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

AMEND SECTION 2698.200

INITIAL STATEMENT OF REASONS

INTRODUCTION AND BACKGROUND

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.

PROBLEM STATEMENT

The objective of the proposed action is to ensure that MRMIP eligibility regulations continue to comply with the state law. The applicability of the MRMIP statute to specific provisions of the regulations changed on January 1, 2014 due to Special Session legislation.

BENEFITS

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.

SPECIFIC PURPOSE OF EACH SECTION – GOVERNMENT CODE 11346.2(b)(1)

The proposed regulations amend the existing regulation, Title 10 CCR Section 2698.200, as follows:

Section 2698.200(b)(E): This new subparagraph provides that two current bases for MRMIP eligibility described in subparagraph (D) – specifically, involuntary termination from health insurance coverage for reasons other than nonpayment of premium or fraud, and the offer of an individual health insurance premium rate in excess of the rate for the individual's first choice of MRMIP health plan – shall not apply to MRMIP applications on and after January 1, 2014.

NECESSITY

Existing statutes require that health insurers and health care service plans sell coverage only during statutorily-defined open enrollment periods. However, one of the exceptions permitting

an individual to purchase insurance outside the open enrollment periods is loss of coverage for reasons that are not due to fault. Therefore, effective January 1, 2014, a person who suffers an involuntary loss of health coverage *will* be able to purchase coverage in the private market on a guaranteed issue basis and so can no longer be said to be "unable to secure adequate private health coverage." As such, in order to comply with existing statutes, effective January 1, 2014 involuntary termination from health coverage will no longer be an authorized basis for MRMIP eligibility under the MRMIP statute and must be deleted from the regulations as a basis for eligibility.

Existing regulations also confer MRMIP eligibility when MRMIB determines that the premium quoted an applicant "is significantly above standard average individual coverage rates." However, effective January 1, 2014, existing statutes require that carriers standardize health coverage premiums; in essence, carriers will not be permitted to quote rates that are "above standard average individual coverage rates." Accordingly, in order to comply with existing statutes, effective January 1, 2014 MRMIB will not have statutory authority to determine that a premium for health coverage sold by a licensed carrier is "above standard average individual coverage rates" and must amend its regulations to delete this basis for MRMIP eligibility.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS

None.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

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.

MRMIB does not anticipate any impact on the (1) creation or elimination of jobs within the State of California, (2) the creation of new businesses or the elimination of existing businesses within the State of California, or (3) the expansion of businesses currently doing business within the State of California.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The proposed regulation will not have a significant adverse economic impact upon business. The MRMIP is funded by a combination of state subsidies and subscriber premiums. The subscriber enrollment in the program has decreased. Lower enrollment means less subscriber premiums, but less state subsidies. Any necessary state subsidy will come from existing MRMIB budget. Therefore, there is nothing in the proposed regulation that could have any impact upon business.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

None.