

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Committee Substitute

for

Senate Bill 526

BY SENATOR TAKUBO

[Originating in the Committee on Finance; reported on

March 27, 2017]

1 A BILL to amend and reenact §5-16-7 and §5-16-9 of the Code of West Virginia, 1931, as
2 amended; to amend said code by adding thereto a new section, designated §5-16B-6f; to
3 amend said code by adding thereto a new section, designated §9-5-25; to amend said
4 code by adding thereto a new section, designated §33-15-4o; to amend said code by
5 adding thereto a new section, designated §33-16-3bb; to amend said code by adding
6 thereto a new section, designated §33-24-7q; to amend said code by adding thereto a
7 new section, designated §33-25-8n; and to amend said code by adding thereto a new
8 section, designated §33-25A-8p, all relating to mandatory insurance coverage, up to the
9 age of twenty, for certain medical foods for amino acid-based formulas; providing a list of
10 diagnosed conditions for which insurance coverage should extend; providing that
11 coverage extends to medically necessary foods for home use when prescribed by a
12 physician; defining terms; and providing for exclusions.

Be it enacted by the Legislature of West Virginia:

1 That §5-16-7 and §5-16-9 of the Code of West Virginia, 1931, as amended, be amended
2 and reenacted; that said code be amended by adding thereto a new section, designated §5-16B-
3 6f; that said code be amended by adding thereto a new section, designated §9-5-25; that said
4 code be amended by adding thereto a new section, designated §33-15-4o; that said code be
5 amended by adding thereto a new section, designated §33-16-3bb; that said code be amended
6 by adding thereto a new section, designated §33-24-7q; that said code be amended by adding
7 thereto a new section, designated §33-25-8n; and that said code be amended by adding thereto
8 a new section, designated §33-25A-8p, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan, group prescription drug plan and group life and accidental death insurance plan; rules for administration of plans; mandated benefits; what plans may provide; optional plans; separate rating for claims experience purposes.

1 (a) The agency shall establish a group hospital and surgical insurance plan or plans, a
2 group prescription drug insurance plan or plans, a group major medical insurance plan or plans
3 and a group life and accidental death insurance plan or plans for those employees herein made
4 eligible and establish and promulgate rules for the administration of these plans subject to the
5 limitations contained in this article. These plans shall include:

6 (1) Coverages and benefits for x-ray and laboratory services in connection with
7 mammograms when medically appropriate and consistent with current guidelines from the United
8 States Preventive Services Task Force; pap smears, either conventional or liquid-based cytology,
9 whichever is medically appropriate, and consistent with the current guidelines from either the
10 United States Preventive Services Task Force or The American College of Obstetricians and
11 Gynecologists; and a test for the human papilloma virus (HPV) when medically appropriate and
12 consistent with current guidelines from either the United States Preventive Services Task Force
13 or The American College of Obstetricians and Gynecologists, when performed for cancer
14 screening or diagnostic services on a woman age eighteen or over;

15 (2) Annual checkups for prostate cancer in men age fifty and over;

16 (3) Annual screening for kidney disease as determined to be medically necessary by a
17 physician using any combination of blood pressure testing, urine albumin or urine protein testing
18 and serum creatinine testing as recommended by the National Kidney Foundation;

19 (4) For plans that include maternity benefits, coverage for inpatient care in a duly licensed
20 health care facility for a mother and her newly born infant for the length of time which the attending

21 physician considers medically necessary for the mother or her newly born child. No plan may
22 deny payment for a mother or her newborn child prior to forty-eight hours following a vaginal
23 delivery or prior to ninety-six hours following a caesarean section delivery if the attending
24 physician considers discharge medically inappropriate;

25 (5) For plans which provide coverages for post-delivery care to a mother and her newly
26 born child in the home, coverage for inpatient care following childbirth as provided in subdivision
27 (4) of this subsection if inpatient care is determined to be medically necessary by the attending
28 physician. These plans may include, among other things, medicines, medical equipment,
29 prosthetic appliances and any other inpatient and outpatient services and expenses considered
30 appropriate and desirable by the agency; and

31 (6) Coverage for treatment of serious mental illness:

32 (A) The coverage does not include custodial care, residential care or schooling. For
33 purposes of this section, "serious mental illness" means an illness included in the American
34 Psychiatric Association's diagnostic and statistical manual of mental disorders, as periodically
35 revised, under the diagnostic categories or subclassifications of: (i) Schizophrenia and other
36 psychotic disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv) substance-related
37 disorders with the exception of caffeine-related disorders and nicotine-related disorders; (v)
38 anxiety disorders; and (vi) anorexia and bulimia. With regard to a covered individual who has not
39 yet attained the age of nineteen years, "serious mental illness" also includes attention deficit
40 hyperactivity disorder, separation anxiety disorder and conduct disorder.

