

**TITLE 10, INVESTMENT, CALIFORNIA CODE OF REGULATIONS
CHAPTER 5.5 MAJOR RISK MEDICAL INSURANCE BOARD
MAJOR RISK MEDICAL INSURANCE PROGRAM
AMEND SECTION 2698.401**

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 2698.401 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 regulations include 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% 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.

Policy Statement: The objective of the proposed action is to exercise the authority provided by AB 82 (Chapter 23, Statutes of 2013) to continue to subsidize MRMIP subscriber contributions to 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: Existing statutes give MRMIB the authority to subsidize subscriber contributions to 100 percent of the standard average individual rate on an ongoing basis, while existing regulations implement this only for calendar year 2013. Existing law gives MRMIB the authority to set subscriber contributions.

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

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.

OTHER REQUIRED SHOWINGS

Studies, Reports, Or Documents Relied Upon: - Gov. Code 11346.2(b)(2)

None.

Reasonable Alternatives Considered – Gov. Code 11346.2(b)(3)(A)

None.

Reasonable Alternatives Considered That Would Lessen the Impact On Small Business – Gov Code 11346.2(b)(3)(B):

None.

Economic Impact Assessment/Analysis

The MRMIP program is funded by a combination of state subsidies (Proposition 99) and subscriber premiums. 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 a responsibility to operate within the MRMIP appropriation.

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. 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 MRMIP subscriber, thus decreasing their risk of medical bankruptcy.

Evidence Relied Upon To Support The Initial Determination That the Regulation Will Not have A Significant Adverse Economic Impact On Business – Gov. Code 11346.2(b)(4):

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. Lowering the subscriber contributions means the state subsidies increase. The increased state subsidy comes from existing MRMIB budget. Therefore, there is nothing in the proposed regulation that could have any impact upon business.