

MAINE STATE LEGISLATURE

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Date: 4/1/08

Majority

L.D. 658
(Filing No. H-891)

INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "B" to H.P. 507, L.D. 658, Bill, "An Act To Protect the Health of Infants"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

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:

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

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

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

17 §2847-N. Coverage for medically necessary infant formula

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

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

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

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

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

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

3 F. Cystic fibrosis; or

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

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

11 **Sec. 4. 24-A MRSA §4254** is enacted to read:

12 **§4254. Coverage for medically necessary infant formula**

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

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

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

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

29 A. Symptomatic allergic colitis or proctitis;

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

31 C. A history of anaphylaxis;

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

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

36 F. Cystic fibrosis; or

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

38 **4. Health savings accounts.** Coverage for amino acid-based elemental infant
39 formula under a health insurance policy, contract or certificate issued in connection with

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1 a health savings account as authorized under Title XII of the federal Medicare
2 Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the
3 same deductible and out-of-pocket limits that apply to overall benefits under the policy,
4 contract or certificate.

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

9 **SUMMARY**

10 This amendment replaces the bill and is the majority report of the committee. The
11 amendment requires health insurance carriers to provide coverage for amino acid-based
12 elemental infant formulas for children 2 year of age and under, regardless of the delivery
13 method, for the treatment of certain specified medical conditions when the infant formula
14 is determined to be medically necessary. The amendment applies to all policies, contracts
15 and certificates issued or renewed on or after January 1, 2009.

16 **FISCAL NOTE REQUIRED**
17 **(See attached)**



Revised: 03/25/08 *MAC*

123rd MAINE LEGISLATURE

LD 658

LR 2115(04)

An Act To Protect the Health of Infants

Fiscal Note for Bill as Amended by Committee Amendment "B"
Committee: Insurance and Financial Services
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Multiple Funds

Fiscal Detail and Notes

Any additional costs to the State Employee Health Plan are expected to be minor and can be absorbed within existing budgeted resources.

Any additional costs to the Bureau of Insurance in the Department of Professional and Financial Regulation in implementing this legislation can be absorbed by the bureau within existing budget resources.