41 (B) Notwithstanding any other provision in this section to the contrary, if the agency
42 demonstrates that its total costs for the treatment of mental illness for any plan exceeds two
43 percent of the total costs for such plan in any experience period, then the agency may apply
44 whatever additional cost-containment measures may be necessary in order to maintain costs
45 below two percent of the total costs for the plan for the next experience period. These measures
46 may include, but are not limited to, limitations on inpatient and outpatient benefits.

47 (C) The agency shall not discriminate between medical-surgical benefits and mental
48 health benefits in the administration of its plan. With regard to both medical-surgical and mental
49 health benefits, it may make determinations of medical necessity and appropriateness and it may
50 use recognized health care quality and cost management tools including, but not limited to,
51 limitations on inpatient and outpatient benefits, utilization review, implementation of cost-
52 containment measures, preauthorization for certain treatments, setting coverage levels, setting
53 maximum number of visits within certain time periods, using capitated benefit arrangements,
54 using fee-for-service arrangements, using third-party administrators, using provider networks and
55 using patient cost sharing in the form of copayments, deductibles and coinsurance.

56 (7) Coverage for general anesthesia for dental procedures and associated outpatient
57 hospital or ambulatory facility charges provided by appropriately licensed health care individuals
58 in conjunction with dental care if the covered person is:

59 (A) Seven years of age or younger or is developmentally disabled and is an individual for
60 whom a successful result cannot be expected from dental care provided under local anesthesia
61 because of a physical, intellectual or other medically compromising condition of the individual and
62 for whom a superior result can be expected from dental care provided under general anesthesia.

63 (B) A child who is twelve years of age or younger with documented phobias or with
64 documented mental illness and with dental needs of such magnitude that treatment should not be
65 delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of
66 teeth or other increased oral or dental morbidity and for whom a successful result cannot be
67 expected from dental care provided under local anesthesia because of such condition and for
68 whom a superior result can be expected from dental care provided under general anesthesia.

69 (8)(A) Any plan issued or renewed on or after January 1, 2012, shall include coverage for
70 diagnosis, evaluation and treatment of autism spectrum disorder in individuals ages eighteen
71 months to eighteen years. To be eligible for coverage and benefits under this subdivision, the
72 individual must be diagnosed with autism spectrum disorder at age eight or younger. Such plan

73 shall provide coverage for treatments that are medically necessary and ordered or prescribed by
74 a licensed physician or licensed psychologist and in accordance with a treatment plan developed
75 from a comprehensive evaluation by a certified behavior analyst for an individual diagnosed with
76 autism spectrum disorder.

77 (B) The coverage shall include, but not be limited to, applied behavior analysis which shall
78 be provided or supervised by a certified behavior analyst. The annual maximum benefit for applied
79 behavior analysis required by this subdivision shall be in an amount not to exceed \$30,000 per
80 individual for three consecutive years from the date treatment commences. At the conclusion of
81 the third year, coverage for applied behavior analysis required by this subdivision shall be in an
82 amount not to exceed \$2,000 per month, until the individual reaches eighteen years of age, as
83 long as the treatment is medically necessary and in accordance with a treatment plan developed
84 by a certified behavior analyst pursuant to a comprehensive evaluation or reevaluation of the
85 individual. This subdivision does not limit, replace or affect any obligation to provide services to
86 an individual under the Individuals with Disabilities Education Act, 20 U. S. C. 1400 *et seq.*, as
87 amended from time to time or other publicly funded programs. Nothing in this subdivision requires
88 reimbursement for services provided by public school personnel.

89 (C) The certified behavior analyst shall file progress reports with the agency semiannually.
90 In order for treatment to continue, the agency must receive objective evidence or a clinically
91 supportable statement of expectation that:

- 92 (i) The individual's condition is improving in response to treatment;
- 93 (ii) A maximum improvement is yet to be attained; and
- 94 (iii) There is an expectation that the anticipated improvement is attainable in a reasonable
95 and generally predictable period of time.

