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LC003897/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO INSURANCE

Introduced By: Senators Pearson, and Picard

Date Introduced: February 27, 2014

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-18-70 of the General Laws in Chapter 27-18 entitled "Accident
2 and Sickness Insurance Policies" is hereby amended to read as follows:

3 **27-18-70. 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~~ that are medically necessary for the treatment of
8 malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, chronic
9 intestinal pseudo- obstruction, and inherited diseases of amino acids and organic acids. Coverage
10 for inherited diseases of amino acids and organic acids shall include food products modified to be
11 low protein and shall extend to all recipients regardless of age. ~~Provided, however, that coverage~~
12 ~~shall not exceed an amount of two thousand five hundred dollars (\$2,500) per covered member~~
13 ~~per year.~~

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

1 shall be provided according to the respective principles and policies of the accident and sickness
2 insurer. Nothing contained in this section precludes the accident and sickness insurer from
3 conducting managed care, medical necessity, or utilization review.

4 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital
5 confinement indemnity; (2) ~~d~~Disability income; (3) ~~a~~Accident only; (4) ~~L~~Long-term care; (5)
6 Medicare supplement; (6) ~~L~~limited benefit health; (7) ~~s~~Specified disease indemnity; (8) ~~s~~Sickness
7 or bodily injury or death by accident or both; and (9) ~~e~~Other limited benefit policies.

8 SECTION 2. Section 27-19-61 of the General Laws in Chapter 27-19 entitled "Nonprofit
9 Hospital Service Corporations" is hereby amended to read as follows:

10 **27-19-61. Enteral nutrition products.** -- (a) Every individual or group health insurance
11 contract, or every individual or group hospital or medical expense insurance policy, plan, or
12 group policy delivered, issued for delivery, or renewed in this state on or after January 1, 2009,
13 shall provide coverage for nonprescription enteral formulas for home use for which a physician
14 has issued a written order and ~~which~~ that are medically necessary for the treatment of
15 malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, chronic
16 intestinal pseudo-obstruction, and inherited diseases of amino acids and organic acids. Coverage
17 for inherited diseases of amino acids and organic acids shall include food products modified to be
18 low protein and shall extend to all recipients regardless of age. ~~Provided, however, that coverage~~
19 ~~shall not exceed an amount of two thousand five hundred dollars (\$2,500) per covered member~~
20 ~~per year.~~

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

30 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital
31 confinement indemnity; (2) ~~d~~Disability income; (3) ~~a~~Accident only; (4) ~~L~~Long-term care; (5)
32 Medicare supplement; (6) ~~L~~limited benefit health; (7) ~~s~~Specified disease indemnity; (8) ~~s~~Sickness
33 or bodily injury or death by accident or both; and (9) ~~e~~Other limited benefit policies.

34 SECTION 3. Section 27-20-56 of the General Laws in Chapter 27-20 entitled "Nonprofit

1 Medical Service Corporations" is hereby amended to read as follows:

2 **27-20-56. Enteral nutrition products.** -- (a) Every individual or group health insurance
3 contract, or every individual or group hospital or medical expense insurance policy, plan, or
4 group policy delivered, issued for delivery, or renewed in this state on or after January 1, 2009,
5 shall provide coverage for nonprescription enteral formulas for home use for which a physician
6 has issued a written order and ~~which~~ that are medically necessary for the treatment of
7 malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, chronic
8 intestinal pseudo-obstruction, and inherited diseases of amino acids and organic acids. Coverage
9 for inherited diseases of amino acids and organic acids shall include food products modified to be
10 low protein and shall extend to all recipients regardless of age. ~~Provided, however, that coverage~~
11 ~~shall not exceed an amount of two thousand five hundred dollars (\$2,500) per covered member~~
12 ~~per year.~~

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

22 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital
23 confinement indemnity; (2) ~~d~~Disability income; (3) ~~a~~Accident only; (4) Long-term care; (5)
24 Medicare supplement; (6) Limited benefit health; (7) ~~s~~Specified disease indemnity; (8) ~~s~~Sickness
25 or bodily injury or death by accident or both; and (9) ~~e~~Other limited benefit policies.

26 SECTION 4. Section 27-41-74 of the General Laws in Chapter 27-41 entitled "Health
27 Maintenance Organizations" is hereby amended to read as follows:

28 **27-41-74. Enteral nutrition products.** -- (a) Every individual or group health insurance
29 contract, or every individual or group hospital or medical expense insurance policy, plan, or
30 group policy delivered, issued for delivery, or renewed in this state on or after January 1, 2009,
31 shall provide coverage for nonprescription enteral formulas for home use for which a physician
32 has issued a written order and ~~which~~ that are medically necessary for the treatment of
33 malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, chronic
34 intestinal pseudo-obstruction, and inherited diseases of amino acids and organic acids. Coverage

1 for inherited diseases of amino acids and organic acids shall include food products modified to be
2 low protein and shall extend to all recipients regardless of age. ~~Provided, however, that coverage~~
3 ~~shall not exceed an amount of two thousand five hundred dollars (\$2,500) per covered member~~
4 ~~per year.~~

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

14 (c) This section shall not apply to insurance coverage providing benefits for: (1)
15 ~~H~~Hospital confinement indemnity; (2) ~~D~~Disability income; (3) ~~A~~Accident only; (4) ~~L~~ong-term
16 care; (5) Medicare supplement; (6) ~~L~~imited benefit health; (7) ~~S~~pecified disease indemnity; (8)
17 ~~S~~ickness or bodily injury or death by accident or both; and (9) ~~O~~ther limited-benefit policies.

18 SECTION 5. Section 40-6-3.12 of the General Laws in Chapter 40-6 entitled "Public
19 Assistance Act" is hereby amended to read as follows:

20 **40-6-3.12. Enteral nutrition products.** -- (a) As used in this section:

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

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

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

33 (c) Protocols for the use of enteral nutrition as a medically necessary treatment for
34 malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, chronic

1 [intestinal pseudo-obstruction, and inherited diseases of amino acids and organic acids may be](#)
2 [developed by the director.](#) The determination of medical necessity for enteral nutrition products
3 shall be based upon a combination of clinical data and the presence of indicators that would affect
4 the relative risks and benefits of the products including, but not limited to:

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

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

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

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

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

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

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

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

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

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

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

27 (i) Anatomic structures of the gastrointestinal tract that impair digestion and absorption;

28 (ii) Neurological disorders that impair swallowing or chewing;

29 (iii) Diagnosis of inborn errors of metabolism that require medically necessary formula
30 used for specific metabolic conditions and food products modified low in protein (for example,
31 phenylketonuria (pku) tyrosinemia, homocystinuria, maple syrup urine disease, propionic aciduria
32 and methylmalonic aciduria);

33 (iv) Prolonged nutrient losses due to malabsorption syndromes or short-bowel
34 syndromes, diabetes, celiac disease, chronic pancreatitis, renal dialysis, draining abscess or

1 wounds, etc.;

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

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

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

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

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

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

16 (i) For improvements in anthropometric measures;

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

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

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

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

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

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

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

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

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

32 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

- 1 This act would require insurance coverage of formula and other prescribed food for all
- 2 patients regardless of age, and would also abolish the mandated cap on coverage.
- 3 This act would take effect upon passage.

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