

By: Thompson of Harris

H.B. No. 5211

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage for certain medically necessary therapeutic nutritional formulas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 1377, Insurance Code, is amended to read as follows:

CHAPTER 1377. COVERAGE FOR CERTAIN NUTRITIONAL [~~AMINO ACID-BASED~~
~~ELEMENTAL~~] FORMULAS

SECTION 2. The heading to Subchapter B, Chapter 1377, Insurance Code, is amended to read as follows:

SUBCHAPTER B. REQUIRED COVERAGE [~~FOR CERTAIN AMINO ACID-BASED~~
~~ELEMENTAL FORMULAS~~]

SECTION 3. Section 1377.051, Insurance Code, is amended to read as follows:

Sec. 1377.051. REQUIRED COVERAGE FOR CERTAIN NUTRITIONAL
[~~AMINO ACID-BASED ELEMENTAL~~] FORMULAS. (a) A health benefit plan must provide coverage as provided by this chapter for amino acid-based elemental formulas, regardless of the formula delivery method, that are used for the diagnosis and treatment of:

(1) immunoglobulin E and non-immunoglobulin E mediated allergies to multiple food proteins;

(2) severe food protein-induced enterocolitis syndrome;

(3) eosinophilic disorders, as evidenced by the

1 results of a biopsy; and

2 (4) impaired absorption of nutrients caused by
3 disorders affecting the absorptive surface, functional length, and
4 motility of the gastrointestinal tract.

5 (b) In addition to the coverage required under Subsection
6 (a) and subject to Subsection (d), a health benefit plan must
7 provide coverage for a therapeutic nutritional formula if the
8 treating physician has issued a written order stating that the
9 formula is medically necessary, including for the treatment of an
10 enrollee at risk for growth or developmental delays.

11 (c) Subject to Subsection (d) [~~(c)~~], the coverage required
12 under Subsection (a) is required if the treating physician has
13 issued a written order stating that the amino acid-based elemental
14 formula is medically necessary for the treatment of an enrollee who
15 is diagnosed with a disease or disorder listed in Subsection (a).
16 The coverage must include coverage of any medically necessary
17 services associated with the administration of the formula.

18 (d) [~~(c)~~] A health benefit plan must provide the coverage
19 described by Subsections [~~Subsection~~] (a) and (b) on a basis no less
20 favorable than the basis on which prescription drugs and other
21 medications and related services are covered by the plan, and to the
22 same extent that the plan provides coverage for drugs that are
23 available only on the orders of a physician.

24 SECTION 4. Section 1377.052(a), Insurance Code, is amended
25 to read as follows:

26 (a) A utilization review agent acting on behalf of a health
27 benefit plan issuer may review a treating physician's determination

1 of the medical necessity of the use of:

2 (1) an amino acid-based elemental formula for the
3 treatment of an enrollee who is diagnosed with a disease or disorder
4 listed in Section [1377.051\(a\)](#); or

5 (2) a nutritional formula under Section [1377.051\(b\)](#).

6 SECTION 5. The changes in law made by this Act apply only to
7 a health benefit plan that is delivered, issued for delivery, or
8 renewed on or after January 1, 2024. A health benefit plan that is
9 delivered, issued for delivery, or renewed before January 1, 2024,
10 is governed by the law as it existed immediately before the
11 effective date of this Act, and that law is continued in effect for
12 that purpose.

13 SECTION 6. This Act takes effect September 1, 2023.