

LAWS OF DELAWARE  
VOLUME 84  
CHAPTER 376  
152nd GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 274

AN ACT TO AMEND TITLE 18, TITLE 29, AND TITLE 31 OF THE DELAWARE CODE RELATING TO INSURANCE COVERAGE OF ALLERGEN INTRODUCTION DIETARY SUPPLEMENTS FOR INFANTS.

WHEREAS, it is estimated that 8% of children in the United States have food allergies; and

WHEREAS, studies have found that 38.7% of food-allergic children had a history of severe food-induced reactions; and

WHEREAS, non-Hispanic Black children have 2 times the number of food-induced anaphylaxis and food allergy-related emergency department visits than non-Hispanic white children; and

WHEREAS, studies suggest that at least 10.8% of adults in the United States are food allergic; and

WHEREAS, the 2019 *Economic Burden of Food Allergy, A Systemic Review* found annual mean individual-level direct medical costs of a food allergy of \$2,081, with mean individual-level out-of-pocket costs of \$1,874; and

WHEREAS, a study published in the February 26, 2015, issue of the *New England Journal of Medicine* found that “the early introduction of peanuts significantly decreased the frequency of the development of peanut allergy among children at high risk for this allergy”; and

WHEREAS, the Learning Early About Peanut Allergy Study Team found that the early introduction of peanut reduced the rate of peanut allergy by over 80%; and

WHEREAS, the 2017 *Addendum Guidelines for the Prevention of Peanut Allergy in the United States: Report of the National Institute of Allergy and Infectious Diseases-Sponsored Expert Panel* (“2017 Guidelines”) recommend that pediatricians assess infant peanut allergy risk and introduce peanut in the diet at age 4 to 6 months because early introduction has the potential to prevent peanut allergy development; and

WHEREAS, in 2021, the American Academy of Allergy, Asthma, and Immunology; American College of Allergy, Asthma, and Immunology; and the Canadian Society for Allergy and Clinical Immunology released joint guidance recommending that around age 6 months, infants should be introduced to both peanut and egg products; and

WHEREAS, however, a survey of pediatricians in the United States found that less than one-third of the respondents reported full implementations of the 2017 Guidelines; and

WHEREAS, a study of infants in the United Kingdom identified infant refusal to eat allergenic food and that the practical implications of the allergenic food regimen compromised the ability of some caregivers to maintain consistent introduction; and

WHEREAS, under the 2017 Guidelines, infants should consume 2 grams of peanut protein 3 times per week; and

WHEREAS, introducing peanut and egg protein into infant diets is a cost-effective way to reduce the number of people with food allergies; and

WHEREAS, reducing the number of people with food allergies will save lives, reduce health disparities, and reduce medical costs to individuals and all residents of Delaware.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 33, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3370G. Coverage for allergenic protein dietary supplements.

(a) For purposes of this section:

(1) “Dietary supplement” means as defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.S. § 321.

(2) “Early egg allergen introduction dietary supplement” means a dietary supplement that is prescribed to an infant by a health-care practitioner and contains sufficient infant-safe, well-cooked egg protein to reduce the risk of food allergies.

(3) “Early peanut allergen introduction dietary supplement” means a dietary supplement that is prescribed to an infant by a health-care practitioner and contains sufficient infant-safe peanut protein to reduce the risk of food allergies.

(4) “Health-care practitioner” means an individual licensed and authorized to write medical orders for an individual under Title 24.

(5) “Infant” means a child who has not attained the age of 1 year.

(b)(1) All individual health insurance policies, contracts, or certificates that are delivered, issued for delivery, renewed, extended, or modified in this State shall provide coverage for at least 1 of each of the following:

- a. An early egg allergen introduction dietary supplement.
- b. An early peanut allergen introduction dietary supplement.

(2) The coverage required under paragraph (b)(1) of this section shall be provided at no cost to a covered individual, including deductible payments and cost-sharing amounts charged once a deductible is met.

(c) Except as provided under subsection (b) of this section, nothing in this section prevents the operation of a policy provision required by this section as a deductible, coinsurance, allowable charge limitation, coordination of benefits, or a provision restricting coverage to services by a licensed, certified, or carrier-approved provider or facility.

(d)(1) This section does not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, disability income, or other limited benefit health insurance policies.

(2) The cost-sharing limitation under paragraph (b)(2) of this section does not apply to a catastrophic health plan to the extent this cost-sharing limitation would cause the plan to fail to be treated as a catastrophic plan under § 1302(e) of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18022(e).

