

FINDING OF EMERGENCY

ACCESS TO INFANTS AND MOTHERS ADOPTION OF REGULATIONS TO EXCLUDE PAID SURROGACY

As described below, the Legislature declared that the adoption of regulations to modify Access to Infants and Mothers (AIM) program benefits or manage program integrity operations is an emergency. At the October 19, 2011 Managed Risk Medical Insurance Board (MRMIB) meeting, the Board found that the action to modify the benefits regulations constituted an emergency. A copy of the Adoption of Emergency Regulations adopted by the Board is attached.

SPECIFIC FACTS DEMONSTRATING THE NEED FOR IMMEDIATE ACTION

The 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% 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.

The Legislature has determined that all regulations to revise the AIM benefits or manage program integrity may be adapted as emergency regulations. Insurance Code Section 12696.05 provides:

Issue rules and regulations as necessary to administer the program. All rules and regulations issued pursuant to this subdivision that manage program integrity, revise the benefit package, or reduce the eligibility criteria below 300 percent of federal poverty level may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.59 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

In AIM, paid surrogacy is currently not an excluded benefit. The Board believes that providing insurance coverage for paid surrogacy is an inappropriate use of public funds, particularly during this time of budget crises.

The proposed regulation revises the AIM benefit package and manages the program's integrity. For these reasons, pursuant to the Insurance Code Section 12696.05, the adoption of the proposed regulation is deemed to be an emergency.

AUTHORITY AND REFERENCE CITATIONS

Authority: Section 12696.05, Insurance Code.

Reference: Section 12696.05 Insurance Code.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Policy Statement: The objective of the proposed regulation amendment is to exclude paid surrogacy as a covered benefit in the AIM.

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

2699.301 Excluded Benefits

Section 2699.301 lists the excluded benefits in the AIM Program.

MRMIB is amending Sections 2699.301 to add subsection (a) (18) to provide that, effective on or after February 1, 2012, maternity care for paid surrogacy is excluded as a benefit in AIM.

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: There are no costs to local agencies or school districts that would require reimbursement.

Costs or Savings to Any State Agency: Unknown potential savings to the State's Access for Infants and Mothers Program.

Costs or Savings in Federal Funding to the State: None

Costs or Savings to Individuals or Businesses: None