

2008 -- H 7441 AS AMENDED

LC00983

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

A N A C T

RELATING TO INSURANCE -- ENTERAL NUTRITION PRODUCTS

Introduced By: Representatives DeSimone, Slater, Singleton, and Giannini

Date Introduced: February 13, 2008

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 27-18 of the General Laws entitled "Accident and Sickness
2 Insurance Policies" is hereby amended by adding thereto the following section:

3 **27-18-69. Enteral nutrition products.** – (a) Every individual or group health insurance
4 contract, or every individual or group hospital or medical expense insurance policy, plan, or
5 group policy delivered, issued for delivery, or renewed in this state on or after January 1, 2009,
6 shall provide coverage for nonprescription enteral formulas for home use for which a physician
7 has issued a written order and which are medically necessary for the treatment of malabsorption
8 caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, chronic intestinal pseudo-
9 obstruction, and inherited diseases of amino acids and organic acids. Coverage for inherited
10 diseases of amino acids and organic acids shall include food products modified to be low protein.
11 Provided, however, that coverage shall not exceed an amount of two thousand five hundred
12 dollars (\$2,500) per covered member per year.

13 (b) Benefit plans offered by an insurer may impose a copayment and/or deductibles for
14 the benefits mandated by this section, however, in no instance shall the copayment or deductible
15 amount be greater than the copayment or deductible amount imposed for prescription enteral
16 formulas or nutritional aids. Benefits for services under this chapter shall be reimbursed in
17 accordance with the respective principles and mechanisms of reimbursement for each insurer,
18 hospital, or medical service corporation, or health maintenance organization. Reimbursement
19 shall be provided according to the respective principles and policies of the accident and sickness

1 insurer. Nothing contained in this section precludes the accident and sickness insurer from
2 conducting managed care, medical necessity, or utilization review.

3 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital
4 confinement indemnity; (2) disability income; (3) accident only; (4) long-term care; (5) Medicare
5 supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily
6 injury or death by accident or both; and (9) other limited benefit policies.

7 SECTION 2. Chapter 27-19 of the General Laws entitled "Nonprofit Hospital Service
8 Corporations" is hereby amended by adding thereto the following section:

9 **27-19-60. Enteral nutrition products.** – (a) Every individual or group health insurance
10 contract, or every individual or group hospital or medical expense insurance policy, plan, or
11 group policy delivered, issued for delivery, or renewed in this state on or after January 1, 2009,
12 shall provide coverage for nonprescription enteral formulas for home use for which a physician
13 has issued a written order and which are medically necessary for the treatment of malabsorption
14 caused by Crohn’s disease, ulcerative colitis, gastroesophageal reflux, chronic intestinal pseudo-
15 obstruction, and inherited diseases of amino acids and organic acids. Coverage for inherited
16 diseases of amino acids and organic acids shall include food products modified to be low protein.
17 Provided, however, that coverage shall not exceed an amount of two thousand five hundred
18 dollars (\$2,500) per covered member per year.

19 (b) Benefit plans offered by a hospital service corporation may impose a copayment
20 and/or deductible for the benefits mandated by this section, however, in no instance shall the
21 copayment or deductible amount be greater than the copayment or deductible amount imposed for
22 prescription enteral formulas or nutritional aids. Benefits for services under this chapter shall be
23 reimbursed in accordance with the respective principles and mechanisms of reimbursement for
24 each insurer, hospital, or medical service corporation, or health maintenance organization.
25 Reimbursement shall be provided according to the respective principles and policies of the
26 accident and sickness insurer. Nothing contained in this section precludes the accident and
27 sickness insurer from conducting managed care, medical necessity, or utilization review.

28 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital
29 confinement indemnity; (2) disability income; (3) accident only; (4) long-term care; (5) Medicare
30 supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily
31 injury or death by accident or both; and (9) other limited benefit policies.

32 SECTION 3. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Service
33 Corporations" is hereby amended by adding thereto the following section:

34 **27-20-55. Enteral nutrition products.** -- (a) Every individual or group health insurance

1 contract, or every individual or group hospital or medical expense insurance policy, plan, or
2 group policy delivered, issued for delivery, or renewed in this state on or after January 1, 2009,
3 shall provide coverage for nonprescription enteral formulas for home use for which a physician
4 has issued a written order and which are medically necessary for the treatment of malabsorption
5 caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, chronic intestinal pseudo-
6 obstruction, and inherited diseases of amino acids and organic acids. Coverage for inherited
7 diseases of amino acids and organic acids shall include food products modified to be low protein.
8 Provided, however, that coverage shall not exceed an amount of two thousand five hundred
9 dollars (\$2,500) per covered member per year.