(3)a. The cost-sharing limitation under paragraph (b)(2) of this section does not apply to a high deductible health plan to the extent this cost-sharing limitation would cause the plan to fail to be treated as a high deductible health plan under § 223(c)(2) of the Internal Revenue Code.

b. If the cost-sharing limitation under paragraph (b)(2) of this section would result in an enrollee becoming ineligible for a health savings account under federal law, this cost-sharing limitation only applies to a qualified high deductible health plan after the enrollee's deductible has been met.

Section 2. Amend Chapter 35, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3571AA. Coverage for allergenic protein dietary supplements.

(a) For purposes of this section:

(1) "Dietary supplement" means as defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.S. § 321.

(2) "Early egg allergen introduction dietary supplement" means a dietary supplement that is prescribed to an infant by a health-care practitioner and contains sufficient infant-safe, well-cooked egg protein to reduce the risk of food allergies.

(3) "Early peanut allergen introduction dietary supplement" means a dietary supplement that is prescribed to an infant by a health-care practitioner and contains sufficient infant-safe peanut protein to reduce the risk of food allergies.

(4) "Health-care practitioner" means an individual licensed and authorized to write medical orders for an individual under Title 24.

(5) "Infant" means a child who has not attained the age of 1 year.

(b)(1) All group and blanket health insurance policies, contracts, or certificates that are delivered, issued for delivery, renewed, extended, or modified in this State shall provide coverage for at least 1 of each of the following:

- a. An early egg allergen introduction dietary supplement.
- b. An early peanut allergen introduction dietary supplement.

(2) The coverage required under paragraph (b)(1) of this section shall be provided at no cost to a covered individual, including deductible payments and cost-sharing amounts charged once a deductible is met.

(c) Except as provided under paragraph (b)(2) of this section, nothing in this section prevents the operation of a policy provision required by this section as a deductible, coinsurance, allowable charge limitation, coordination of benefits, or a provision restricting coverage to services by a licensed, certified, or carrier-approved provider or facility.

(d)(1) This section does not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, disability income, or other limited benefit health insurance policies.

(2)a. The cost-sharing limitation under paragraph (b)(2) of this section does not apply to a high deductible health plan to the extent this cost-sharing limitation would cause the plan to fail to be treated as a high deductible health plan under § 223(c)(2) of the Internal Revenue Code.

b. If the cost-sharing limitation under paragraph (b)(2) of this section would result in an enrollee becoming ineligible for a health savings account under federal law, this cost-sharing limitation only applies to a qualified high deductible health plan after the enrollee's deductible has been met.

Section 3. Amend Chapter 52, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5218. Coverage for allergenic protein dietary supplements.

(a) For purposes of this section:

(1) “Dietary supplement” means as defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.S. § 321.

(2) “Early egg allergen introduction dietary supplement” means a dietary supplement that is prescribed to an infant by a health-care practitioner and contains sufficient infant-safe, well-cooked egg protein to reduce the risk of food allergies.

(3) “Early peanut allergen introduction dietary supplement” means a dietary supplement that is prescribed to an infant by a health-care practitioner and contains sufficient infant-safe peanut protein to reduce the risk of food allergies.

(4) “Health-care practitioner” means an individual licensed and authorized to write medical orders for an individual under Title 24.

(5) “Infant” means a child who has not attained the age of 1 year.

(b)(1) The plan shall provide coverage for at least 1 of each of the following:

a. An early egg allergen introduction dietary supplement.

b. An early peanut allergen introduction dietary supplement.

(2) The coverage required under paragraph (b)(1) of this section shall be provided at no cost to a covered individual, including deductible payments and cost-sharing amounts charged once a deductible is met.

Section 4. Amend Chapter 5, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 533. Coverage for allergenic protein dietary supplements.

(a) For purposes of this section:

(1) “Dietary supplement” means as defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.S. § 321.

(2) “Early egg allergen introduction dietary supplement” means a dietary supplement that is prescribed to an infant by a health-care practitioner and contains sufficient infant-safe, well-cooked egg protein to reduce the risk of food allergies.

(3) “Early peanut allergen introduction dietary supplement” means a dietary supplement that is prescribed to an infant by a health-care practitioner and contains sufficient infant-safe peanut protein to reduce the risk of food allergies.

(4) “Health-care practitioner” means an individual licensed and authorized to write medical orders for an individual under Title 24.

(5) “Infant” means a child who has not attained the age of 1 year.

(b) Carriers shall provide coverage at no cost in all health benefit plans delivered or issued for delivery under § 505(3) of this title for at least 1 of each of the following:

(1) An early egg allergen introduction dietary supplement.

(2) An early peanut allergen introduction dietary supplement.

Section 5. This Act applies to all policies, contracts, or certificates issued, renewed, modified, altered, amended, or reissued after December 31, 2025.

Approved August 29, 2024