

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1532 Session of
1995

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MAY 3, 1995

REFERRED TO COMMITTEE ON INSURANCE, MAY 3, 1995

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
17 disorders cause severe mental retardation and chronic

1 physical disabilities.

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

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

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

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

28 Section 3. Definitions.

29 The following words and phrases when used in this act shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

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

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

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

17 Section 4. Medical foods insurance coverage.

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

27 Section 5. Delivery of policy.

28 Except as provided in section 7, if a health insurance policy
29 provides coverage or benefits to a resident of this
30 Commonwealth, it shall be deemed to be delivered in this

1 Commonwealth within the meaning of this act, regardless of
2 whether the health care insurer issuing or delivering the policy
3 is located within or outside this Commonwealth.

4 Section 6. Cost-sharing provisions.

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

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

20 Section 7. Exemption.

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

29 (1) The individual is employed outside this
30 Commonwealth.

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

3 Section 8. Regulations.

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

6 Section 9. Applicability.

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

13 Section 10. Effective date.

14 This act shall take effect in six months.