner and contains sufficient infant-safe, well-cooked egg protein to reduce the risk of food allergies.

(2) "Early peanut allergen introduction dietary supplement" means a dietary supplement that is prescribed to an infant by a health care practitioner and contains sufficient infant-safe peanut protein to reduce the risk of food allergies.

§ 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.