

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1436 Session of 2013

INTRODUCED BY TRUITT, PAINTER, YOUNGBLOOD, BARRAR, BISHOP, MILLARD, ROZZI, SCHLOSSBERG, V. BROWN, BROOKS, SABATINA, HEFFLEY, WATSON, MURT, GINGRICH, BRADFORD, D. MILLER, BROWNLEE AND TOOHIL, MAY 23, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 29, 2014

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," amending
5 the title of the act; and further providing for declaration <--
6 of policy, for medical foods insurance coverage, AND for <--
7 cost-sharing provisions and for exemption. <--

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

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

13 SECTION 1. THE TITLE AND SECTIONS 4 AND 6 OF THE ACT OF <--
14 DECEMBER 20, 1996 (P.L.1492, NO.191), KNOWN AS THE MEDICAL FOODS
15 INSURANCE COVERAGE ACT, ARE AMENDED TO READ:

AN ACT

17 Providing for certain health insurance policies to cover the
18 cost of formulas necessary for the treatment of
19 phenylketonuria and [related] OTHER disorders. and food <--

1 ~~related allergic disorders.~~

2 ~~Section 2. Declaration of policy.~~

3 ~~The General Assembly finds and declares as follows:~~

4 ~~(1) Phenylketonuria (PKU), branched chain ketonuria,~~
5 ~~galactosemia and homocystinuria are aminoacidopathies that~~
6 ~~are rare hereditary genetic metabolic disorders.~~

7 ~~(2) Lacking in these aminoacidopathies is the body's~~
8 ~~ability to process or metabolize amino acids, and, if left~~
9 ~~untreated or without proper therapeutic management, these~~
10 ~~disorders cause severe mental retardation and chronic~~
11 ~~physical disabilities.~~

12 ~~(3) The only form of treatment is by restricting food~~
13 ~~intake in order to remove the problem amino acids, which are~~
14 ~~necessary in the diet, and then replenishing them in~~
15 ~~carefully controlled measured amounts of a nutritional food~~
16 ~~substitute.~~

17 ~~(4) In an attempt to encourage the development of new~~
18 ~~products, increase availability and reduce cost, formulas~~
19 ~~were removed from the Federal prescription list and~~
20 ~~reclassified as medical foods. An unfortunate side effect has~~
21 ~~been the reluctance of many insurance companies to cover the~~
22 ~~cost of these formulas. In instances where coverage is~~
23 ~~provided, it is random and subject to inconsistent~~
24 ~~interpretation.~~

25 ~~(5) The intent of this legislation is not to require~~
26 ~~insurance coverage for normal food products used in dietary~~
27 ~~management of these disorders, but to provide for such~~
28 ~~coverage of formulas that are equivalent to a prescription~~
29 ~~drug medically necessary for the therapeutic treatment and~~
30 ~~dietary management of such rare hereditary genetic metabolic~~

1 ~~and food related allergic disorders, and administered under~~
2 ~~the direction of a physician.~~

3 ~~(6) In recognition by the General Assembly that such~~
4 ~~formulas are medically necessary and critical to the well-~~
5 ~~being of individuals afflicted with rare hereditary genetic~~
6 ~~metabolic and food related allergic disorders, it shall be~~
7 ~~required that health insurance policies issued in this~~
8 ~~Commonwealth shall include such coverage.~~

9 Section 4. Medical foods insurance coverage.

10 (A) NUTRITIONAL SUPPLEMENTS.--Except as provided in section <--
11 7, any health insurance policy which is delivered, issued for
12 delivery, renewed, extended or modified in this Commonwealth by
13 any health care insurer shall provide that the health insurance
14 benefits applicable under the policy include coverage for the
15 cost of nutritional supplements (formulas) as medically
16 necessary for the therapeutic treatment of phenylketonuria,
17 branched-chain ketonuria, galactosemia ~~and~~ homocystinuria, <--
18 ~~IgE and Non IgE mediated food protein allergies, food protein~~
19 ~~induced enterocolitis syndrome, eosinophilic disorders and~~
20 ~~short bowel syndrome~~ as administered under the direction of a
21 physician.

22 (B) AMINO ACID-BASED ELEMENTAL MEDICAL FORMULA.--EXCEPT AS <--
23 PROVIDED IN SECTION 7, ANY HEALTH INSURANCE POLICY WHICH IS
24 DELIVERED, ISSUED FOR DELIVERY, RENEWED, EXTENDED OR MODIFIED IN
25 THIS COMMONWEALTH BY ANY HEALTH CARE INSURER SHALL PROVIDE THAT
26 THE HEALTH INSURANCE BENEFITS APPLICABLE UNDER THE POLICY
27 INCLUDE COVERAGE FOR INFANTS AND CHILDREN FOR THE COST OF AMINO
28 ACID-BASED ELEMENTAL MEDICAL FORMULA PRESCRIBED BY A PHYSICIAN
29 AND ADMINISTERED ORALLY OR ENTERALLY FOR IGE AND NON-IGE
30 MEDIATED FOOD PROTEIN ALLERGIES, FOOD PROTEIN-INDUCED

1 ENTEROCOLITIS SYNDROME, EOSINOPHILIC DISORDERS AND SHORT-BOWEL
2 SYNDROME.

3 Section 6. Cost-sharing provisions.

4 (a) Applicability.--Benefits for nutritional supplements
5 (formulas) as medically necessary for the therapeutic treatment
6 of phenylketonuria, branched-chain ketonuria, galactosemia
7 ~~and~~ homocystinuria and food related allergic disorders as <--
8 administered under the direction of a physician shall be subject
9 to copayment and coinsurance provisions of a health insurance
10 policy to the extent that other medical services covered by the
11 policy are subject to those provisions.

12 (A.1) AMINO ACID-BASED ELEMENTAL MEDICAL FORMULA.--BENEFITS <--
13 FOR AMINO ACID-BASED ELEMENTAL MEDICAL FORMULA PRESCRIBED BY A
14 PHYSICIAN FOR IGE AND NON-IGE MEDIATED FOOD PROTEIN ALLERGIES,
15 FOOD PROTEIN-INDUCED ENTEROCOLITIS SYNDROME, EOSINOPHILIC
16 DISORDERS AND SHORT-BOWEL SYNDROME SHALL BE SUBJECT TO COPAYMENT
17 AND COINSURANCE PROVISIONS OF A HEALTH INSURANCE POLICY TO THE
18 EXTENT THAT OTHER MEDICAL SERVICES COVERED BY THE POLICY ARE
19 SUBJECT TO THOSE PROVISIONS.

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

27 ~~Section 7. Exemption.~~ <--

28 ~~Notwithstanding sections 4 and 5, this act shall not be~~
29 ~~construed to require a health insurance policy to include~~
30 ~~coverage for nutritional supplements (formulas) as medically~~

1 ~~necessary for the therapeutic treatment of phenylketonuria,~~
2 ~~branched chain ketonuria, galactosemia [and], homocystinuria and~~
3 ~~food related allergic disorders as administered under the~~
4 ~~direction of a physician for an individual who is a resident of~~
5 ~~this Commonwealth if all of the following apply:~~

6 ~~(1) The individual is employed outside this~~
7 ~~Commonwealth.~~

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

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