10 (b) Benefit plans offered by a medical service corporation may impose a copayment
11 and/or deductible for the benefits mandated by this section, however, in no instance shall the
12 copayment or deductible amount be greater than the copayment of deductible amount imposed for
13 prescription enteral formulas or nutritional aids. Benefits for services under this chapter shall be
14 reimbursed in accordance with the respective principles and mechanisms of reimbursement for
15 each insurer, hospital, or medical service corporation, or health maintenance organization.
16 Reimbursement shall be provide according to the respective principles and policies of the
17 accident and sickness insurer. Nothing contained in this section precludes the accident and
18 sickness insurer from conducting managed care, medical necessity, or utilization review.

19 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital
20 confinement indemnity; (2) disability income; (3) accident only; (4) long-term care; (5) Medicare
21 supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily
22 injury or death by accident or both; and (9) other limited benefit policies.

23 SECTION 4. Chapter 27-41 of the General Laws entitled "Health Maintenance
24 Organizations" is hereby amended by adding thereto the following section:

25 **27-41-73. Enteral nutrition products.** -- (a) Every individual or group health insurance
26 contract, or every individual or group hospital or medical expense insurance policy, plan, or
27 group policy delivered, issued for delivery, or renewed in this state on or after January 1, 2009,
28 shall provide coverage for nonprescription enteral formulas for home use for which a physician
29 has issued a written order and which are medically necessary for the treatment of malabsorption
30 caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, chronic intestinal pseudo-
31 obstruction, and inherited diseases of amino acids and organic acids. Coverage for inherited
32 diseases of amino acids and organic acids shall include food products modified to be low protein.
33 Provided, however, that coverage shall not exceed an amount of two thousand five hundred
34 dollars (\$2,500) per covered member per year.

1 (b) Benefit plans offered by a health maintenance organization may impose a copayment
2 and/or deductible for the benefits mandated by this section, however, in no instance shall the
3 copayment or deductible amount be greater than the copayment of deductible amount imposed for
4 prescription enteral formulas or nutritional aids. Benefits for services under this chapter shall be
5 reimbursed in accordance with the respective principles and mechanisms of reimbursement for
6 each insurer, hospital, or medical service corporation, or health maintenance organization.
7 Reimbursement shall be provide according to the respective principles and policies of the
8 accident and sickness insurer. Nothing contained in this section precludes the accident and
9 sickness insurer from conducting managed care, medical necessity, or utilization review.

10 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital
11 confinement indemnity; (2) disability income; (3) accident only; (4) long-term care; (5) Medicare
12 supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily
13 injury or death by accident or both; and (9) other limited benefit policies.

14 SECTION 5. Chapter 40-6 of the General Laws entitled "Public Assistance Act" is
15 hereby amended by adding thereto the following section:

16 **40-6-3.12. Enteral nutrition products.** – (a) As used in this section:

17 (1) "Enteral nutrition" means a supplemental feeding that is provided via the
18 gastrointestinal tract by mouth (orally), or through a tube, catheter, or stoma that delivers
19 nutrients distal to the oral cavity.

20 (2) "Nutritional risk" means actual or potential for developing malnutrition, as evidenced
21 by clinical indicators, the presence of chronic disease, or increased metabolic requirements due to
22 impaired ability to ingest or absorb food adequately.

23 (b) The department shall provide for vendor payment of enteral nutrition products in
24 accordance with rules and regulations of the department, when determined to be medically
25 necessary on an individual, case-by-case basis and ordered by a physician in accordance with
26 Rhode Island department of health form(s) on enteral nutrition products. Provided, however, that
27 coverage shall not exceed an amount of two thousand five hundred dollars (\$2,500) per individual
28 per year.

29 (c) The determination of medical necessity for enteral nutrition products shall be based
30 upon a combination of clinical data and the presence of indicators that would affect the relative
31 risks and benefits of the products including, but not limited to:

32 (1) Enteral nutrition, whether orally or by tube feeding, is used as a therapeutic regimen
33 to prevent serious disability or death in a person with a medically diagnosed condition that
34 precludes the full use of regular food.

