

FINDING OF EMERGENCY

ACCESS TO INFANTS AND MOTHERS ADOPTION OF REGULATIONS CONCERNING MODIFIED ADJUSTED GROSS INCOME AND DISENROLLMENT AT END OF A MONTH

At its August 21, 2013, meeting, using the authority provided by AB 82 (Chapter 23, Statutes of 2013) and Insurance Code Section 12696.05(h)(2) in the existing Access for Infants and Mothers statute, the Managed Risk Medical Insurance Board (MRMIB or Board) adopted an emergency regulation that would implement new statutory requirements concerning Modified Adjusted Gross Income (MAGI) and disenrollment of subscribers at the end of a calendar month.

SPECIFIC FACTS DEMONSTRATING THE NEED FOR IMMEDIATE ACTION

The Access for Infants and Mothers (AIM) program is a state and federally-funded program administered by MRMIB (Insurance Code section 12695 et seq.). The program provides low cost health insurance coverage to uninsured, middle income pregnant women. The total cost is 1.5 percent of the subscriber's adjusted annual household income. The State of California and the Federal Government supplement the subscriber contribution to cover the full cost of care.

On June 27, 2013, the Governor signed AB 82 (Chapter 23, Statutes of 2013), the 2013 Omnibus Health Trailer Bill. Section 24 of AB 82 added subdivision (d) to Insurance Code Section 12698, requiring use of MAGI in calculating AIM eligibility effective January 1, 2014, pursuant to the Federal Patient Protection and Affordable Care Law (Public Law 111-148, amended by Public Law 111-152, jointly referred to here as the ACA).

Section 77 of AB 82 deems MRMIB's adoption and readoption of its regulations implementing AB 82 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 exempts MRMIB from the requirement to describe facts showing the need for immediate action and from Office of Administrative Law review. This provides authority to adopt emergency regulations implementing MAGI for AIM eligibility.

On June 27, 2013, the Governor also signed ABX1-1 (Chapter 3, Statutes of 2013-14, First Extraordinary Session). Section 2 of ABX1-1 amended subdivision (a) of Insurance Code Section 12698.30, to require that AIM eligibility continue through the end of the month in which the 60th day following the end of a pregnancy falls, rather than ceasing on the 61st day following the end of the pregnancy.

Insurance Code Section 12696.05(h) reads, in relevant part, “During the 2011-12, 2012-13, and 2013-14 fiscal years, the adoption and readoption of regulations pursuant to this part shall be deemed to be an emergency that calls for immediate action to avoid serious harm to the public peace, health, safety or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the board is hereby exempted from the requirement that the board describe facts showing the need for immediate action and from review by the Office of Administrative Law.” The “part” referred to in subdivision (h) is Part 6.3 of Division 2 of the Insurance Code, i.e. the AIM statute. Hence, this provides authority to adopt emergency regulations implementing MAGI for AIM eligibility as well as emergency regulations implementing end-of-month disenrollment in compliance with ABX1-1.

At its August 21 public meeting, the Managed Risk Medical Insurance Board adopted emergency AIM regulations to implement both MAGI eligibility in compliance with AB 82 and end-of-month disenrollment in compliance with ABX1-1.

AUTHORITY AND REFERENCE CITATIONS

Authority: Section 12696.05, Insurance Code, Section 77 of AB 82 (Chapter 23, Statutes of 2013).

Reference: Sections 12696.05, 12698, and 12698.30 of the Insurance Code.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Policy Statement: The objective of the proposed regulation amendment is to comply with new California legislation that (1) requires use of MAGI in determining AIM income eligibility (Section 24 of AB 82, Chapter 23, Statutes of 2013) and (2) requires AIM eligibility to continue through end of the month in which the 60th day following the end of a pregnancy falls rather than disenrolling subscribers on the 61st day following the end of a pregnancy.

A summary of the proposed regulation’s effect on existing law and regulations follows:

Section 2699.200(C) is amended to add numbers designating subparagraphs 1 and 2.

Subparagraph 1 states the existing eligibility rule, under which eligibility is based on monthly household income after deductions (defined at Title 10 CCR Section 2699.100(o)); the amendment adds introductory language clarifying that this rule applies only to eligibility that takes effect before January 1, 2014.

Subparagraph 2 States that, for eligibility that takes effect on or after January 1, 2014, income shall be calculated in accordance with MAGI. The reference to “Section

1397bb(b)(1)(B) of Title 42 of the United States Code as added by the federal Patient Protection and Affordable Care Act (Public Law 111-148) as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) and any subsequent amendments” is a reference to the federal requirement for implementation of MAGI income eligibility.

Section 2699.207(D) is amended to add language stating that, notwithstanding the prior rule under which an AIM subscriber is disenrolled on the 61st day following the end of pregnancy, beginning January 1, 2014, coverage shall continue through the last day of the month in which the 60th day following the end of a pregnancy occurs.

TECHNICAL, THEORETICAL, AND EMPIRICAL 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: None

Costs or Savings to Any State Agency: There will be an additional Proposition 99 cost of \$1.4 million in fiscal year 2013-14 and \$2.0 million for the two subsequent fiscal years due to implementing end-of-month disenrollment.

Costs or Savings in Federal Funding to the State: There will be an additional cost of \$2.1 million in fiscal year 2013-14 and \$2.9 million for the two subsequent fiscal years due to implementing end-of-month disenrollment.

Costs or Savings to Individuals or Businesses: There will be a small savings to Program subscribers due to implementing end-of-month disenrollment.