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Anton, Carson; Sens. Gay, Huxtable, Sokola, Walsh,
Townsend

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

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.

- 1 WHEREAS, it is estimated that 8% of children in the United States have food allergies; and
- 2 WHEREAS, studies have found that 38.7% of food-allergic children had a history of severe food-induced
- 3 reactions; and
- 4 WHEREAS, non-Hispanic Black children have 2 times the number of food-induced anaphylaxis and food allergy-
- 5 related emergency department visits than non-Hispanic white children; and
- 6 WHEREAS, studies suggest that at least 10.8% of adults in the United States are food allergic; and
- 7 WHEREAS, the 2019 *Economic Burden of Food Allergy, A Systemic Review* found annual mean individual-level
- 8 direct medical costs of a food allergy of \$2,081, with mean individual-level out-of-pocket costs of \$1,874; and
- 9 WHEREAS, a study published in the February 26, 2015, issue of the *New England Journal of Medicine* found that
- 10 “the early introduction of peanuts significantly decreased the frequency of the development of peanut allergy among
- 11 children at high risk for this allergy”; and
- 12 WHEREAS, the Learning Early About Peanut Allergy Study Team found that the early introduction of peanut
- 13 reduced the rate of peanut allergy by over 80%; and
- 14 WHEREAS, the 2017 *Addendum Guidelines for the Prevention of Peanut Allergy in the United States: Report of*
- 15 *the National Institute of Allergy and Infectious Diseases-Sponsored Expert Panel* (“2017 Guidelines”) recommend that
- 16 pediatricians assess infant peanut allergy risk and introduce peanut in the diet at age 4 to 6 months because early
- 17 introduction has the potential to prevent peanut allergy development; and
- 18 WHEREAS, in 2021, the American Academy of Allergy, Asthma, and Immunology; American College of
- 19 Allergy, Asthma, and Immunology; and the Canadian Society for Allergy and Clinical Immunology released joint guidance
- 20 recommending that around age 6 months, infants should be introduced to both peanut and egg products; and

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

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

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

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

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

31 NOW, THEREFORE:

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

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

35 § 3370G. Coverage for allergenic protein dietary supplements.

36 (a) For purposes of this section:

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

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

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

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

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

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

49 a. An early egg allergen introduction dietary supplement.

50 b. An early peanut allergen introduction dietary supplement.

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

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

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

58 (2) The cost-sharing limitation under paragraph (b)(2) of this section does not apply to a catastrophic health
59 plan to the extent this cost-sharing limitation would cause the plan to fail to be treated as a catastrophic plan under §
60 1302(e) of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18022(e).

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

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

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

69 § 3571AA. Coverage for allergenic protein dietary supplements.

70 (a) For purposes of this section:

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

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

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

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

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

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

83 a. An early egg allergen introduction dietary supplement.

84 b. An early peanut allergen introduction dietary supplement.

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

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

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

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

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

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

100 § 5218. Coverage for allergenic protein dietary supplements.

101 (a) For purposes of this section:

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

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

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

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

111 (5) “Infant” means a child who has not attained the age of 1 year.
112 (b)(1) The plan shall provide coverage for at least 1 of each of the following:
113 a. An early egg allergen introduction dietary supplement.
114 b. An early peanut allergen introduction dietary supplement.
115 (2) The coverage required under paragraph (b)(1) of this section shall be provided at no cost to a covered
116 individual, including deductible payments and cost-sharing amounts charged once a deductible is met.

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

119 § 533. Coverage for allergenic protein dietary supplements.

120 (a) For purposes of this section:

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

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

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

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

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

131 (b) Carriers shall provide coverage at no cost in all health benefit plans delivered or issued for delivery under §
132 505(3) of this title for at least 1 of each of the following:

133 (1) An early egg allergen introduction dietary supplement.

134 (2) An early peanut allergen introduction dietary supplement.

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

SYNOPSIS

Early, sustained exposure to peanut and egg proteins in the infant diet significantly reduces the risk that an infant will develop a peanut or egg allergy, saving lives and future health care costs. Following multiple clinical studies, the current guidance of the American Academy of Allergy, Asthma, and Immunology and the American College of Allergy, Asthma, and Immunology, which is followed by pediatricians, recommends that by age 6 months, all infants should be introduced to both peanut and egg protein and that unless contraindicated, all infants should regularly consume peanut and well-cooked egg protein until they reach the age of 1 year, to reduce the risk of developing peanut or egg allergies.

This Act requires that all health insurance plans subject to requirements under Delaware law, including Medicaid, provide coverage, at no cost when prescribed to infants, of at least 1 early peanut allergen introduction dietary supplement and at least 1 early egg allergen introduction dietary supplement.

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