



The California Managed Risk Medical Insurance Board

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**NOTICE OF PROPOSED RULEMAKING
ER-2-13**

**TITLE 10: CALIFORNIA CODE OF REGULATIONS
CHAPTER 5.5 MAJOR RISK MEDICAL INSURANCE BOARD**

AMEND SECTION 2698.401

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.

A public hearing regarding this proposal will be held on March 17, 2014, at 1:00 p.m., at 1000 G Street, Suite 450, Sacramento, CA 95814.

Following the public hearing MRMIB may thereafter adopt the proposal substantially as described below or may modify the proposal if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

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@mrrib.ca.gov. Comments must be received by no later than 5:00 p.m. on March 17, 2014.

AUTHORITY AND REFERENCE

Authority: Sections 12711 and 12712, Insurance Code.

Reference: Sections 12713, 12736, 12737, and 12738, 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 2698.401 of Title 10 of the California Code of Regulations establishes the method in which MRMIP subscriber contributions are calculated. Until calendar year 2013, as required by the MRMIP statute, subscriber contributions ranged from 125 percent to 137.5 percent of the standard average individual rates for comparable coverage, i.e. 125 to 137.5 percent of the premiums charged to the insurable population in the private market. (Insurance Code Section 12737(a).) In 2012, AB 1526 (Monning, Chapter 855, Statutes of 2012) added subdivision (c) to Section 12737, giving the Board authority, only for calendar year 2013, to further subsidize subscriber contributions to no lower than 100 percent of the standard average individual rates. The Board then adopted regulations, based on the authority granted in AB 1526, to subsidize 2013 subscriber contributions to 100 percent of the standard average individual rates.

Existing law includes a detailed process (Title 10 CCR Section 2698.401, subdivisions (a) through (i)) under which each MRMIP health plan provides an annual estimate of the standard average individual rate based on that plan's MRMIP benefits. In past years, in order to determine which plans' subscribers would pay 125 percent of the standard average individual rate and which plans' subscribers would pay 137.5 percent, MRMIB used claims history to determine plan-specific and program-wide loss ratios and used this information to calculate which plans had received excess subsidies in the prior year. Subscriber contributions for plans that had not received excess subsidies were set at 125 percent of the standard average individual rate, which subscriber contributions for plans that had received excess subsidies were set a maximum of 137.5 percent, with additional rules ensuring that each county had at least one plan with subscriber contributions set at 125 percent. In addition, subscriber contributions were set at 125 percent for plans that had participated in MRMIP for two or fewer years.

On June 27, 2013, the Governor signed AB 82 (Chapter 23, Statutes of 2013), the Omnibus Health Trailer Bill. Section 25 of AB 82 amended subdivision (c) of Insurance Code Section 12737 to give MRMIB ongoing authority, beyond 2013, to subsidize subscriber premiums to as low as 100 percent of the standard average individual rates for comparable coverage.

At its August 21, 2013 meeting, the Board adopted the proposed emergency regulation implementing AB 82 to continue to subsidize MRMIP subscriber contributions so that subscribers pay no more than 100 percent of the standard average individual rate. In addition, the Board made technical conforming changes to the calculation of subscriber contributions in its adoption of the proposed emergency regulation. Now that MRMIB is using its AB 82 authority to permanently subsidize subscriber contributions so that subscribers in all MRMIP health plans pay 100 percent of the standard average individual rate, the detailed plan-by-plan methodology stated in existing law is no longer necessary or applicable.

The emergency regulation took effect on November 13, 2013, and was implemented for MRMIP subscriber premiums beginning January 1, 2014.

Benefits of the Proposed Action:

The proposed action would benefit the health and welfare of California residents. The State of California provides several programs for low or mid income individuals and, in the case of MRMIP, individuals with pre-existing medical conditions, which receive funds under Proposition 99. This proposed regulation would provide an increased subsidized cost per subscriber, this decreasing their risk of medical bankruptcy. However, the overall costs would be maintained within the current funding because of the current reduced enrollment.

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 subscriber premiums for the MRMIP.

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: None. Although this regulatory change would provide an increased subsidized cost per subscriber, the overall costs would be maintained within the current funding because of the current reduced enrollment in the program.

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 of savings in federal funding to the State: None

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

Statewide adverse economic impact directly affecting businesses and individuals: The action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

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. The State of California provides several programs for low or mid income individuals and, in the case of MRMIP, individuals with pre-existing medical conditions, which receive funds under Proposition 99. This proposed regulation would provide an increased subsidized cost per subscriber, thus decreasing their risk of medical bankruptcy. However, the overall costs would be maintained within the current funding because of the current reduced enrollment.

Small Business Determination

The Board has determined that the proposed regulations will not affect 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 a small business would incur in reasonable compliance with the proposed action.

CONSIDERATION OF ALTERNATIVES

The MRMIB must determine that no reasonable alternative considered by the agency, 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 PERSONS

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.

WEBSITE ACCESS

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