1 (2) The person presents clinical signs and symptoms of impaired digestion malabsorption,
2 or nutritional risk, as indicated by the following anthropometric measures:

3 (i) Weight loss that presents actual or potential for developing, malnutrition as follows:

4 (A) In adults, showing involuntary or acute weight loss of greater than or equal to ten
5 percent (10%) of usual body weight during a three (3) to six (6) month period, or body mass
6 index (bmi) below 18.5 kg/m²;

7 (B) In neonates, infants and children, showing:

8 (I) Very low birth weight (lbw) even in the absence of gastrointestinal, pulmonary or
9 cardiac disorders;

10 (II) A lack of weight gain, or weight gain less than two (2) standard deviations below the
11 age appropriate mean in a one month period for children under six (6) months, or two (2) month
12 period for children aged six (6) to twelve (12) months;

13 (III) No weight gain or abnormally slow rate of gain for three (3) months for children
14 older than one year, or documented weight loss that does not reverse promptly with instruction in
15 appropriate diet for age; or

16 (IV) Weight for height less than the tenth (10th) percentile; and

17 (ii) Abnormal laboratory test pertinent to the diagnosis.

18 (3) The risk factors for actual or potential malnutrition have been identified and
19 documented. Such risk factors include, but are not limited to, the following:

20 (i) Anatomic structures of the gastrointestinal tract that impair digestion and absorption;
21 (ii) Neurological disorders that impair swallowing or chewing;
22 (iii) Diagnosis of inborn errors of metabolism that require medically necessary formula
23 used for specific metabolic conditions and food products modified low in protein (for example,
24 phenylketonuria (pku) tyrosinemia, homocystinuria, maple syrup urine disease, propionic aciduria
25 and methylmalonic aciduria);

26 (iv) Prolonged nutrient losses due to malabsorption syndromes or short-bowel
27 syndromes, diabetes, celiac disease, chronic pancreatitis, renal dialysis, draining abscess or
28 wounds, etc.;

29 (v) Treatment with anti-nutrient or catabolic properties (for example, anti-tumor
30 treatments, corticosteroids, immunosuppressant, etc.);

31 (vi) Increased metabolic and/or caloric needs due to excessive burns, infection, trauma,
32 prolonged fever, hyperthyroidism, or illnesses that impair caloric intake and/or retention; or

33 (vii) A failure-to-thrive diagnosis that increases caloric needs while impairing caloric
34 intake and/or retention.

1 (4) A comprehensive medical history and a physical examination have been conducted to
2 detect factors contributing to nutritional risk.

3 (5) Enteral nutrition is indicated as the primary source of nutritional support essential for
4 the management of risk factors that impair digestion or malabsorption, and for the management of
5 surgical preparation or postoperative care.

6 (6) A written plan of care has been developed for regular monitoring of signs and
7 symptoms to detect improvement in the person's condition. Nutritional status should be
8 monitored regularly;

9 (i) For improvements in anthropometric measures;

10 (ii) For improvements in laboratory test indicators; and

11 (iii) In children, to assess growth and weight for height.

12 (d) Enteral nutrition products shall not be considered medically necessary under certain
13 circumstances including, but not limited to, the following:

14 (1) A medical history and physical examination have been performed and other possible
15 alternatives have been identified to minimize nutritional risk.

16 (2) The person is underweight, but has the ability to meet nutritional needs through the
17 use of regular food consumption.

18 (3) Enteral products are used as supplements to a normal or regular diet in a person
19 showing no clinical indicators of nutritional risk.

20 (4) The person has food allergies, lactose intolerance or dental problems, but has the
21 ability to meet his or her nutritional requirements through an alternative food source.

22 (5) Enteral products are to be used for dieting or a weight-loss program.

23 (6) No medical history or physical examination has been taken and there is no
24 documentation that supports the need for enteral nutrition products.

25 SECTION 6. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE -- ENTERAL NUTRITION PRODUCTS

- 1 This act would require insurance providers in the state to provide coverage for enteral
- 2 nutrition products when determined to be medically necessary and ordered by a physician.
- 3 This act would take effect upon passage.

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