



The California Managed Risk Medical Insurance Board

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**NOTICE OF PROPOSED RULEMAKING
ER-4-13**

**TITLE 10, INVESTMENT, CALIFORNIA CODE OF REGULATIONS
CHAPTER 5.5 MAJOR RISK MEDICAL INSURANCE PROGRAM
ARTICLE 2. ELIGIBILITY, APPLICATION AND ENROLLMENT**

AMEND SECTION 2698.200

NATURE OF PROCEEDING

NOTICE IS HEREBY GIVEN that the Managed Risk Medical Insurance Board (MRMIB) is proposing to take the action described in the Informative Digest.

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 calendar days before the close of the written comment period.

WRITTEN COMMENTS

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the:

Managed Risk Medical Insurance Board
Attn: Alissa Harris
1000 G Street, Suite 450
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at (916) 445-0898 or by e-mail to aharris@mrmib.ca.gov. Comments must be received by no later than **5:00 p.m. on March 31, 2014**. The Board will consider only comments received at the Board offices by that time.

AUTHORITY AND REFERENCE

Authority: Sections 12711 and 12712, Insurance Code
Reference: Sections 12711 and 12725, Insurance Code

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Managed Risk Medical Insurance Board (MRMIB or Board) administers the Major Risk Medical Insurance Program (MRMIP), which was established in 1991 (see,

Insurance Code Section 12700, et seq.) MRMIP provides access to health insurance for individuals who are denied coverage, or offered excessive premiums, due to a pre-existing medical condition. Program subscribers and dependent subscribers can select from several health insurers or health maintenance organizations that contract with MRMIB. Program costs are covered by a combination of Proposition 99 cigarette and tobacco tax funds and subscriber contributions.

Section 2698.200 of Title 10 of the California Code of Regulations, implementing Insurance Code Section 12725, establishes MRMIP eligibility criteria and requires that to be eligible, an applicant be “unable to secure adequate private coverage.” The regulation further states that an individual “shall be deemed unable to secure adequate private coverage” if the individual, within the previous 12 months:

1. Has been denied individual coverage; or
2. Has been involuntarily terminated from health insurance coverage for reasons other than nonpayment of premium or fraud; or
3. Has been offered an individual, not a group, health insurance premium rate in excess of the subscriber rate for the individual’s first choice of participating health plan.

On May 9, 2013, the Governor signed Special Session bills AB X1-2 (Chapter 1, Statutes of 2013) and SB X1-2 (Chapter 2, Statutes of 2013), mandating sweeping changes in the private health insurance market, effective January 1, 2014. These Special Session bills implemented the federal Patient Protection and Affordable Care Act (ACA) (P.L. 111-148 as amended by P.L. 111-152). AB X1-2, which governs coverage sold by health insurers regulated by the Department of Insurance, took effect on September 29, 2013. SB X1-2, which governs coverage sold by health care services plans regulated by the Department of Managed Care, also took effect on September 29, 2013.

The MRMIP eligibility standards eliminated through this proposed rulemaking are 1) the individual’s involuntary termination from private market coverage, and 2) an offer of private market coverage at a premium higher than the premium for the individual’s first choice MRMIP health plan. Because of changes in carrier protocols mandated by the Special Session bills, these two standards no longer fulfill the MRMIP statute’s eligibility criteria as of January 1, 2014.

At its September 18, 2013 public meeting, the Board adopted an emergency regulation modifying the two eligibility provisions discussed above in order to conform to requirements in the MRMIP statute that were affected by the Special Session bills. The emergency regulation took effect on December 19, 2013, and was implemented beginning January 1, 2014.

Benefits of the Proposed Action:

The proposed action would benefit the health and welfare of California residents by encouraging them to enter or stay in the private marketplace when that is the most appropriate source of health coverage for them. This regulation will also reduce the risk of confusion, i.e., that a member of the public might mistakenly believe that they are eligible for MRMIP when they are not. Further, this regulation helps assure that no one is inadvertently enrolled in MRMIP when they are in fact not eligible under the new laws governing the insurance marketplace.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The MRMIB has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulation that would relate to or affect this area, MRMIB has concluded that this is the only regulation that concerns MRMIP eligibility.

DISCLOSURES REGARDING THE PROPOSED ACTION

MRMIB has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: The MRMIP program is funded by a combination of state subsidies (Proposition 99) and subscriber premiums. The proposed regulations delete two of the three current bases for MRMIP eligibility effective January 1, 2014. The state fund may have savings since an unknown number of applicants will be ineligible for coverage. At this time, the amount of savings is unknown because the change in the MRMIP caseload cannot be predicted.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other nondiscretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the State: None.

Cost impact on representative private person or business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: None

Results of Economic Impact Analysis/Assessment

The MRMIB concludes that it is: (1) unlikely that the proposed action will create any jobs within the State; (2) unlikely that proposed action will eliminate any jobs within the State; (3) unlikely that the proposed action will create any new businesses within the

State; (4) unlikely that the proposed action will eliminate any existing business within the State; and (5) unlikely that the proposed action will cause the expansion of business currently doing business within the State.

Benefits of the Proposed Action: The proposed action would benefit the health and welfare of California residents by encouraging them to enter or stay in the private marketplace when that is the most appropriate source of health coverage for them. This regulation will also reduce the risk of confusion, i.e., that a member of the public might mistakenly believe that they are eligible for MRMIP when they are not. Further, this regulation helps assure that no one is inadvertently enrolled in MRMIP when they are in fact not eligible under the new laws governing the insurance marketplace.

Statewide adverse economic impact directly affecting businesses and individuals: The Board has determined that the proposed regulations will not have a significant statewide adverse impact on businesses, including small businesses. MRMIP is a State program for individuals with pre-existing medical conditions, and is funded by Proposition 99. The MRMIB is not aware of any cost impacts that any business would incur in reasonable compliance with the proposed action.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the MRMIB must determine that no reasonable alternative it considered, or that has been otherwise identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the adoption of this regulation is proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

MRMIB invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period, or at the public hearing.

CONTACT PERSON

Inquiries concerning the proposed adoption of this regulation and written comments may be directed to:

Alissa Harris
Managed Risk Medical Insurance Board
1000 G Street, Suite 450
Sacramento, CA 95814
(916) 324-0571

or

Tony Lee
Managed Risk Medical Insurance Board
1000 G Street, Suite 450
Sacramento, CA 95814
(916) 327-8000

INITIAL STATEMENT OF REASONS

The MRMIB has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which this proposal is based, may be obtained upon request from the Managed Risk Medical Insurance Board at 1000 G Street, Suite 450, Sacramento, CA 95814. These documents may also be viewed and downloaded from the MRMIB website at www.mrmib.ca.gov

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named above.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named above. The Final Statement of Reasons and the Rulemaking File will also be posted on the MRMIB website at www.mrmib.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, MRMIB may adopt the proposed regulations substantially as described in this notice. If MRMIB makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to attention of Alissa Harris at the address indicated above. MRMIB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

WEBSITE ACCESS

Materials regarding this proposal can be found at www.mrmib.ca.gov