96 (D) On or before January 1 each year, the agency shall file an annual report with the Joint
97 Committee on Government and Finance describing its implementation of the coverage provided
98 pursuant to this subdivision. The report shall include, but not be limited to, the number of

99 individuals in the plan utilizing the coverage required by this subdivision, the fiscal and
100 administrative impact of the implementation and any recommendations the agency may have as
101 to changes in law or policy related to the coverage provided under this subdivision. In addition,
102 the agency shall provide such other information as required by the Joint Committee on
103 Government and Finance as it may request.

104 (E) For purposes of this subdivision, the term:

105 (i) "Applied behavior analysis" means the design, implementation and evaluation of
106 environmental modifications using behavioral stimuli and consequences in order to produce
107 socially significant improvement in human behavior and includes the use of direct observation,
108 measurement and functional analysis of the relationship between environment and behavior.

109 (ii) "Autism spectrum disorder" means any pervasive developmental disorder including
110 autistic disorder, Asperger's Syndrome, Rett Syndrome, childhood disintegrative disorder or
111 Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and
112 Statistical Manual of Mental Disorders of the American Psychiatric Association.

113 (iii) "Certified behavior analyst" means an individual who is certified by the Behavior
114 Analyst Certification Board or certified by a similar nationally recognized organization.

115 (iv) "Objective evidence" means standardized patient assessment instruments, outcome
116 measurements tools or measurable assessments of functional outcome. Use of objective
117 measures at the beginning of treatment, during and after treatment is recommended to quantify
118 progress and support justifications for continued treatment. The tools are not required but their
119 use will enhance the justification for continued treatment.

120 (F) To the extent that the application of this subdivision for autism spectrum disorder
121 causes an increase of at least one percent of actual total costs of coverage for the plan year, the
122 agency may apply additional cost containment measures.

123 (G) To the extent that the provisions of this subdivision require benefits that exceed the
124 essential health benefits specified under section 1302(b) of the Patient Protection and Affordable

125 Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified
126 essential health benefits shall not be required of insurance plans offered by the Public Employees
127 Insurance Agency.

128 (9) For plans that include maternity benefits, coverage for the same maternity benefits for
129 all individuals participating in or receiving coverage under plans that are issued or renewed on or
130 after January 1, 2014: *Provided*, That to the extent that the provisions of this subdivision require
131 benefits that exceed the essential health benefits specified under section 1302(b) of the Patient
132 Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that
133 exceed the specified essential health benefits shall not be required of a health benefit plan when
134 the plan is offered in this state.

135 (10) (A) A policy, plan or contract that is issued or renewed on or after January 1, 2018,
136 and that is subject to this section, shall provide coverage, through the age of twenty, for amino
137 acid-based formula for the treatment of severe protein allergic conditions or impaired absorption
138 of nutrients caused by disorders affecting the absorptive surface, function, length and motility of
139 the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the
140 disorder by a physician licensed to practice in this state pursuant to either article three or fourteen
141 of chapter thirty of this code:

142 (i) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food
143 proteins;

144 (ii) Severe food protein-induced enterocolitis syndrome;

145 (iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

146 (iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface,
147 function, length and motility of the gastrointestinal tract (short bowel).

148 (B) The coverage required by paragraph (A) of this subdivision shall include medical foods
149 for home use for which a physician has issued a prescription and has declared them to be
150 medically necessary, regardless of methodology of delivery.

151 (C) For purposes of this subdivision, “medically necessary foods” or “medical foods” shall
152 mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided,*
153 That these foods are specifically designated and manufactured for the treatment of severe allergic
154 conditions or short bowel.

155 (D) The provisions of this subdivision shall not apply to persons diagnosed with cystic
156 fibrosis or persons with an intolerance for lactose or soy.

157 (b) The agency shall, with full authorization, make available to each eligible employee, at
158 full cost to the employee, the opportunity to purchase optional group life and accidental death
159 insurance as established under the rules of the agency. In addition, each employee is entitled to
160 have his or her spouse and dependents, as defined by the rules of the agency, included in the
161 optional coverage, at full cost to the employee, for each eligible dependent.

162 (c) The finance board may cause to be separately rated for claims experience purposes:

163 (1) All employees of the State of West Virginia;

164 (2) All teaching and professional employees of state public institutions of higher education
165 and county boards of education;

166 (3) All nonteaching employees of the Higher Education Policy Commission, West Virginia
167 Council for Community and Technical College Education and county boards of education; or

168 (4) Any other categorization which would ensure the stability of the overall program.

