

AMENDED IN ASSEMBLY JUNE 29, 1999  
AMENDED IN ASSEMBLY JUNE 9, 1999  
AMENDED IN SENATE APRIL 5, 1999  
AMENDED IN SENATE MARCH 15, 1999  
AMENDED IN SENATE MARCH 4, 1999

**SENATE BILL**

**No. 148**

---

---

**Introduced by Senator Alpert**  
*(Coauthor: Senator Bowen)*

January 6, 1999

---

---

An act to add Section 1374.56 to the Health and Safety Code, and to add Section 10123.89 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 148, as amended, Alpert. Health care coverage: phenylketonuria (PKU).

Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Willful violation of those provisions is a crime. Existing law also provides for the regulation of disability insurance by the Insurance Commissioner.

This bill would require, *on and after July 1, 2000*, every health care service plan contract, except a specialized health care service plan contract, and specified policies of disability insurance, issued, amended, delivered, or renewed in this state that provide coverage for hospital, medical, or surgical

expenses, to provide coverage for the testing and treatment of phenylketonuria (PKU) under the terms and conditions of the plan or policy, as the case may be, as provided under the bill.

Since a violation of the provisions regulating health care service plans would be a crime, this bill would impose a state-mandated local program by expanding the scope of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1374.56 is added to the Health  
2 and Safety Code, to read:

3 1374.56. (a) On and after ~~January~~ July 1, 2000, every  
4 health care service plan contract, except a specialized  
5 health care service plan contract, issued, amended,  
6 delivered, or renewed in this state that provides coverage  
7 for hospital, medical, or surgical expenses shall provide  
8 coverage for the testing and treatment of  
9 phenylketonuria (PKU) under the terms and conditions  
10 of the plan contract.

11 (b) Coverage for treatment of phenylketonuria  
12 (PKU) shall include those formulas and special food  
13 products that are part of a diet prescribed by a licensed  
14 physician and managed by a health care professional in  
15 consultation with a physician who specializes in the  
16 treatment of metabolic disease and who participates in or  
17 is authorized by the plan, provided that the diet is  
18 deemed medically necessary to avert the development of  
19 serious physical or mental disabilities or to promote  
20 normal development or function as a consequence of  
21 phenylketonuria (PKU).



1 (c) Coverage pursuant to this section is not required  
2 except to the extent that the cost of the necessary  
3 formulas and special food products exceeds the cost of a  
4 normal diet.

5 (d) For purposes of this section, the following  
6 definitions shall apply:

7 (1) "Formula" means an enteral product or enteral  
8 products for use at home that are prescribed by a  
9 physician or nurse practitioner, or ordered by a  
10 registered dietician upon referral by a health care  
11 provider authorized to prescribe dietary treatments, as  
12 medically necessary for the treatment of ~~inherited~~  
13 ~~metabolic diseases characterized by deficient~~  
14 ~~metabolism or malabsorption, originating from~~  
15 ~~congenital defects or defects arising shortly after birth, of~~  
16 ~~amino acid, organic acid, carbohydrate, or fat.~~

17 (2) ~~"Special food product" means a food product that~~  
18 ~~is specially formulated to have less than one gram of~~  
19 ~~protein per serving and is intended to be consumed~~  
20 ~~under the direction of a physician for the dietary~~  
21 ~~treatment of an inherited metabolic disease. "Special~~  
22 ~~food product" does not include a food that is naturally low~~  
23 ~~in protein. phenylketonuria (PKU).~~

24 (2) "Special food product" means a food product that  
25 is both of the following:

26 (A) Consumed as part of a diet prescribed by a  
27 physician or nurse practitioner for the treatment of  
28 phenylketonuria (PKU) and is consistent with the  
29 recommendations and best practices of qualified health  
30 professionals with expertise germane to, and experience  
31 in the treatment and care of, phenylketonuria (PKU). It  
32 does not include a food that is naturally low in protein, but  
33 may include a food product that is specially formulated to  
34 have less than one gram of protein per serving.

35 (B) Used in place of normal food products, such as  
36 grocery store foods, used by the general population.

