

MANAGED RISK MEDICAL INSURANCE BOARD  
TRANSCRIPT OF HEARING

R-1-07 Deletion of HFP to Medi-Cal Bridge  
April 21, 2008, at 10:00 a.m.

Ms. Turner: My name is Randi Turner. I'm the Chief of the Human Resources and Program Support; this also includes the Regulations Unit, which I also manage.

It is 10:02, on Monday, April 21, 2008. We are meeting at the offices of the Managed Risk Medical Insurance Board, at 1000 G Street, Suite 450, Sacramento, California, in the Middle Conference Room, for the purposes of receiving public comments on a proposed rulemaking action by the Board to make changes to Chapter 5.8 of Title 10 of the California Code of Regulations.

In 2001, AB 430 (Chapter 171) established the Health Families Program-to-Medi-Cal bridge benefit. When HFP determines that a child is no longer eligible for the Healthy Families Program but potentially qualifies for no-cost Medi-Cal, HFP provides the child an additional two months of HFP coverage to allow time for Medi-Cal to make an eligibility determination. These two additional months of coverage is referred to as a "bridge" between HFP and no-cost Medi-Cal.

In 2002, the Centers for Medicare and Medicaid Services, referred to as CMS, approved the bridge as a component of the parental waiver under Title XXI. The parental waiver expired on January 24, 2007. CMS offered to extend the parental waiver through June 30, 2007, conditioned upon the change in federal/state financial participation from 65/35 to 50/50 retroactive to the date the bridge was implemented. Under Title XIX of the Social Security Act, the state has authority to provide presumptive eligibility, referred to as PE, to children who appear to be eligible for no-cost Medi-Cal. Under PE, Medi-Cal fee-for-service benefits are provided to children pending an eligibility determination. The federal/state financial participation for Medi-Cal is 50/50.

In 2007 Assembly Bill 203 (Chapter 188), by the deemed emergency regulation process, directed the Healthy Families Program to discontinue bridge benefits to children enrolled in HFP when it is determined, during the annual eligibility review process that the child's family income is below HFP eligibility requirements and appears to be eligible for no-cost Medi-Cal. Instead, under Welfare and Institutions

Code section 14011.65(b), benefits will be provided by Medi-Cal through Presumptive Eligibility until Medi-Cal makes an eligibility determination. On August 30, 2007, the director of the DHCS released a directive that PE for no-cost Medical be implemented. This change in regulations was approved as emergency regulations on November 30, 2007.

Under the provisions of the California Administrative Procedures Act, this is the time and place set for presentation of statements, arguments and contentions, orally or in writing, for or against the changes in the Board's regulations. The notice of this proposal has been published on the Managed Risk Medical Insurance Boards website, in the California Regulatory Notice Register and has been sent by mail to interested parties.

This is a quasi-legislative hearing to carry out the rulemaking functions delegated to the Board by the Legislature. Witnesses presenting testimony at this hearing will not be sworn in, nor will we engage in cross-examination of witnesses. We will take into consideration all written and oral statements submitted or made during this hearing. We will respond to these comments in writing in the final statement of reasons.

This hearing is being recorded electronically. The transcript of this hearing and all exhibits and evidence presented during the hearing will be made part of the rulemaking record. Evidence in writing from interested parties will be accepted until 5:00 p.m. today. If you have brought written comments with you to submit during the hearing, I'd like to collect those from you now. When you're finished with your testimony we'll collect them before you leave.

And you've all filled out the attendance sheet with your addresses. Let me reread this. Because you fill out the attendance sheet and provided your complete address, we will notify you before final adoption of any changes to this proposal or about any new material relied upon in proposing these regulations. Such notice will be sent to everyone who submits written comments during the written comment period, including those written comments submitted today, to everyone who testifies today, and to everyone who asks for such notification. While no one may be excluded from participation in these proceedings for failure to identify themselves, the names and addresses on the attendance sheet will be used to provide the notice. We've already gone over the fact that everyone has already signed in, so I will skip the next part.

We will listen to the oral comments in the order signed on the attendance sheet. After we hear from everyone who signed in, we will hear from any latecomers or anyone else who wishes to be heard. When you speak, please begin by stating your name and identifying the organization you represent, if any, and tell us the section number of the particular regulation you want to discuss.

The rulemaking record includes the (A) notice of the proposed action which was published in the California Regulatory Notice Register, (B) the express terms of the proposed action, using underline and strikeout of the California Code of Regulations, (C) the statement of reasons, and (D) the written comments received to-date.

We will now take oral comments. In the interest of time, if you agree with the comments made by a prior speaker, although we only have one at this point I believe, simply state that fact and add any new information you feel is pertinent to the issue.

So with that, our first speaker and only speaker is David Ford. Go ahead and state your name and your organization please and you may begin.

Mr. Ford: David Ford and I am representing the California Medical Association here today. Since I'm the only speaker, I plan to speak for the next two to three hours if that's okay with everyone. I think when in concern to this regulation, the Medical Association, we don't like the deletion of the Healthy Families bridge but we understand that's not a decision at this point that the Board can make. That horse has left the barn. The Federal Government put an unwieldy condition on the State; the Legislature, the Administration, the Budget deal complied with that condition and we are where we are. So that being the case, I'm here then mostly to speak on how within this regulation we can be written to make sure that the interests of providers and the Healthy Families of Medi-Cal program can be productive in this process. Section 2699.6611 currently includes two sections, sub-sections B and C, that require the program to notify the subscriber that he or she has been disenrolled. It does not however currently include a correspondence section requiring the program to notify the subscribers, the subscribers plan and/or physician of that change. Now this is important in the context of Presumptive Eligibility because a child could literally be on Healthy Families one day and then on Medi-Cal the next. From a physician perspective, this could cause myriad problems of billing complications, plus the fact that, and I'll get back to this in a moment, many physicians at this point are simply refusing to take Medi-Cal. So what we would like to see is a new section to this regulation, that would

be D, (and subsequent sections labeled), that when a child is moved from Healthy Families to low cost Medi-Cal, there's a very sort of, to us, obvious way to make sure the providers notified; which is that the Healthy Families plans mostly, not all of them, require the child to have a primary care physician designated ahead of time. So if the, and I don't know how the Board normally handles this in their current process, but if the Board were to notify the plan and the plan were then required to immediately notify the primary care physician, then at least, as from the physicians perspective, at least I know that this child has been moved from one program to the next. That all has to happen very quickly, because as I say under Presumptive Eligibility, you're moving this child very quickly. I have some proposed language for that. I will submit that in writing when I am done speaking. I have to say one more thing, and this is none of the Boards pervue, but I feel it's just sort of necessary to bring this up. When this was passed as part of the budget deal last year we were in a very different world that we are in today. The way that these regulations are going to play out now as opposed to how we thought this would work before, is very different because of this 10 percent provider rate cut from Medi-Cal. It's going to take kids who are moving to Medi-Cal a lot longer to find a provider now than we thought they would. We're giving them a shorter time when it's to find a new provider who, um to likely find a new provider who will accept Medi-Cal. We're giving them a shorter time to do a process that's going to take them longer. I don't know that that's something that can be fixed in the regulation. As I say, to me the only way that can be fixed is to increase the Medical provider rates to an actuarially sound rate which is not something I understand the Board can do, but I do feel it necessary to say this is going to play out a lot differently than we thought it would. So with that I will hand in my written statement on this and thank you for your time.

Ms. Turner" Thank you. Now, the other three of you, have you changed your mind? Is there anything you want to present?

Unknown: No.

Ms. Turner: Then with that we conclude our public hearing. Thank you all for coming and presenting your views.