169 (d) The agency shall maintain the medical and prescription drug coverage for Medicare-
170 eligible retirees by providing coverage through one of the existing plans or by enrolling the
171 Medicare-eligible retired employees into a Medicare specific plan, including, but not limited to, the
172 Medicare/Advantage Prescription Drug Plan. If a Medicare specific plan is no longer available or
173 advantageous for the agency and the retirees, the retirees remain eligible for coverage through
174 the agency.

**§5-16-9. Authorization to execute contracts for group hospital and surgical insurance,
group major medical insurance, group prescription drug insurance, group life and**

accidental death insurance and other accidental death insurance; mandated benefits; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts.

1 (a) The director is hereby given exclusive authorization to execute such contract or
2 contracts as are necessary to carry out the provisions of this article and to provide the plan or
3 plans of group hospital and surgical insurance coverage, group major medical insurance
4 coverage, group prescription drug insurance coverage and group life and accidental death
5 insurance coverage selected in accordance with the provisions of this article, such contract or
6 contracts to be executed with one or more agencies, corporations, insurance companies or
7 service organizations licensed to sell group hospital and surgical insurance, group major medical
8 insurance, group prescription drug insurance and group life and accidental death insurance in this
9 state.

10 (b) The group hospital or surgical insurance coverage and group major medical insurance
11 coverage herein provided shall include coverages and benefits for x-ray and laboratory services
12 in connection with mammogram and pap smears when performed for cancer screening or
13 diagnostic services and annual checkups for prostate cancer in men age fifty and over. Such
14 benefits shall include, but not be limited to, the following:

15 (1) Mammograms when medically appropriate and consistent with the current guidelines
16 from the United States Preventive Services Task Force;

17 (2) A pap smear, either conventional or liquid-based cytology, whichever is medically
18 appropriate and consistent with the current guidelines from the United States Preventive Services
19 Task Force or The American College of Obstetricians and Gynecologists, for women age eighteen
20 and over;

21 (3) A test for the human papilloma virus (HPV) for women age eighteen or over, when
22 medically appropriate and consistent with the current guidelines from either the United States

23 Preventive Services Task Force or The American College of Obstetricians and Gynecologists for
24 women age eighteen and over;

25 (4) A checkup for prostate cancer annually for men age fifty or over; and

26 (5) Annual screening for kidney disease as determined to be medically necessary by a
27 physician using any combination of blood pressure testing, urine albumin or urine protein testing
28 and serum creatinine testing as recommended by the National Kidney Foundation.

29 (6) Coverage for general anesthesia for dental procedures and associated outpatient
30 hospital or ambulatory facility charges provided by appropriately licensed healthcare individuals
31 in conjunction with dental care if the covered person is:

32 (A) Seven years of age or younger or is developmentally disabled and is either an
33 individual for whom a successful result cannot be expected from dental care provided under local
34 anesthesia because of a physical, intellectual or other medically compromising condition of the
35 individual and for whom a superior result can be expected from dental care provided under
36 general anesthesia; or

37 (B) A child who is twelve years of age or younger with documented phobias, or with
38 documented mental illness, and with dental needs of such magnitude that treatment should not
39 be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss
40 of teeth or other increased oral or dental morbidity and for whom a successful result cannot be
41 expected from dental care provided under local anesthesia because of such condition and for
42 whom a superior result can be expected from dental care provided under general anesthesia.

43 (7) (A) A policy, plan or contract that is issued or renewed on or after January 1, 2018,
44 and that is subject to this section, shall provide coverage, through the age of twenty, for amino
45 acid-based formula for the treatment of severe protein allergic conditions or impaired absorption
46 of nutrients caused by disorders affecting the absorptive surface, function, length and motility of
47 the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the

48 disorder by a physician licensed to practice in this state pursuant to either article three or fourteen
49 of chapter thirty of this code:

50 (i) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food
51 proteins;

52 (ii) Severe food protein-induced enterocolitis syndrome;

53 (iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

54 (iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface,
55 function, length and motility of the gastrointestinal tract (short bowel).

56 (B) The coverage required by paragraph (A) of this subdivision shall include medical foods
57 for home use for which a physician has issued a prescription and has declared them to be
58 medically necessary, regardless of methodology of delivery.

