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Public Law
123rd Legislature
Second Regular Session

Chapter 595
H.P. 507 - L.D. 658

An Act To Protect the Health of Infants

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24 MRSA §2317-B, sub-§12-C is enacted to read:

12-C. Title 24-A, sections 2763, 2847-N and 4254. Coverage for medically necessary infant formula, Title 24-A, sections 2763, 2847-N and 4254;

Sec. 2. 24-A MRSA §2763 is enacted to read:

§ 2763. Coverage for medically necessary infant formula

All individual health insurance policies, contracts and certificates must provide coverage for amino acid-based elemental infant formula for children 2 years of age and under in accordance with this section.

1. Determination of medical necessity. Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has submitted documentation that the amino acid-based elemental infant formula is medically necessary health care as defined in section 4301-A, subsection 10-A, that the amino acid-based elemental infant formula is the predominant source of nutritional intake at a rate of 50% or greater and that other commercial infant formulas, including cow milk-based and soy milk-based formulas have been tried and have failed or are contraindicated. A licensed physician may be required to confirm and document ongoing medical necessity at least annually.

2. Method of delivery. Coverage for amino acid-based elemental infant formula must be provided without regard to the method of delivery of the formula.

3. Required diagnosis. Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has diagnosed and through medical evaluation has documented one of the following conditions:

- A. Symptomatic allergic colitis or proctitis;
- B. Laboratory- or biopsy-proven allergic or eosinophilic gastroenteritis;
- C. A history of anaphylaxis;
- D. Gastroesophageal reflux disease that is nonresponsive to standard medical therapies;

E. Severe vomiting or diarrhea resulting in clinically significant dehydration requiring treatment by a medical provider;

F. Cystic fibrosis; or

G. Malabsorption of cow milk-based or soy milk-based infant formula.

4. Health savings accounts. Coverage for amino acid-based elemental infant formula under a health insurance policy, contract or certificate issued in connection with a health savings account as authorized under Title XII of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductible and out-of-pocket limits that apply to overall benefits under the policy, contract or certificate.

Sec. 3. 24-A MRSA §2847-N is enacted to read:

§ 2847-N. Coverage for medically necessary infant formula

All group health insurance policies, contracts and certificates must provide coverage for amino acid-based elemental infant formula for children 2 years of age and under in accordance with this section.

1. Determination of medical necessity. Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has submitted documentation that the amino acid-based elemental infant formula is medically necessary health care as defined in section 4301-A, subsection 10-A, that the amino acid-based elemental infant formula is the predominant source of nutritional intake at a rate of 50% or greater and that other commercial infant formulas, including cow milk-based and soy milk-based formulas have been tried and have failed or are contraindicated. A licensed physician may be required to confirm and document ongoing medical necessity at least annually.

2. Method of delivery. Coverage for amino acid-based elemental infant formula must be provided without regard to the method of delivery of the formula.

3. Required diagnosis. Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has diagnosed and through medical evaluation has documented one of the following conditions:

A. Symptomatic allergic colitis or proctitis;

B. Laboratory- or biopsy-proven allergic or eosinophilic gastroenteritis;

C. A history of anaphylaxis;

D. Gastroesophageal reflux disease that is nonresponsive to standard medical therapies;

E. Severe vomiting or diarrhea resulting in clinically significant dehydration requiring treatment by a medical provider;

F. Cystic fibrosis; or

G. Malabsorption of cow milk-based or soy milk-based infant formula.

4. Health savings accounts. Coverage for amino acid-based elemental infant formula under a health insurance policy, contract or certificate issued in connection with a health savings account as authorized under Title XII of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductible and out-of-pocket limits that apply to overall benefits under the policy, contract or certificate.

Sec. 4. 24-A MRS §4254 is enacted to read:

§ 4254. Coverage for medically necessary infant formula

All individual and group health maintenance organization policies, contracts and certificates must provide coverage for amino acid-based elemental infant formula for children 2 years of age and under in accordance with this section.

1. Determination of medical necessity. Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has submitted documentation that the amino acid-based elemental infant formula is medically necessary health care as defined in section 4301-A, subsection 10-A, that the amino acid-based elemental infant formula is the predominant source of nutritional intake at a rate of 50% or greater and that other commercial infant formulas, including cow milk-based and soy milk-based formulas have been tried and have failed or are contraindicated. A licensed physician may be required to confirm and document ongoing medical necessity at least annually.

2. Method of delivery. Coverage for amino acid-based elemental infant formula must be provided without regard to the method of delivery of the formula.

3. Required diagnosis. Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has diagnosed and through medical evaluation has documented one of the following conditions:

- A. Symptomatic allergic colitis or proctitis;
- B. Laboratory- or biopsy-proven allergic or eosinophilic gastroenteritis;
- C. A history of anaphylaxis;
- D. Gastroesophageal reflux disease that is nonresponsive to standard medical therapies;
- E. Severe vomiting or diarrhea resulting in clinically significant dehydration requiring treatment by a medical provider;
- F. Cystic fibrosis; or
- G. Malabsorption of cow milk-based or soy milk-based infant formula.

4. Health savings accounts. Coverage for amino acid-based elemental infant formula under a health insurance policy, contract or certificate issued in connection with a health savings account as authorized under Title XII of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductible and out-of-pocket limits that apply to overall benefits under the policy, contract or certificate.

Sec. 5. Application. This Act applies to health insurance policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2009. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.