

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2272 Session of 2010

INTRODUCED BY BRADFORD, SONNEY, BRENNAN, BRIGGS, FABRIZIO,
GOODMAN, HORNAMAN, KORTZ, MANN, MCGEEHAN, PARKER, PYLE,
SIPTROTH, STABACK, TRUE, VULAKOVICH AND WAGNER, MARCH 1, 2010

REFERRED TO COMMITTEE ON INSURANCE, MARCH 1, 2010

AN ACT

1 Amending the act of December 20, 1996 (P.L.1492, No.191),
2 entitled "An act providing for certain health insurance
3 policies to cover the cost of formulas necessary for the
4 treatment of phenylketonuria and related disorders," further
5 defining "health insurance policy"; and providing for
6 nonallergenic baby formula.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Sections 2, 3, 4, 6 and 7 of the act of December
10 20, 1996 (P.L.1492, No.191), known as the Medical Foods
11 Insurance Coverage Act, are amended to read:

12 Section 2. Declaration of policy.

13 The General Assembly finds and declares as follows:

14 (1) Phenylketonuria (PKU), branched-chain ketonuria,
15 galactosemia and homocystinuria are aminoacidopathies that
16 are rare hereditary genetic metabolic disorders.

17 (2) Lacking in these aminoacidopathies is the body's
18 ability to process or metabolize amino acids, and, if left
19 untreated or without proper therapeutic management, these

1 disorders cause severe mental retardation and chronic
2 physical disabilities.

3 (3) The only form of treatment is by restricting food
4 intake in order to remove the problem amino acids, which are
5 necessary in the diet, and then replenishing them in
6 carefully controlled measured amounts of a nutritional food
7 substitute.

8 (4) In an attempt to encourage the development of new
9 products, increase availability and reduce cost, formulas
10 were removed from the Federal prescription list and
11 reclassified as medical foods. An unfortunate side effect has
12 been the reluctance of many insurance companies to cover the
13 cost of these formulas. In instances where coverage is
14 provided, it is random and subject to inconsistent
15 interpretation.

16 (5) The intent of this legislation is not to require
17 insurance coverage for normal food products used in dietary
18 management of these disorders, but to provide for such
19 coverage of formulas that are equivalent to a prescription
20 drug and nonallergenic baby formula medically necessary for
21 the therapeutic treatment of such rare hereditary genetic
22 metabolic disorders and administered under the direction of a
23 physician.

24 (6) In recognition by the General Assembly that such
25 formulas and nonallergenic baby formula are medically
26 necessary and critical to the well-being of individuals
27 afflicted with rare hereditary genetic metabolic disorders,
28 it shall be required that health insurance policies issued in
29 this Commonwealth shall include such coverage.

30 Section 3. Definitions.

1 The following words and phrases when used in this act shall
2 have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Health insurance policy." Except for specified disease and
5 accident-only policies, the term shall mean any group health
6 insurance policy, contract or plan or any individual policy,
7 contract or plan [with coverage for prescription drugs] which
8 provides medical coverage on an expense-incurred, service or
9 prepaid basis. The term includes the following:

10 (1) A health insurance policy or contract issued by a
11 nonprofit corporation subject to 40 Pa.C.S. Chs. 61 (relating
12 to hospital plan corporations) and 63 (relating to
13 professional health services plan corporations) and [the act
14 of December 14, 1992 (P.L.835, No.134), known as the
15 Fraternal Benefit Societies Code.] Article 24 of the act of
16 May 17, 1921 (P.L.582, No.284), known as The Insurance
17 Company Law of 1921.

18 (2) A health service plan operating under the act of
19 December 29, 1972 (P.L.1701, No.364), known as the Health
20 Maintenance Organization Act.

21 Section 4. Medical foods insurance coverage.

22 Except as provided in section 7, any health insurance policy
23 which is delivered, issued for delivery, renewed, extended or
24 modified in this Commonwealth by any health care insurer shall
25 provide that the health insurance benefits applicable under the
26 policy include coverage for the cost of nutritional supplements
27 (formulas) and nonallergenic baby formula as medically necessary
28 for the therapeutic treatment of phenylketonuria, branched-chain
29 ketonuria, galactosemia and homocystinuria as administered under
30 the direction of a physician.

Section 6. Cost-sharing provisions.

(a) Applicability.--Benefits for nutritional supplements (formulas) and nonallergenic baby formula as medically necessary for the therapeutic treatment of phenylketonuria, branched-chain ketonuria, galactosemia and homocystinuria as administered under the direction of a physician shall be subject to copayment and coinsurance provisions of a health insurance policy to the extent that other medical services covered by the policy are subject to those provisions.

(b) Exemption.--Benefits for nutritional supplements (formulas) and nonallergenic baby formula as medically necessary for the therapeutic treatment of phenylketonuria, branched-chain ketonuria, galactosemia and homocystinuria as administered under the direction of a physician shall be exempt from deductible provisions in a health insurance policy. This exemption must be explicitly provided for in the policy.

Section 7. Exemption.

Notwithstanding sections 4 and 5, this act shall not be construed to require a health insurance policy to include coverage for nutritional supplements (formulas) and nonallergenic baby formula as medically necessary for the therapeutic treatment of phenylketonuria, branched-chain ketonuria, galactosemia and homocystinuria as administered under the direction of a physician for an individual who is a resident of this Commonwealth if all of the following apply:

(1) The individual is employed outside this Commonwealth.

(2) The individual's employer maintains a health insurance policy for the individual as an employment benefit.

Section 2. This act shall take effect in 180 days.