59 (C) For purposes of this subdivision, “medically necessary foods” or “medical foods” shall
60 mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided,*
61 That these foods are specifically designated and manufactured for the treatment of severe allergic
62 conditions or short bowel.

63 (D) The provisions of this subdivision shall not apply to persons diagnosed with cystic
64 fibrosis or persons with an intolerance for lactose or soy.

65 (c) The group life and accidental death insurance herein provided shall be in the amount
66 of \$10,000 for every employee. The amount of the group life and accidental death insurance to
67 which an employee would otherwise be entitled shall be reduced to \$5,000 upon such employee
68 attaining age sixty-five.

69 (d) All of the insurance coverage to be provided for under this article may be included in
70 one or more similar contracts issued by the same or different carriers.

71 (e) The provisions of article three, chapter five-a of this code, relating to the Division of
72 Purchasing of the Department of Finance and Administration, shall not apply to any contracts for
73 any insurance coverage or professional services authorized to be executed under the provisions

74 of this article. Before entering into any contract for any insurance coverage, as authorized in this
75 article, the director shall invite competent bids from all qualified and licensed insurance companies
76 or carriers, who may wish to offer plans for the insurance coverage desired: *Provided*, That the
77 director shall negotiate and contract directly with health care providers and other entities,
78 organizations and vendors in order to secure competitive premiums, prices and other financial
79 advantages. The director shall deal directly with insurers or health care providers and other
80 entities, organizations and vendors in presenting specifications and receiving quotations for bid
81 purposes. No commission or finder's fee, or any combination thereof, shall be paid to any
82 individual or agent; but this shall not preclude an underwriting insurance company or companies,
83 at their own expense, from appointing a licensed resident agent, within this state, to service the
84 companies' contracts awarded under the provisions of this article. Commissions reasonably
85 related to actual service rendered for the agent or agents may be paid by the underwriting
86 company or companies: *Provided, however*, That in no event shall payment be made to any agent
87 or agents when no actual services are rendered or performed. The director shall award the
88 contract or contracts on a competitive basis. In awarding the contract or contracts the director
89 shall take into account the experience of the offering agency, corporation, insurance company or
90 service organization in the group hospital and surgical insurance field, group major medical
91 insurance field, group prescription drug field and group life and accidental death insurance field,
92 and its facilities for the handling of claims. In evaluating these factors, the director may employ
93 the services of impartial, professional insurance analysts or actuaries or both. Any contract
94 executed by the director with a selected carrier shall be a contract to govern all eligible employees
95 subject to the provisions of this article. Nothing contained in this article shall prohibit any insurance
96 carrier from soliciting employees covered hereunder to purchase additional hospital and surgical,
97 major medical or life and accidental death insurance coverage.

98 (f) The director may authorize the carrier with whom a primary contract is executed to
99 reinsure portions of the contract with other carriers which elect to be a reinsurer and who are
100 legally qualified to enter into a reinsurance agreement under the laws of this state.

101 (g) Each employee who is covered under any contract or contracts shall receive a
102 statement of benefits to which the employee, his or her spouse and his or her dependents are
103 entitled under the contract, setting forth the information as to whom the benefits are payable, to
104 whom claims shall be submitted and a summary of the provisions of the contract or contracts as
105 they affect the employee, his or her spouse and his or her dependents.

106 (h) The director may at the end of any contract period discontinue any contract or contracts
107 it has executed with any carrier and replace the same with a contract or contracts with any other
108 carrier or carriers meeting the requirements of this article.

109 (i) The director shall provide by contract or contracts entered into under the provisions of
110 this article the cost for coverage of children's immunization services from birth through age sixteen
111 years to provide immunization against the following illnesses: Diphtheria, polio, mumps, measles,
112 rubella, tetanus, hepatitis-b, haemophilus influenzae-b and whooping cough. Additional
113 immunizations may be required by the Commissioner of the Bureau for Public Health for public
114 health purposes. Any contract entered into to cover these services shall require that all costs
115 associated with immunization, including the cost of the vaccine, if incurred by the health care
116 provider, and all costs of vaccine administration be exempt from any deductible, per visit charge
117 and/or copayment provisions which may be in force in these policies or contracts. This section
118 does not require that other health care services provided at the time of immunization be exempt
119 from any deductible and/or copayment provisions.

ARTICLE 16B. WEST VIRGINIA CHILDRENS HEALTH INSURANCE PROGRAM.

§5-16B-6f. Coverage for amino acid-based formulas.

