ASSEMBLY, No. 2506

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 14, 1996

By Assemblywoman HECK

AN ACT concerning coverage for foods and food products for inherited metabolic diseases and supplementing P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), chapter 26 of Title 17B of the New Jersey Statutes, chapter 27 of Title 17B of the New Jersey Statutes, P.L.1992, c.161 (C.17B:27A-2 et seq.), P.L.1992, c.162 (C.17B:27A-17 et seq.) and P.L.1973, c.337 (C.26:2J-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. No group or individual hospital service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, unless the contract provides benefits to each person covered thereunder for expenses incurred in the therapeutic treatment of inherited metabolic diseases, including the purchase of medical foods and low protein modified food products, when diagnosed and determined to be medically necessary by the covered person's physician.

For the purposes of this section, "inherited metabolic disease" means a disease caused by an inherited abnormality of body chemistry and includes those diseases for which testing is mandated pursuant to P.L.1977, c.321 (C.26:2-110 et seq.); "low protein modified food product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease, but does not include a natural food that is naturally low in protein; and "medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered enterally under direction of a physician.

The benefits shall be provided to the same extent as for any other medical condition under the contract.

The provisions of this section shall apply to all contracts in which

the hospital service corporation has reserved the right to change the premium.

2. No group or individual medical service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, unless the contract provides benefits to each person covered thereunder for expenses incurred in the therapeutic treatment of inherited metabolic diseases, including the purchase of medical foods and low protein modified food products, when diagnosed and determined to be medically necessary by the covered person's physician.

For the purposes of this section, "inherited metabolic disease" means a disease caused by an inherited abnormality of body chemistry and includes those diseases for which testing is mandated pursuant to P.L.1977, c.321 (C.26:2-110 et seq.); "low protein modified food product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease, but does not include a natural food that is naturally low in protein; and "medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered enterally under direction of a physician.

The benefits shall be provided to the same extent as for any other medical condition under the contract.

The provisions of this section shall apply to all contracts in which the medical service corporation has reserved the right to change the premium.

3. No group or individual health service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, unless the contract provides benefits to each person covered thereunder for expenses incurred in the therapeutic treatment of inherited metabolic diseases, including the purchase of medical foods and low protein modified food products, when diagnosed and determined to be medically necessary by the covered person's physician.

For the purposes of this section, "inherited metabolic disease" means a disease caused by an inherited abnormality of body chemistry and includes those diseases for which testing is mandated pursuant to P.L.1977, c.321 (C.26:2-110 et seq.); "low protein modified food

product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease, but does not include a natural food that is naturally low in protein; and "medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered enterally under direction of a physician.

The benefits shall be provided to the same extent as for any other medical condition under the contract.

The provisions of this section shall apply to all contracts in which the health service corporation has reserved the right to change the premium.

4. No individual health insurance policy providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, unless the policy provides benefits to each person covered thereunder for expenses incurred in the therapeutic treatment of inherited metabolic diseases, including the purchase of medical foods and low protein modified food products, when diagnosed and determined to be medically necessary by the covered person's physician.

For the purposes of this section, "inherited metabolic disease" means a disease caused by an inherited abnormality of body chemistry and includes those diseases for which testing is mandated pursuant to P.L.1977, c.321 (C.26:2-110 et seq.); "low protein modified food product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease, but does not include a natural food that is naturally low in protein; and "medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered enterally under direction of a physician.

The benefits shall be provided to the same extent as for any other medical condition under the policy.

The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

5. No group health insurance policy providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the

Commissioner of Banking and Insurance on or after the effective date of this act, unless the policy provides benefits to each person covered thereunder for expenses incurred in the therapeutic treatment of inherited metabolic diseases, including the purchase of medical foods and low protein modified food products, when diagnosed and determined to be medically necessary by the covered person's physician.

For the purposes of this section, "inherited metabolic disease" means a disease caused by an inherited abnormality of body chemistry and includes those diseases for which testing is mandated pursuant to P.L.1977, c.321 (C.26:2-110 et seq.); "low protein modified food product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease, but does not include a natural food that is naturally low in protein; and "medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered enterally under direction of a physician.