37 SEC. 2. Section 10123.89 is added to the Insurance  
38 Code, immediately following Section 10123.87, to read:

39 10123.89. (a) On and after ~~January~~ July 1, 2000, every  
40 policy of disability insurance issued, amended, delivered,



1 or renewed in this state that provides coverage for  
2 hospital, medical, or surgical expenses shall provide  
3 coverage for the testing and treatment of  
4 phenylketonuria (PKU) under the terms and conditions  
5 of the policy.

6 (b) Coverage for treatment of phenylketonuria  
7 (PKU) shall include those formulas and special food  
8 products that are part of a diet prescribed by a licensed  
9 physician and managed by a health care professional in  
10 consultation with a physician who specializes in the  
11 treatment of metabolic disease and who participates in or  
12 is authorized by the insurer, provided that the diet is  
13 deemed medically necessary to avert the development of  
14 serious physical or mental disabilities or to promote  
15 normal development or function as a consequence of  
16 phenylketonuria (PKU).

17 (c) Coverage pursuant to this section is not required  
18 except to the extent that the cost of necessary formulas  
19 and special food products exceeds the cost of a normal  
20 diet.

21 (d) For purposes of this section, the following  
22 definitions shall apply:

23 (1) "Formula" means an enteral product or enteral  
24 products for use at home that are prescribed by a  
25 physician or nurse practitioner, or ordered by a  
26 registered dietician upon referral by a health care  
27 provider authorized to prescribe dietary treatments, as  
28 medically necessary for the treatment of ~~inherited~~  
29 ~~metabolic diseases characterized by deficient~~  
30 ~~metabolism or malabsorption, originating from~~  
31 ~~congenital defects or defects arising shortly after birth, of~~  
32 ~~amino acid, organic acid, carbohydrate, or fat.~~

33 (2) ~~"Special food product" means a food product that~~  
34 ~~is specially formulated to have less than one gram of~~  
35 ~~protein per serving and is intended to be consumed~~  
36 ~~under the direction of a physician for the dietary~~  
37 ~~treatment of an inherited metabolic disease. "Special~~  
38 ~~food product" does not include a food that is naturally low~~  
39 ~~in protein.~~



1 ~~(e) This section shall only apply to disability insurance~~  
2 ~~policies or contracts that are defined as health benefit~~  
3 ~~plans pursuant to subdivision (a) of Section 10198.6,~~  
4 ~~phenylketonuria (PKU).~~

5 (2) “Special food product” means a food product that  
6 is both of the following:

7 (A) Consumed as part of a diet prescribed by a  
8 physician or nurse practitioner for the treatment of  
9 phenylketonuria (PKU) and is consistent with the  
10 recommendations and best practices of qualified health  
11 professionals with expertise germane to, and experience  
12 in the treatment and care of, phenylketonuria (PKU). It  
13 does not include a food that is naturally low in protein, but  
14 may include a food product that is specially formulated to  
15 have less than one gram of protein per serving.

16 (B) Used in place of normal food products, such as  
17 grocery store foods, used by the general population.

18 (e) This section shall not apply to vision-only,  
19 dental-only, accident-only, specified disease, hospital  
20 indemnity, Medicare supplement, long-term care, or  
21 disability income insurance, except that for accident only,  
22 specified disease, or hospital indemnity coverage,  
23 coverage for benefits under this section shall apply to the  
24 extent that the benefits are covered under the general  
25 terms and conditions that apply to all other benefits  
26 under the policy or contract. Nothing in this section shall  
27 be construed as imposing a new benefit mandate on  
28 accident only, specified disease, or hospital indemnity  
29 insurance.

30 SEC. 3. No reimbursement is required by this act  
31 pursuant to Section 6 of Article XIII B of the California  
32 Constitution because the only costs that may be incurred  
33 by a local agency or school district will be incurred  
34 because this act creates a new crime or infraction,  
35 eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction, within the meaning of Section  
37 17556 of the Government Code, or changes the definition



- 1 of a crime within the meaning of Section 6 of Article
- 2 XIII B of the California Constitution.

O

