

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1532 Session of
1995

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CORNELL, RICHARDSON, WAUGH AND SCHRODER, MAY 3, 1995

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 20, 1996

AN ACT

1 Providing for certain health insurance policies to cover the
2 cost of formulas necessary for the treatment of
3 phenylketonuria and related disorders.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Medical Foods
8 Insurance Coverage Act.

9 Section 2. Declaration of policy.

10 The General Assembly finds and declares as follows:

11 (1) Phenylketonuria (PKU), branched-chain ketonuria,
12 galactosemia and homocystinuria are aminoacidopathies that
13 are rare hereditary genetic metabolic disorders.

14 (2) Lacking in these aminoacidopathies is the body's
15 ability to process or metabolize amino acids, and, if left
16 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, medically necessary for the therapeutic treatment of
21 such rare hereditary genetic metabolic disorders and
22 administered under the direction of a physician.

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

29 Section 3. Definitions.

30 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

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

9 (1) A health insurance policy or contract issued by a
10 nonprofit corporation subject to 40 Pa.C.S. Chs. 61 (relating
11 to hospital plan corporations) and 63 (relating to
12 professional health services plan corporations) and the act
13 of December 14, 1992 (P.L.835, No.134), known as the
14 Fraternal Benefit Societies Code.

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

18 Section 4. Medical foods insurance coverage.

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

28 Section 5. Delivery of policy.

29 Except as provided in section 7, if a health insurance policy
30 provides coverage or benefits to a resident of this

1 Commonwealth, it shall be deemed to be delivered in this
2 Commonwealth within the meaning of this act, regardless of
3 whether the health care insurer issuing or delivering the policy
4 is located within or outside this Commonwealth.

5 Section 6. Cost-sharing provisions.

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

14 (b) Exemption.--Benefits for nutritional supplements
15 (formulas) as medically necessary for the therapeutic treatment
16 of phenylketonuria, branched-chain ketonuria, galactosemia and
17 homocystinuria as administered under the direction of a
18 physician shall be exempt from deductible ~~or dollar limit~~ <—
19 provisions in a health insurance policy. This exemption must be
20 explicitly provided for in the policy.

21 Section 7. Exemption.

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

30 (1) The individual is employed outside this

1 Commonwealth.

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

4 Section 8. Regulations.

5 The Department of Health and the Insurance Department shall
6 promulgate regulations to implement this act.

7 Section 9. Applicability.

8 This act shall apply to all insurance policies, subscriber
9 contracts and group insurance certificates issued under any
10 group master policy, delivered or issued for delivery on or
11 after the effective date of this act. This act shall also apply
12 to all renewals of contracts on any renewal date which is on or
13 after the effective date of this act.

14 Section 10. Effective date.

15 This act shall take effect in six months.