

SENATE, No. 1887

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1997

By Senator SCHLUTER

1 AN ACT concerning coverage for foods and food products for  
2 inherited metabolic diseases and supplementing P.L.1938, c.366  
3 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985,  
4 c.236 (C.17:48E-1 et seq.), chapter 26 of Title 17B of the New  
5 Jersey Statutes, chapter 27 of Title 17B of the New Jersey Statutes,  
6 P.L.1992, c.161 (C.17B:27A-2 et seq.), P.L.1992, c.162  
7 (C.17B:27A-17 et seq.) and P.L.1973, c.337 (C.26:2J-1 et seq.).  
8

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

11

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

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

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

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

4  
5 2. No group or individual medical service corporation contract  
6 providing hospital or medical expense benefits shall be delivered,  
7 issued, executed or renewed in this State, or approved for issuance or  
8 renewal in this State by the Commissioner of Banking and Insurance  
9 on or after the effective date of this act, unless the contract provides  
10 benefits to each person covered thereunder for expenses incurred in  
11 the therapeutic treatment of inherited metabolic diseases, including the  
12 purchase of medical foods and low protein modified food products,  
13 when diagnosed and determined to be medically necessary by the  
14 covered person's physician.

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

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

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

33  
34 3. No group or individual health service corporation contract  
35 providing hospital or medical expense benefits shall be delivered,  
36 issued, executed or renewed in this State, or approved for issuance or  
37 renewal in this State by the Commissioner of Banking and Insurance  
38 on or after the effective date of this act, unless the contract provides  
39 benefits to each person covered thereunder for expenses incurred in  
40 the therapeutic treatment of inherited metabolic diseases, including the  
41 purchase of medical foods and low protein modified food products,  
42 when diagnosed and determined to be medically necessary by the  
43 covered person's physician.

44 For the purposes of this section, "inherited metabolic disease"  
45 means a disease caused by an inherited abnormality of body chemistry  
46 and includes those diseases for which testing is mandated pursuant to

1 P.L.1977, c.321 (C.26:2-110 et seq.); "low protein modified food  
2 product" means a food product that is specially formulated to have less  
3 than one gram of protein per serving and is intended to be used under  
4 the direction of a physician for the dietary treatment of an inherited  
5 metabolic disease, but does not include a natural food that is naturally  
6 low in protein; and "medical food" means a food that is intended for  
7 the dietary treatment of a disease or condition for which nutritional  
8 requirements are established by medical evaluation and is formulated  
9 to be consumed or administered enterally under direction of a  
10 physician.

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

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

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

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

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

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

44

45 5. No group health insurance policy providing hospital or medical  
46 expense benefits shall be delivered, issued, executed or renewed in this

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

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

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

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

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

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

1 to be consumed or administered enterally under direction of a  
2 physician.

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

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

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

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

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

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

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

44 For the purposes of this section, "inherited metabolic disease"  
45 means a disease caused by an inherited abnormality of body chemistry  
46 and includes those diseases for which testing is mandated pursuant to

1 P.L.1977, c.321 (C.26:2-110 et seq.); "low protein modified food  
2 product" means a food product that is specially formulated to have less  
3 than one gram of protein per serving and is intended to be used under  
4 the direction of a physician for the dietary treatment of an inherited  
5 metabolic disease, but does not include a natural food that is naturally  
6 low in protein; and "medical food" means a food that is intended for  
7 the dietary treatment of a disease or condition for which nutritional  
8 requirements are established by medical evaluation and is formulated  
9 to be consumed or administered enterally under direction of a  
10 physician.

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

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

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18 9. This act shall take effect immediately.

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#### STATEMENT

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

30 The bill defines "inherited metabolic disease" as a disease caused by  
31 an inherited abnormality of body chemistry and includes those diseases  
32 for which testing is mandated pursuant to P.L.1977, c.321 (C.26:2-  
33 110 et seq.), including phenylketonuria (PKU). "Low protein modified  
34 food product" is a food product that is specially formulated to have  
35 less than one gram of protein per serving and is intended to be used  
36 under the direction of a physician for the dietary treatment of an  
37 inherited metabolic disease, but does not include a natural food that is  
38 naturally low in protein, and "medical food" is a food that is intended  
39 for the dietary treatment of a disease or condition for which nutritional  
40 requirements are established by medical evaluation and is formulated  
41 to be consumed or administered enterally under direction of a  
42 physician.

43 PKU is a rare genetic metabolic disease that results in mental  
44 retardation and neurological deterioration if a very strict low protein  
45 diet is not begun soon after birth and well-maintained. Specially  
46 formulated medical foods are critical in this diet management and are

1 necessary to prevent mental retardation in the children who have PKU.  
2 Massachusetts, Connecticut and Maryland have adopted legislation to  
3 mandate insurance coverage for these medical foods.

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