

1-1 By: McCall (Senate Sponsor - Van de Putte) H.B. No. 2000  
1-2 (In the Senate - Received from the House May 15, 2009;  
1-3 May 18, 2009, read first time and referred to Committee on State  
1-4 Affairs; May 23, 2009, reported favorably by the following vote:  
1-5 Yeas 8, Nays 0; May 23, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to health benefit plan coverage for certain amino  
1-9 acid-based elemental formulas.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subtitle E, Title 8, Insurance Code, is amended  
1-12 by adding Chapter 1377 to read as follows:

1-13 CHAPTER 1377. COVERAGE FOR CERTAIN AMINO ACID-BASED ELEMENTAL  
1-14 FORMULAS

1-15 SUBCHAPTER A. GENERAL PROVISIONS

1-16 Sec. 1377.001. DEFINITION. In this chapter, "enrollee"  
1-17 means an individual entitled to coverage under a health benefit  
1-18 plan.

1-19 Sec. 1377.002. APPLICABILITY OF CHAPTER. (a) This chapter  
1-20 applies only to a health benefit plan, including a small employer  
1-21 health benefit plan written under Chapter 1501 or coverage provided  
1-22 by a health group cooperative under Subchapter B of that chapter,  
1-23 that provides benefits for medical or surgical expenses incurred as  
1-24 a result of a health condition, accident, or sickness, including an  
1-25 individual, group, blanket, or franchise insurance policy or  
1-26 insurance agreement, a group hospital service contract, or an  
1-27 individual or group evidence of coverage or similar coverage  
1-28 document that is offered by:

1-29 (1) an insurance company;  
1-30 (2) a group hospital service corporation operating  
1-31 under Chapter 842;

1-32 (3) a fraternal benefit society operating under  
1-33 Chapter 885;

1-34 (4) a stipulated premium company operating under  
1-35 Chapter 884;

1-36 (5) an exchange operating under Chapter 942;

1-37 (6) a Lloyd's plan operating under Chapter 941;

1-38 (7) a health maintenance organization operating under  
1-39 Chapter 843;

1-40 (8) a multiple employer welfare arrangement that holds  
1-41 a certificate of authority under Chapter 846; or

1-42 (9) an approved nonprofit health corporation that  
1-43 holds a certificate of authority under Chapter 844.

1-44 (b) Notwithstanding any provision in Chapter 1551, 1575,  
1-45 1579, or 1601 or any other law, this chapter applies to:

1-46 (1) a basic coverage plan under Chapter 1551;

1-47 (2) a basic plan under Chapter 1575;

1-48 (3) a primary care coverage plan under Chapter 1579;

1-49 and

1-50 (4) basic coverage under Chapter 1601.

1-51 Sec. 1377.003. EXCEPTION. This chapter does not apply to:

1-52 (1) a plan that provides coverage:

1-53 (A) only for benefits for a specified disease or  
1-54 for another limited benefit, other than a plan that provides  
1-55 benefits for a disease or disorder listed in Section 1377.051(a);

1-56 (B) only for accidental death or dismemberment;

1-57 (C) for wages or payments in lieu of wages for a  
1-58 period during which an employee is absent from work because of  
1-59 sickness or injury;

1-60 (D) as a supplement to a liability insurance  
1-61 policy;

1-62 (E) only for dental or vision care; or

1-63 (F) only for indemnity for hospital confinement;

1-64 (2) a Medicare supplemental policy as defined by

2-1 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);  
 2-2 (3) a workers' compensation insurance policy;  
 2-3 (4) medical payment insurance coverage provided under  
 2-4 an automobile insurance policy;  
 2-5 (5) a credit insurance policy;  
 2-6 (6) a limited benefit policy that does not provide  
 2-7 coverage for physical examinations or wellness exams; or  
 2-8 (7) a long-term care insurance policy, including a  
 2-9 nursing home fixed indemnity policy, unless the commissioner  
 2-10 determines that the policy provides benefit coverage so  
 2-11 comprehensive that the policy is a health benefit plan as described  
 2-12 by Section 1377.002.

2-13 [Sections 1377.004-1377.050 reserved for expansion]

2-14 SUBCHAPTER B. COVERAGE FOR CERTAIN AMINO ACID-BASED ELEMENTAL  
 2-15 FORMULAS

2-16 Sec. 1377.051. REQUIRED COVERAGE FOR CERTAIN AMINO  
 2-17 ACID-BASED ELEMENTAL FORMULAS. (a) A health benefit plan must  
 2-18 provide coverage as provided by this chapter for amino acid-based  
 2-19 elemental formulas, regardless of the formula delivery method, that  
 2-20 are used for the diagnosis and treatment of:

2-21 (1) immunoglobulin E and non-immunoglobulin E  
 2-22 mediated allergies to multiple food proteins;

2-23 (2) severe food protein-induced enterocolitis  
 2-24 syndrome;

2-25 (3) eosinophilic disorders, as evidenced by the  
 2-26 results of a biopsy; and

2-27 (4) impaired absorption of nutrients caused by  
 2-28 disorders affecting the absorptive surface, functional length, and  
 2-29 motility of the gastrointestinal tract.

2-30 (b) Subject to Subsection (c), the coverage required under  
 2-31 Subsection (a) is required if the treating physician has issued a  
 2-32 written order stating that the amino acid-based elemental formula  
 2-33 is medically necessary for the treatment of an enrollee who is  
 2-34 diagnosed with a disease or disorder listed in Subsection (a). The  
 2-35 coverage must include coverage of any medically necessary services  
 2-36 associated with the administration of the formula.

2-37 (c) A health benefit plan must provide the coverage  
 2-38 described by Subsection (a) on a basis no less favorable than the  
 2-39 basis on which prescription drugs and other medications and related  
 2-40 services are covered by the plan, and to the same extent that the  
 2-41 plan provides coverage for drugs that are available only on the  
 2-42 orders of a physician.

2-43 Sec. 1377.052. UTILIZATION REVIEW. (a) A utilization review  
 2-44 agent acting on behalf of a health benefit plan issuer may review a  
 2-45 treating physician's determination of the medical necessity of the  
 2-46 use of an amino acid-based elemental formula for the treatment of an  
 2-47 enrollee who is diagnosed with a disease or disorder listed in  
 2-48 Section 1377.051(a).

2-49 (b) Utilization review under this section is subject to  
 2-50 Chapter 4201.

2-51 SECTION 2. Chapter 1377, Insurance Code, as added by this  
 2-52 Act, applies only to a health benefit plan that is delivered, issued  
 2-53 for delivery, or renewed on or after January 1, 2010. A health  
 2-54 benefit plan that is delivered, issued for delivery, or renewed  
 2-55 before January 1, 2010, is covered by the law in effect at the time  
 2-56 the plan was delivered, issued for delivery, or renewed, and that  
 2-57 law is continued in effect for that purpose.

2-58 SECTION 3. This Act takes effect September 1, 2009.

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