FINDING OF EMERGENCY

MAJOR RISK MEDICAL INSURANCE PROGRAM ADOPTION OF REGULATIONS CONCERNING SUBSCRIBER CONTRIBUTION SUBSIDY AND CALCULATION

At its August 21, 2013, meeting, using the authority provided by AB 82 (Chapter 23, Statutes of 2013), the Managed Risk Medical Insurance Board (MRMIB or Board) adopted an emergency regulation that will continue to subsidize premiums ("subscriber contributions") in the Major Risk Medical Insurance Program (MRMIP) so that premiums do not exceed 100% of the standard average individual rate for comparable coverage; consistent with this change, the regulation makes conforming technical changes to the annual calculation of premiums.

SPECIFIC FACTS DEMONISTRATING THE NEED FOR IMMEDIATE ACTION

Insurance Code Section 12700, et seq., established MRMIP in 1991. MRMIP is administered by the MRMIB. The program provides access to health insurance for individuals who are denied health insurance coverage, or offered excessive premiums, because of a pre-existing medical condition. Program subscribers and dependent subscribers can select from three health plans 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 by 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 current MRMIP regulation (Title 10 CCR Section 2698.401(l) reflects the Board's previous decision, based on the authority granted in AB 1526, to subsidize 2013 subscriber contributions to 100 percent of the standard average individual rates.

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% of the standard average individual rates for comparable coverage.

Section 77 of AB 82 deems the adoption and readoption of any implementing regulations to be an emergency and necessary to avoid serious harm to the public, peace, health, safety, or general welfare of the people of California for the purposes of Government Code Section 11346.1 and 11349.6, and for this purpose exempts MRMIB from review by the Office of Administrative Law.

At its August 21, 2013 meeting, the Managed Risk Medical Insurance Board adopted emergency regulations to (1) continue to subsidize MRMIP subscriber contributions so that subscribers pay no more than 100 percent of the standard average individual rate and (2) make technical conforming changes to the calculation of subscriber contributions.

The current regulation 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, 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 in plans that had not received excess subsidies were set at 125 percent of the standard average individual rate. Subscriber contributions in plans that had received excess subsidies were set at 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 in plans that had participated in MRMIP for two or fewer years.

However, 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, this detailed plan-by-plan methodology is no longer necessary or applicable. The amendment adopted by the Board August 21 simplifies the process by eliminating steps in the process that are no longer applicable, including the current practice under which each plan calculates its own estimate of the standard average individual rate.

AUTHORITY AND REFERENCE CITATIONS

Authority: Insurance Code Sections 12711 and 12712; Section 77 of AB 82, Chapter 23, Statutes of 2013.

Reference: Insurance Code Sections 12737 and 12738.

INFORMATION DIGEST AND POLICY STATEMENT OVERVIEW

Policy Statement: The objective off the proposed amendment is to exercise the authority provided by AB 82 (Chapter 23, Statutes of 2013) to continue to subsidize MRMIP subscriber contributions to no less than 100 percent of the standard average individual risk rate (i.e., the price charged to insurable consumers in the commercial market) for comparable coverage and to make conforming technical changes to the calculation of subscriber contributions.

Existing Law: Section 25 of AB 82 (Chapter 23, Statutes of 2013) amends section subdivision (c) of Insurance Code Section 12737 of the Insurance Code, giving MRMIB ongoing authority to subsidize MRMIP subscriber contributions to no less than 100 percent of the standard average individual rates for comparable coverage.

Effect of Proposed Regulations:

The proposed regulations amend the existing regulation, Title 10 CCR Section 2698.401, as follows:

2698.401(a): The amendment renumbers subsection (a) to delineate paragraphs (1) and (2), referring respectively to plan years beginning before January 1, 2014 and beginning on and after January 1, 2014; the amendment also renumbers the former paragraphs (1) and (2) as subparagraphs (A) and (B).

2698.401(a)(1): This paragraph is not amended, except for renumbering. It states the current rule, under which each health plan participating in MRMIP participates in the calculation of subscriber contributions by providing an annual estimate of the standard average individual rate for the minimum benefits it provides.

2698.401(a)(2): Paragraph (2) is added to subsection (a), and states that, for plan years beginning on and after January 1, 2014, MRMIB shall calculate the annual estimate of the standard average individual rate for program benefits rather than having each health plan provide its own estimate.

2698.401(b): The amendment to subsection (b) states that the existing rule, under which the MRMIB calculates a loss ratio for each MRMIP health plan for the prior calendar year, is applicable for plan years ending prior to January 1, 2014.

2698.401(c): The amendment to subsection (c) states that the existing rule, under which MRMIB calculates a percentage average subsidy amount per subscriber dollar for each health plan that has participated in MRMIP for two or more years, is applicable for plan years ending prior to January 1, 2014.

2698.401(d): The amendment to subsection (d) states that the existing rule, under which MRMIB calculates the program loss ratio for the prior calendar year, is applicable for plan years ending prior to January 1, 2014.

2698.401(e): The amendment to subsection (e) states that the existing rule, under which MRMIB calculates the program average subsidy for the prior calendar year, is applicable for plan years ending prior to January 1, 2014.

2698.401(f): The amendment to subsection (f) states that the existing rule, defining "excess subsidy" for MRMIP health plans, is applicable for plan years ending prior to January 1, 2014.

2698.401(g): The amendment to subsection (g) states that the existing rule, under which MRMIB determines the subscriber contribution for subscribers in plans that did not have excess subsidies in the prior calendar year by multiplying the plan's estimated rate by 125 percent, is applicable for plan years ending prior to January 1, 2014.

2698.401(h): The amendment to subsection (h) states that the existing rule, under which, MRMIB determines the plan subsidies and subscriber contributions for plans with excess subsidies, resulting in subscriber contributions ranging from 125 percent to 137.5 percent of the standard average individual rate, is applicable for plan years ending prior to January 1, 2014.

2698.401(i): The amendment to subsection (i) states that the existing rule, under which the subscriber contribution during a plan's first two years of participation in MRMIP shall be 125 percent of the standard average individual rate, is applicable for plan years ending prior to January 1, 2014.

2698.401(l): The amendment to subsection (l) modifies the existing rule so that the additional subsidy, as a result of which all subscribers pay 100 percent of the standard average individual rate, no longer is provided only in calendar year 2013; the amendment states that MRMIB shall provide the stated subsidy "commencing" in 2013, without a specified end date.

TECHNICAL, THEORETICAL AND EMPERIAL STUDY OR REPORT

None.

DETERMINATIONS

The Proposed Substantial differentiation from existing comparable Federal Regulation or Statute: None.

Mandates on Local Agencies or School Districts: None.

Mandate Requires State Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code: None.

Costs to Any Local Agency or School District that Requires Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code: There are no costs to local agencies or school districts that would require reimbursement.

Non-discretionary Costs or Savings Imposed on Local Agencies: None.

Costs or Savings to Any State Agency: None.

Costs or Savings in Federal Funding to the State: None. The cost for reducing the MRMIP premiums is $11-12 million and would be absorbed within the program appropriation and funding mechanism because of the current reduced enrollment. The Board has aresponsibility to operate within the MRMIP appropriation.

Costs or Savings to Individuals or Businesses: By reducing MRMIP premiums, this regulation would continue to reduce subscriber premiums for approximately 6,463 individuals, the number of individuals currently enrolled in MRMIP as of July 1, 2013.