1 (a) A policy, plan or contract that is issued or renewed on or after January 1, 2018, and
2 that is subject to this section shall provide coverage, through the age of twenty, for amino acid-

3 based formula for the treatment of severe protein allergic conditions or impaired absorption of
4 nutrients caused by disorders affecting the absorptive surface, function, length and motility of the
5 gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder
6 by a physician licensed to practice in this state pursuant to either article three or fourteen, chapter
7 thirty of this code:

8 (1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food
9 proteins;

10 (2) Severe food protein-induced enterocolitis syndrome;

11 (3) Eosinophilic disorders as evidenced by the results of a biopsy; and

12 (4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface,
13 function, length and motility of the gastrointestinal tract (short bowel).

14 (b) The coverage required by subsection (a) of this section shall include medical foods for
15 home use for which a physician has issued a prescription and has declared them to be medically
16 necessary, regardless of methodology of delivery.

17 (c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean
18 prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That
19 these foods are specifically designated and manufactured for the treatment of severe allergic
20 conditions or short bowel.

21 (d) The provisions of this section shall not apply to persons diagnosed with cystic fibrosis
22 or persons with an intolerance for lactose or soy.

CHAPTER 9. HUMAN SERVICES.

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-25. Coverage for amino acid-based formulas.

1 (a) A policy, plan or contract that is issued or renewed on or after January 1, 2018, and
2 that is subject to this section shall provide coverage, through the age of twenty, for amino acid-

3 based formula for the treatment of severe protein allergic conditions or impaired absorption of
4 nutrients caused by disorders affecting the absorptive surface, function, length and motility of the
5 gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder
6 by a physician licensed to practice in this state pursuant to either article three or fourteen, chapter
7 thirty of this code:

8 (1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food
9 proteins;

10 (2) Severe food protein-induced enterocolitis syndrome;

11 (3) Eosinophilic disorders as evidenced by the results of a biopsy; and

12 (4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface,
13 function, length and motility of the gastrointestinal tract (short bowel).

14 (b) The coverage required by subsection (a) of this section shall include medical foods for
15 home use for which a physician has issued a prescription and has declared them to be medically
16 necessary, regardless of methodology of delivery.

17 (c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean
18 prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That
19 these foods are specifically designated and manufactured for the treatment of severe allergic
20 conditions or short bowel.

21 (d) The provisions of this section shall not apply to persons diagnosed with cystic fibrosis
22 or persons with an intolerance for lactose or soy.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4o. Coverage for amino acid-based formulas.

1 (a) A policy, plan or contract that is issued or renewed on or after January 1, 2018, and
2 that is subject to this section shall provide coverage, through the age of twenty, for amino acid-

3 based formula for the treatment of severe protein allergic conditions or impaired absorption of
4 nutrients caused by disorders affecting the absorptive surface, function, length and motility of the
5 gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder
6 by a physician licensed to practice in this state pursuant to either article three or fourteen, chapter
7 thirty of this code:

8 (1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food
9 proteins;

10 (2) Severe food protein-induced enterocolitis syndrome;

11 (3) Eosinophilic disorders as evidenced by the results of a biopsy; and

12 (4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface,
13 function, length and motility of the gastrointestinal tract (short bowel).

14 (b) The coverage required by subsection (a) of this section shall include medical foods for
15 home use for which a physician has issued a prescription and has declared them to be medically
16 necessary, regardless of methodology of delivery.

17 (c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean
18 prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That
19 these foods are specifically designated and manufactured for the treatment of severe allergic
20 conditions or short bowel.

21 (d) The provisions of this section shall not apply to persons diagnosed with cystic fibrosis
22 or persons with an intolerance for lactose or soy.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3bb. Coverage for amino acid-based formulas.

1 (a) A policy, plan or contract that is issued or renewed on or after January 1, 2018, and
2 that is subject to this section shall provide coverage, through the age of twenty, for amino acid-
3 based formula for the treatment of severe protein allergic conditions or impaired absorption of
4 nutrients caused by disorders affecting the absorptive surface, function, length and motility of the

5 gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder
6 by a physician licensed to practice in this state pursuant to either article three or fourteen, chapter
7 thirty of this code:

8 (1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food
9 proteins;

10 (2) Severe food protein-induced enterocolitis syndrome;

11 (3) Eosinophilic disorders as evidenced by the results of a biopsy; and

12 (4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface,
13 function, length and motility of the gastrointestinal tract (short bowel).

