

**304.17A-258 Coverage under health benefit plan for therapeutic food, formulas, supplements, low-protein modified food products, and amino acid-based elemental formula.**

- (1) For purposes of this section:
  - (a) "Therapeutic food, formulas, and supplements" means products intended for the dietary treatment of inborn errors of metabolism or genetic conditions, including but not limited to eosinophilic disorders, food protein allergies, food protein-induced enterocolitis syndrome, mitochondrial disease, and short bowel disorders, under the direction of a physician, and includes amino acid-based elemental formula and the use of vitamin and nutritional supplements such as coenzyme Q10, vitamin E, vitamin C, vitamin B1, vitamin B2, vitamin K1, and L-carnitine;
  - (b) "Low-protein modified food" means a product formulated to have less than one (1) gram of protein per serving and intended for the dietary treatment of inborn errors of metabolism or genetic conditions under the direction of a physician; and
  - (c) "Amino acid-based elemental formula" means a product intended for the diagnosis and dietary treatment of eosinophilic disorders, food protein allergies, food protein-induced enterocolitis, and short-bowel syndrome under the direction of a physician.
- (2) A health benefit plan that provides prescription drug coverage shall include in that coverage therapeutic food, formulas, supplements, and low-protein modified food products for the treatment of inborn errors of metabolism or genetic conditions, including those that are compounded, if the therapeutic food, formulas, supplements, and low-protein modified food products are obtained for the therapeutic treatment of inborn errors of metabolism or genetic conditions, including but not limited to mitochondrial disease, under the direction of a physician. Coverage under this subsection may be subject, for each plan year, to a cap of twenty-five thousand dollars (\$25,000) for therapeutic food, formulas, and supplements and a separate cap for each plan year of four thousand dollars (\$4,000) on low-protein modified foods. Each cap shall be subject to annual inflation adjustments based on the consumer price index. Coverage under this section shall not be denied because two (2) or more supplements are compounded.
- (3) The requirements of this section shall apply to all health benefit plans issued or renewed on and after January 1, 2017.
- (4) Nothing in this section or KRS 205.560, 213.141, or 214.155 shall be construed to require a health benefit plan to provide coverage for therapeutic foods, formulas, supplements, or low-protein modified food for the treatment of lactose intolerance, protein intolerance, food allergy, food sensitivity, or any other condition or disease that is not an inborn error of metabolism or genetic condition.

**Effective:** January 1, 2017

**History:** Amended 2016 Ky. Acts ch. 10, sec. 3, effective April 1, 2016; and ch. 143, sec. 4, effective January 1, 2017. -- Created 2008 Ky. Acts ch. 119, sec. 4, effective July 15, 2008.

**Legislative Research Commission Note** (1/1/2017). This statute was amended by 2016 Ky. Acts chs. 10 and 143, which do not appear to be in conflict and have been codified together.