

1 AN ACT

2 relating to health benefit plan coverage for certain amino
3 acid-based elemental formulas.

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

5 SECTION 1. Subtitle E, Title 8, Insurance Code, is amended
6 by adding Chapter 1377 to read as follows:

7 CHAPTER 1377. COVERAGE FOR CERTAIN AMINO ACID-BASED ELEMENTAL
8 FORMULAS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 1377.001. DEFINITION. In this chapter, "enrollee"
11 means an individual entitled to coverage under a health benefit
12 plan.

13 Sec. 1377.002. APPLICABILITY OF CHAPTER. (a) This chapter
14 applies only to a health benefit plan, including a small employer
15 health benefit plan written under Chapter 1501 or coverage provided
16 by a health group cooperative under Subchapter B of that chapter,
17 that provides benefits for medical or surgical expenses incurred as
18 a result of a health condition, accident, or sickness, including an
19 individual, group, blanket, or franchise insurance policy or
20 insurance agreement, a group hospital service contract, or an
21 individual or group evidence of coverage or similar coverage
22 document that is offered by:

23 (1) an insurance company;

24 (2) a group hospital service corporation operating

1 under Chapter 842;

2 (3) a fraternal benefit society operating under
3 Chapter 885;

4 (4) a stipulated premium company operating under
5 Chapter 884;

6 (5) an exchange operating under Chapter 942;

7 (6) a Lloyd's plan operating under Chapter 941;

8 (7) a health maintenance organization operating under
9 Chapter 843;

10 (8) a multiple employer welfare arrangement that holds
11 a certificate of authority under Chapter 846; or

12 (9) an approved nonprofit health corporation that
13 holds a certificate of authority under Chapter 844.

14 (b) Notwithstanding any provision in Chapter 1551, 1575,
15 1579, or 1601 or any other law, this chapter applies to:

16 (1) a basic coverage plan under Chapter 1551;

17 (2) a basic plan under Chapter 1575;

18 (3) a primary care coverage plan under Chapter 1579;

19 and

20 (4) basic coverage under Chapter 1601.

21 Sec. 1377.003. EXCEPTION. This chapter does not apply to:

22 (1) a plan that provides coverage:

23 (A) only for benefits for a specified disease or
24 for another limited benefit, other than a plan that provides
25 benefits for a disease or disorder listed in Section 1377.051(a);

26 (B) only for accidental death or dismemberment;

27 (C) for wages or payments in lieu of wages for a

1 period during which an employee is absent from work because of
2 sickness or injury;

3 (D) as a supplement to a liability insurance
4 policy;

5 (E) only for dental or vision care; or

6 (F) only for indemnity for hospital confinement;

7 (2) a Medicare supplemental policy as defined by
8 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

9 (3) a workers' compensation insurance policy;

10 (4) medical payment insurance coverage provided under
11 an automobile insurance policy;

12 (5) a credit insurance policy;

13 (6) a limited benefit policy that does not provide
14 coverage for physical examinations or wellness exams; or

15 (7) a long-term care insurance policy, including a
16 nursing home fixed indemnity policy, unless the commissioner
17 determines that the policy provides benefit coverage so
18 comprehensive that the policy is a health benefit plan as described
19 by Section 1377.002.

20 [Sections 1377.004-1377.050 reserved for expansion]

21 SUBCHAPTER B. COVERAGE FOR CERTAIN AMINO ACID-BASED ELEMENTAL

22 FORMULAS

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

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

3 (2) severe food protein-induced enterocolitis
4 syndrome;

5 (3) eosinophilic disorders, as evidenced by the
6 results of a biopsy; and

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

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

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

23 Sec. 1377.052. UTILIZATION REVIEW. (a) A utilization
24 review agent acting on behalf of a health benefit plan issuer may
25 review a treating physician's determination of the medical
26 necessity of the use of an amino acid-based elemental formula for
27 the treatment of an enrollee who is diagnosed with a disease or

1 disorder listed in Section 1377.051(a).

2 (b) Utilization review under this section is subject to
3 Chapter 4201.

4 SECTION 2. Chapter 1377, Insurance Code, as added by this
5 Act, applies only to a health benefit plan that is delivered, issued
6 for delivery, or renewed on or after January 1, 2010. A health
7 benefit plan that is delivered, issued for delivery, or renewed
8 before January 1, 2010, is covered by the law in effect at the time
9 the plan was delivered, issued for delivery, or renewed, and that
10 law is continued in effect for that purpose.

11 SECTION 3. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 2000 was passed by the House on May 14, 2009, by the following vote: Yeas 99, Nays 28, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2000 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2000 on May 31, 2009, by the following vote: Yeas 142, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 2000

I certify that H.B. No. 2000 was passed by the Senate, with amendments, on May 25, 2009, by the following vote: Yeas 28, Nays 3; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2000 on May 31, 2009, by the following vote: Yeas 28, Nays 3.

Secretary of the Senate

APPROVED: _____

Date

Governor