14 (b) The coverage required by subsection (a) of this section shall include medical foods for
15 home use for which a physician has issued a prescription and has declared them to be medically
16 necessary, regardless of methodology of delivery.

17 (c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean
18 prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That
19 these foods are specifically designated and manufactured for the treatment of severe allergic
20 conditions or short bowel.

21 (d) The provisions of this section shall not apply to persons diagnosed with cystic fibrosis
22 or persons with an intolerance for lactose or soy.

ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.

§33-24-7q. Coverage for amino acid-based formulas.

1 (a) A policy, plan or contract that is issued or renewed on or after January 1, 2018, and
2 that is subject to this section shall provide coverage, through the age of twenty, for amino acid-
3 based formula for the treatment of severe protein allergic conditions or impaired absorption of
4 nutrients caused by disorders affecting the absorptive surface, function, length and motility of the
5 gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder

6 by a physician licensed to practice in this state pursuant to either article three or fourteen, chapter
7 thirty of this code:

8 (1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food
9 proteins;

10 (2) Severe food protein-induced enterocolitis syndrome;

11 (3) Eosinophilic disorders as evidenced by the results of a biopsy; and

12 (4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface,
13 function, length and motility of the gastrointestinal tract (short bowel).

14 (b) The coverage required by subsection (a) of this section shall include medical foods for
15 home use for which a physician has issued a prescription and has declared them to be medically
16 necessary, regardless of methodology of delivery.

17 (c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean
18 prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided, That*
19 these foods are specifically designated and manufactured for the treatment of severe allergic
20 conditions or short bowel.

21 (d) The provisions of this section shall not apply to persons diagnosed with cystic fibrosis
22 or persons with an intolerance for lactose or soy.

ARTICLE 25. HEALTHCARE CORPORATION.

§33-25-8n. Coverage for amino acid-based formulas.

1 (a) A policy, plan or contract that is issued or renewed on or after January 1, 2018, and
2 that is subject to this section shall provide coverage, through the age of twenty, for amino acid-
3 based formula for the treatment of severe protein allergic conditions or impaired absorption of
4 nutrients caused by disorders affecting the absorptive surface, function, length and motility of the
5 gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder
6 by a physician licensed to practice in this state pursuant to either article three or fourteen, chapter
7 thirty of this code:

8 (1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food
9 proteins;

10 (2) Severe food protein-induced enterocolitis syndrome;

11 (3) Eosinophilic disorders as evidenced by the results of a biopsy; and

12 (4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface,
13 function, length and motility of the gastrointestinal tract (short bowel).

14 (b) The coverage required by subsection (a) of this section shall include medical foods for
15 home use for which a physician has issued a prescription and has declared them to be medically
16 necessary, regardless of methodology of delivery.

17 (c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean
18 prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That
19 these foods are specifically designated and manufactured for the treatment of severe allergic
20 conditions or short bowel.

21 (d) The provisions of this section shall not apply to persons diagnosed with cystic fibrosis
22 or persons with an intolerance for lactose or soy.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8p. Coverage for amino acid-based formulas.

1 (a) A policy, plan or contract that is issued or renewed on or after January 1, 2018, and
2 that is subject to this section shall provide coverage, through the age of twenty, for amino acid-
3 based formula for the treatment of severe protein allergic conditions or impaired absorption of
4 nutrients caused by disorders affecting the absorptive surface, function, length and motility of the
5 gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder
6 by a physician licensed to practice in this state pursuant to either article three or fourteen, chapter
7 thirty of this code:

8 (1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food
9 proteins;

- 10 (2) Severe food protein-induced enterocolitis syndrome;
11 (3) Eosinophilic disorders as evidenced by the results of a biopsy; and
12 (4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface,
13 function, length and motility of the gastrointestinal tract (short bowel).
14 (b) The coverage required by subsection (a) of this section shall include medical foods for
15 home use for which a physician has issued a prescription and has declared them to be medically
16 necessary, regardless of methodology of delivery.
17 (c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean
18 prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That
19 these foods are specifically designated and manufactured for the treatment of severe allergic
20 conditions or short bowel.
21 (d) The provisions of this section shall not apply to persons diagnosed with cystic fibrosis
22 or persons with an intolerance for lactose or soy.

NOTE: The purpose of this bill is to mandate insurance coverage for medical foods for amino acid-based formulas.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.