

BILL ANALYSIS

Senate Research Center
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H.B. 2000
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Amino acid-based elemental formulas are made from individual, single, non-allergenic amino acids unlike regular dairy, milk or soy-based, formulas and foods that contain any complete proteins. Amino acid-based elemental formulas are made of proteins broken down to their "elemental level" so that they can be easily absorbed and digested. In many cases, amino acid-based elemental formulas are the only thing an infant or child can properly digest and tolerate due to various allergies or gastrointestinal conditions.

Every day, children are born with potentially life threatening allergies and related disease which prohibit them from consuming the foods and formulas required for proper life sustaining nutrition. The best option for the small percentage of children and infants currently suffering is amino acid-based elemental formulas. In most states today, children face deteriorating health often resulting in hospitalization because these products are not covered by insurance, although Medicaid and WIC do cover these products for those qualifying for those programs.

Based on the expert advice of medical professionals as well as verified statistics from a number of state health offices, we have found that the number of children who rely on these formulas is very low. According to Dr. Robert Wood, MD, Professor of Pediatrics and International Health and the Director of Pediatric Allergy and Immunology at Johns Hopkins University School of Medicine, 1 -2 percent of the 2.5 percent of children who have a milk allergy require an amino acid-based elemental formula. This translates, on average, to less than four-tenths of one percent. Dr. Wood has stated that the highest estimate would be 10 percent of the 2.5percent. The total prevalence of need for amino acid-based elemental formulas in Texas is likely between 577 and 1,922 children. According to the Kaiser Foundation, 48.9 percent of children in Texas are on private insurance. Specific to Texas, approximately 282 to 939 children with private insurance who lack proper coverage would be helped by this legislation.

The Insurance Code currently does not require private insurers to cover amino acid-based elemental formula. In fact, some insurers will cover the costs associated with a surgery to insert a feeding tube and then cover the formula if its delivered to the infant in this manner.

H.B. 2000 requires private insurers to cover the amino acid-based formula regardless of delivery method. This simply mandates that coverage be provided to a very small number of children in Texas in order that their amino acid based elemental formula be covered by private insurance.

H.B. 2000 amends current law relating to health benefit plan coverage for certain amino acid-based elemental formulas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle E, Title 8, Insurance Code, by adding Chapter 1377, as follows:

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

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1377.001. DEFINITION. Defines "enrollee."

Sec. 1377.002. APPLICABILITY OF CHAPTER. (a) Provides that this chapter applies only to a health benefit plan, including a small employer health benefit plan written under Chapter 1501 (Health Insurance Portability and Availability Act) or coverage provided by a health group cooperative under Subchapter B (Coalitions and Cooperatives) of that chapter, that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by certain entities.

(b) Provides that notwithstanding any provision in Chapter 1551 (Texas Employees Group Benefits Act), 1575 (Texas Public School Employees Group Benefits Program), 1579 (Texas School Employees Uniform Group Health Coverage), or 1601 (Uniform Insurance Benefits Act for Employees of The University of Texas System and The Texas A&M University System) or any other law, this chapter applies to a basic coverage plan under Chapter 1551, a basic plan under Chapter 1575, a primary care coverage plan under Chapter 1579, and basic coverage under Chapter 1601.

Sec. 1377.003. EXCEPTION. Provides that this chapter does not apply to a plan that provides certain types of coverage; a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss); a workers' compensation insurance policy; medical payment insurance coverage provided under an automobile insurance policy; a credit insurance policy; a limited benefit policy that does not provide coverage for physical examinations or wellness exams; or a long-term care insurance policy, including a nursing home fixed indemnity policy, unless the commissioner of insurance determines that the policy provides benefit coverage so comprehensive that the policy is a health benefit plan as described by Section 1377.002.

[Reserves Sections 1377.004-1377.050 for expansion.]

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

Sec. 1377.051. REQUIRED COVERAGE FOR CERTAIN AMINO ACID-BASED ELEMENTAL FORMULAS. (a) Requires that a health benefit plan provide coverage as provided by this chapter for amino acid-based elemental formulas, regardless of the formula delivery method, that are used for the diagnosis and treatment of immunoglobulin E and non-immunoglobulin E mediated allergies to multiple food proteins; severe food protein-induced enterocolitis syndrome; eosinophilic disorders, as evidenced by the results of a biopsy; and impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, and motility of the gastrointestinal tract.

(b) Provides that subject to Subsection (c), the coverage required under Subsection (a) is required if the treating physician has issued a written order stating that the amino acid-based elemental formula is medically necessary for the treatment of an enrollee who is diagnosed with a disease or disorder listed in Subsection (a). Requires that the coverage include coverage of any medically necessary services associated with the administration of the formula.

(c) Requires that a health benefit plan provide the coverage described by Subsection (a) on a basis no less favorable than the basis on which prescription drugs and other medications and related services are covered by the plan, and to the same extent that the plan provides coverage for drugs that are available only on the orders of a physician.

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

(b) Provides that a utilization review under this section is subject to Chapter 4201 (Utilization Review Agents).

SECTION 2. Makes application of Chapter 1377, Insurance Code, as added by this Act, prospective to January 1, 2010.

SECTION 3. Effective date: September 1, 2009.