

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2723 Session of
1998

INTRODUCED BY MICOZZIE, KENNEY, McILHATTAN, ADOLPH, CIVERA AND
GANNON, JUNE 10, 1998

REFERRED TO COMMITTEE ON INSURANCE, JUNE 10, 1998

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,"
5 providing for low protein modified food products.

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

8 Section 1. Section 2 of the act of December 20, 1996
9 (P.L.1492, No.191), known as the Medical Foods Insurance
10 Coverage Act, is amended to read:

11 Section 2. Declaration of policy.

12 The General Assembly finds and declares as follows:

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

16 (2) Lacking in these aminoacidopathies is the body's
17 ability to process or metabolize amino acids, and, if left
18 untreated or without proper therapeutic management, these
19 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] natural food
17 products that are naturally low in protein which are used in
18 dietary management of these disorders, but to provide for
19 such coverage of formulas that are equivalent to a
20 prescription drug and low protein modified food products
21 medically necessary for the therapeutic treatment of such
22 rare hereditary genetic metabolic disorders and administered
23 under the direction of a physician.

24 (6) In recognition by the General Assembly that such
25 formulas and low protein modified food products 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 2. Section 3 of the act is amended by adding a

1 definition to read:

2 Section 3. Definitions.

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

6 * * *

7 "Low protein modified food product." A food product that is
8 pecially formulated to have less than one gram of protein per
9 serving, and intended to be used under the direction of a
10 physician for the dietary treatment of an inherited metabolic
11 disease. The term does not include a natural food that is
12 naturally low in protein.

13 Section 3. Sections 4, 6 and 7 of the act are amended to
14 read:

15 Section 4. Medical foods insurance coverage.

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

25 Section 6. Cost-sharing provisions.

26 (a) Applicability.--Benefits for nutritional supplements
27 (formulas) and low protein modified food products as medically
28 necessary for the therapeutic treatment of phenylketonuria,
29 branched-chain ketonuria, galactosemia and homocystinuria as
30 administered under the direction of a physician shall be subject

1 to copayment and coinsurance provisions of a health insurance
2 policy to the extent that other medical services covered by the
3 policy are subject to those provisions.

4 (b) Exemption.--Benefits for nutritional supplements
5 (formulas) and low protein modified food products as medically
6 necessary for the therapeutic treatment of phenylketonuria,
7 branched-chain ketonuria, galactosemia and homocystinuria as
8 administered under the direction of a physician shall be exempt
9 from deductible provisions in a health insurance policy. This
10 exemption must be explicitly provided for in the policy.

11 Section 7. Exemption.

12 Notwithstanding sections 4 and 5, this act shall not be
13 construed to require a health insurance policy to include
14 coverage for nutritional supplements (formulas) and low protein
15 modified food products as medically necessary for the
16 therapeutic treatment of phenylketonuria, branched-chain
17 ketonuria, galactosemia and homocystinuria as administered under
18 the direction of a physician for an individual who is a resident
19 of this Commonwealth if all of the following apply:

20 (1) The individual is employed outside this
21 Commonwealth.

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

24 Section 4. This act shall take effect in 60 days.