

# 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:

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

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

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

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

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

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

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

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

22 (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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1 (2) an early peanut allergen introduction dietary supplement.

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

5 (C) Except as provided under subparagraph (B) of this paragraph, noth-  
6 ing in this paragraph shall prevent the operation of a policy provision  
7 required by this paragraph as a deductible, coinsurance, allowable  
8 charge limitation, coordination of benefits, or a provision restricting  
9 coverage to services by a licensed, certified, or carrier-approved  
10 provider or facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (ii) an early peanut allergen introduction dietary supplement.

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (2) (A) Every policy which provides hospital, medical or surgical  
44 coverage shall provide coverage for at least one of each of the follow-  
45 ing:

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

47 (ii) an early peanut allergen introduction dietary supplement.

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

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

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

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

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

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

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

22 (oo) (i) at least one early egg allergen introduction dietary supple-  
23 ment and at least one early peanut allergen introduction dietary supple-  
24 ment at no cost.

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

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

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

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