

SENATE No. 604

The Commonwealth of Massachusetts

PRESENTED BY:

Brendan P. Crighton

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act ensuring access to healthcare and medically necessary food for children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/18/2023</i>

SENATE No. 604

By Mr. Crighton, a petition (accompanied by bill, Senate, No. 604) of Brendan P. Crighton and Jason M. Lewis for legislation to ensure access to healthcare and medically necessary food for children. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act ensuring access to healthcare and medically necessary food for children.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. (a) Section 1 of chapter 176O of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting after the definition of “covered benefits” the
3 following definition:-

4 “covered disease or condition”, Immunoglobulin E and non-Immunoglobulin E-mediated
5 allergies to food proteins, including the following: (i) food protein-induced enterocolitis
6 syndrome. (ii) Immunoglobulin E and non-Immunoglobulin E-mediated allergies to food
7 proteins; and (iii) Eosinophilic disorders, including eosinophilic esophagitis, eosinophilic
8 gastroenteritis, eosinophilic colitis, and post-transplant eosinophilic disorders.

9 (b) Said Section 1 of said chapter 176O, as so appearing, is hereby amended by inserting
10 after the definition of “medical necessity” or “medically necessary” the following definition:-

11 “Medically necessary food”, food, including a low protein modified food product, an
12 amino acid preparation product, a modified fat preparation product, or a nutritional formula,

13 including such a formula that does not require a prescription, that is: (i) furnished pursuant to the
14 prescription, order, or recommendation, as applicable, of a physician or other health care
15 professional qualified to make such prescription, order, or recommendation, for the dietary
16 management of a covered disease or condition; (ii) a specially formulated and processed product
17 (as opposed to a naturally occurring food stuff used in its natural state) for the partial or
18 exclusive feeding of an individual by means of oral intake or enteral feeding by tube; (iii)
19 intended for the dietary management of an individual who, because of therapeutic or chronic
20 medical needs, has limited or impaired capacity to ingest, digest, absorb, or metabolize ordinary
21 food stuffs or certain nutrients, or who has other special medically determined nutrient
22 requirements, the dietary management of which cannot be achieved by the modification of the
23 normal diet alone; (iv) intended to be used under medical supervision, which may include in a
24 home setting; and (v) intended only for an individual receiving active and ongoing medical
25 supervision wherein the individual requires medical care on a recurring basis for, among other
26 things, instructions on the use of the food. Unless otherwise noted, the term “Medically
27 necessary food” shall not include (i) foods taken as part of an overall diet designed to reduce the
28 risk of a disease or medical condition or as weight loss products, even if they are recommended
29 by a physician or other health professional; (ii) foods marketed as gluten-free for the
30 management of celiac disease or non-celiac gluten sensitivity; and (iii) foods marketed for the
31 management of diabetes.

32 SECTION 2. Section 15 of said chapter 176O of the General Laws, as so appearing, is
33 hereby amended by inserting the following:-

34 (1) No carrier shall require an insured to obtain a referral or prior authorization from a
35 primary care provider for specialty care provided by an immunologist or family practitioner

36 participating in such carrier's health care provider network; no carrier shall categorize
37 prescription coverage as “durable medical equipment”; no carrier shall apply prescription co-pay
38 and deductible for medically necessary food.