The benefits shall be provided to the same extent as for any other medical condition under the policy.

The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

6. No individual health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State on or after the effective date of this act, unless the health benefits plan provides benefits to each person covered thereunder for expenses incurred in the therapeutic treatment of inherited metabolic diseases, including the purchase of medical foods and low protein modified food products, when diagnosed and determined to be medically necessary by the covered person's physician.

For the purposes of this section, "inherited metabolic disease" means a disease caused by an inherited abnormality of body chemistry and includes those diseases for which testing is mandated pursuant to P.L.1977, c.321 (C.26:2-110 et seq.); "low protein modified food product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease, but does not include a natural food that is naturally low in protein; and "medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered enterally under direction of a

physician.

The benefits shall be provided to the same extent as for any other medical condition under the health benefits plan.

The provisions of this section shall apply to all health benefits plans in which the carrier has reserved the right to change the premium.

7. No small employer health benefits plan subject to the provisions of P.L.1992, c.162 (C.17B:27A-17 et seq.) shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State on or after the effective date of this act, unless the health benefits plan provides benefits to each person covered thereunder for expenses incurred in the therapeutic treatment of inherited metabolic diseases, including the purchase of medical foods and low protein modified food products, when diagnosed and determined to be medically necessary by the covered person's physician.

For the purposes of this section, "inherited metabolic disease" means a disease caused by an inherited abnormality of body chemistry and includes those diseases for which testing is mandated pursuant to P.L.1977, c.321 (C.26:2-110 et seq.); "low protein modified food product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease, but does not include a natural food that is naturally low in protein; and "medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered enterally under direction of a physician.

The benefits shall be provided to the same extent as for any other medical condition under the health benefits plan.

The provisions of this section shall apply to all health benefits plans in which the carrier has reserved the right to change the premium.

8. Notwithstanding any provision of law to the contrary, a certificate of authority to establish and operate a health maintenance organization in this State shall not be issued or continued by the Commissioner of Health and Senior Services on or after the effective date of this act unless the health maintenance organization provides health care services to each enrollee for the therapeutic treatment of inherited metabolic diseases, including the purchase of medical foods and low protein modified food products, when diagnosed and determined to be medically necessary by the enrollee's physician.

For the purposes of this section, "inherited metabolic disease" means a disease caused by an inherited abnormality of body chemistry and includes those diseases for which testing is mandated pursuant to P.L.1977, c.321 (C.26:2-110 et seq.); "low protein modified food

product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease, but does not include a natural food that is naturally low in protein; and "medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered enterally under direction of a physician.

The health care services shall be provided to the same extent as for any other medical condition under the contract.

The provisions of this section shall apply to all contracts for health care services by health maintenance organizations under which the right to change the schedule of charges for enrollee coverage is reserved.

9. This act shall take effect immediately.

STATEMENT

This bill requires hospital, medical and health service corporations, individual, small employer and large group insurers and health maintenance organizations to provide coverage for the therapeutic treatment of inherited metabolic diseases, including the purchase of medical foods and low protein modified food products, when diagnosed and determined to be medically necessary by the covered person's physician.

The bill defines "inherited metabolic disease" as a disease caused by an inherited abnormality of body chemistry and includes those diseases for which testing is mandated pursuant to P.L.1977, c.321 (C.26:2-110 et seq.), including phenylketonuria (PKU). "Low protein modified food product" is a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease, but does not include a natural food that is naturally low in protein, and "medical food" is a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered enterally under direction of a physician.

PKU is a rare genetic metabolic disease that results in mental retardation and neurological deterioration if a very strict low protein diet is not begun soon after birth and well-maintained. Specially formulated medical foods are critical in this diet management and are necessary to prevent mental retardation in the children who have PKU.

Massachusetts, Connecticut and Maryland have adopted legislation to mandate insurance coverage for these medical foods.

Mandates health insurance coverage for foods and food products for inherited metabolic diseases.