

By: Van de Putte

S.B. No. 2205

A BILL TO BE ENTITLED

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 Section 172.014, Local Government Code,
15 or any other law, this chapter applies to health and accident
16 coverage provided by a risk pool created under Chapter 172, Local
17 Government Code.

18 (c) Notwithstanding any provision in Chapter 1551, 1575,
19 1579, or 1601 or any other law, this chapter applies to:

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

21 (2) a basic plan under Chapter 1575;

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

23 and

24 (4) basic coverage under Chapter 1601.

25 (d) Notwithstanding any other law, a standard health
26 benefit plan provided under Chapter 1507 must provide the coverage
27 required by this chapter.

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

2 (1) a plan that provides coverage:

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

6 (B) only for accidental death or dismemberment;

7 (C) for wages or payments in lieu of wages for a
8 period during which an employee is absent from work because of
9 sickness or injury;

10 (D) as a supplement to a liability insurance
11 policy;

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

13 (F) only for indemnity for hospital confinement;

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

16 (3) a workers' compensation insurance policy;

17 (4) medical payment insurance coverage provided under
18 an automobile insurance policy;

19 (5) a credit insurance policy;

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

22 (7) a long-term care insurance policy, including a
23 nursing home fixed indemnity policy, unless the commissioner
24 determines that the policy provides benefit coverage so
25 comprehensive that the policy is a health benefit plan as described
26 by Section 1377.002.

1 [Sections 1377.004-1377.050 reserved for expansion]

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

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

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

11 (2) severe food protein-induced enterocolitis
12 syndrome;

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

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

18 (b) Subject to Subsection (c), the coverage required under
19 Subsection (a) is required if the treating physician has issued a
20 written order stating that the amino acid-based elemental formula
21 is medically necessary for the treatment of an enrollee who is
22 diagnosed with a disease or disorder listed in Subsection (a). The
23 coverage must include coverage of any medically necessary services
24 associated with the administration of the formula.

25 (c) A health benefit plan must provide the coverage
26 described by Subsection (a) on a basis no less favorable than the
27 basis on which prescription drugs and other medications and related

1 services are covered by the plan, and to the same extent that the
2 plan provides coverage for drugs that are available only on the
3 orders of a physician.

4 Sec. 1377.052. UTILIZATION REVIEW. (a) A utilization review
5 agent acting on behalf of a health benefit plan issuer may review a
6 treating physician's determination of the medical necessity of the
7 use of an amino acid-based elemental formula for the treatment of an
8 enrollee who is diagnosed with a disease or disorder listed in
9 Section 1377.051(a).

10 (b) Utilization review under this section is subject to
11 Chapter 4201.

12 SECTION 2. Chapter 1377, Insurance Code, as added by this
13 Act, applies only to a health benefit plan that is delivered, issued
14 for delivery, or renewed on or after January 1, 2010. A health
15 benefit plan that is delivered, issued for delivery, or renewed
16 before January 1, 2010, is covered by the law in effect at the time
17 the plan was delivered, issued for delivery, or renewed, and that
18 law is continued in effect for that purpose.

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