



The California Managed Risk Medical Insurance Board

PO Box 2769
Sacramento, CA 95812-2769
Phone: (916) 324-4695
Fax: (916) 324-4878

Board Members

Clifford Allenby, Chair
Samuel Garrison
Ellen Wu

Ex Officio Members

Diana S. Dooley

**NOTICE OF PROPOSED RULEMAKING
ER-6-13**

**TITLE 10, INVESTMENT, CALIFORNIA CODE OF REGULATIONS
CHAPTER 5.5 MAJOR RISK MEDICAL INSURANCE BOARD
ARTICLE 6 PILOT PROGRAM PAYMENTS**

AMEND SECTION 2698.602

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.

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 calendar days before the close of the written comment period.

WRITTEN COMMENTS

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@mrmib.ca.gov. Comments must be received by no later than **5:00 p.m. on March 31, 2014**. The Board will consider only comments received at the Board offices by that time.

AUTHORITY AND REFERENCE

Authority: Section 1373.622, Health and Safety Code; section 10127.16, Insurance Code.

Reference: Sections 1373.62 and 1373.622, Health and Safety Code; sections 10127.15 and 10127.16, Insurance Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Insurance Code section 12700, et seq., established the Major Risk Medical Insurance Program (MRMIP) in 1991, administered by MRMIB. The program provides access to health insurance for individuals who are denied coverage or offered excessive premiums due to pre-existing medical conditions. The State subsidizes the cost of health services with an appropriation from the Proposition 99 Cigarette and Tobacco Products Surtax Fund. This is a capped appropriation and the Board frequently has been obligated to limit enrollment in the program to stay within the appropriation.

To ease the demand on the MRMIP appropriation, in September 2002 the Legislature passed, and the Governor signed, AB 1401 (Chapter 794, Statutes of 2002), which restructured MRMIP and created a four year pilot project (Guaranteed Issue Pilot Project or GIP). During the time the pilot project operated, 2003 through 2007, MRMIP subscribers remained in the program for only 36 consecutive months. (Insurance Code section 12725(f).) At the end of that period, their MRMIP eligibility terminated and they became eligible, on a “guaranteed issue” basis, for a “MRMIP look-alike” health plan sold by each health insurer and health care service plan (hereinafter “health plans”) offering coverage in the individual insurance market. As in MRMIP, MRMIB subsidized the cost of subscriber coverage in GIP but shared the losses equally with the health plans, whereas the state bore substantially all losses within MRMIP. (Health and Safety Code section 1373.62 (repealed), Insurance Code section 10127.15 (repealed).)

Once the pilot project ended, health plans participating in GIP were obligated to continue providing coverage to those subscribers who had already enrolled in GIP health plans, and MRMIB was obligated to continue sharing health plans’ costs, on the same terms as during the pilot project. (Health & Safety Code section 1373.622, Insurance Code section 10127.16.) These terms included a statutorily-defined timeline for plans’ submission of annual reconciliation reports to MRMIB to claim reimbursement for half the plans’ losses within GIP. Specifically, plans were obligated to report aggregate health care expenditures, the amount of a statutorily-authorized administrative fee, and premiums paid for each calendar year by December 31 of the following year. (Health & Safety Code section 1373.62(g,h) (repealed) as amended by SB 1702, Chapter 683, Statutes of 2006; Insurance Code section 10127.15(g,h) (repealed) as amended by SB 1702, Chapter 683, Statutes of 2006.)¹

On October 1, 2013, the Governor signed AB 1180 (Chapter 441, Statutes of 2013) into law. AB 1180 modifies MRMIB’s and health plans’ GIP obligations as follows:

- Health plans are no longer obligated to provide GIP coverage on and after January 1, 2014.

¹ Health & Safety Code section 1373.62 and Insurance Code section 10127.15 were, by their own terms, repealed January 1, 2008; however, key provisions remained operative because Health & Safety Code section 1373.622 and Insurance Code section 10127.16, which were not repealed, mandated continuing participation in GIP by health plans and continuing subsidies from MRMIB in accordance with the terms of the repealed sections.

- MRMIB is not obligated to reimburse health plans for health care expenses incurred on or after January 1, 2014 or for any administrative fee for months after December, 2013.
- As a condition of receiving any payment from MRMIB for GIP coverage, health plans must submit their final reports to MRMIB by the earlier of December 31, 2014 or any earlier date that was already required by Health & Safety Code section 1373.62 and Insurance Code section 10127.15.
- MRMIB is obligated to complete reconciliation within six months if it receives a complete, final reconciliation report for a reporting period.

(Health & Safety Code section 1373.622(a) and Insurance Code section 10127.16(a) as amended by AB 1180.)

At its October 16, 2013 public meeting, the Managed Risk Medical Insurance Board adopted emergency regulations to implement AB 1180. The emergency regulations took effect on December 19, 2013, and were implemented beginning January 1, 2014.

The Board is commencing with the regular rulemaking process to make the emergency regulations permanent.

These proposed regulations will (1) ensure that reconciliation between MRMIB and GIP health plans complies with changes enacted by AB 1180 (Chapter 441, Statutes of 2013) and (2) exercise MRMIB's authority to cease providing reimbursement or administrative fees to health plans for any period after December 2013.

Benefits of the Proposed Action:

The proposed action would benefit the health and welfare of California residents by speeding up the close-out of a government-subsidized program that is no longer necessary.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

After conducting a review for any similar regulations, the Board has concluded that these are the only regulations dealing with GIP reconciliation and reimbursement. Therefore, MRMIB has determined that the proposed regulation is not inconsistent or incompatible with existing state regulations.

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: The State may have a savings since MRMIB will not provide any reimbursement or administrative fees to health plans after December 2013. However, at this time, the amount of the savings is unknown.

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 or savings in federal funding to the State: None.

Cost impact on representative private person or business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.”

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 by speeding up the close-out of a government-subsidized program that is no longer necessary.

Statewide adverse economic impact directly affecting businesses: The Board has determined that the proposed regulations will not have a significant statewide adverse impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Small Business Determination: The Board has determined that the proposed regulations will not affect small businesses, as GIP concerns individual insurance coverage and none of the health plans participating in GIP are small businesses. The MRMIB is not aware of any cost impacts that a small business would incur in reasonable compliance with the proposed action.

Business Reporting Requirement: The Board finds that it is necessary for the health, safety, or welfare of the people of this state that the proposed regulation, which requires a report, applies to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the MRMIB must determine that no reasonable alternative it considered, 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 PERSON

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.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, MRMIB may adopt the proposed regulations substantially as described in this notice. If MRMIB makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to attention of Alissa Harris at the address indicated above. MRMIB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

WEBSITE ACCESS

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