Agenda Item 3
7/30/2009 Meeting

**Managed Risk Medical Insurance Board**
**June 29, 2009, Public Session**

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| Board Members Present: | Cliff Allenby (Chairman), Sophia Chang, M.D., M.P.H., Richard Figueroa |
| Ex Officio Members Present: | Ed Heidig, Bob Sands, Jack Campana |
| Staff Present: | Lesley Cummings, Executive Director; Janette Lopez, Chief Deputy Director; Laura Rosenthal, Chief Counsel; Ernesto Sanchez, Deputy Director for Eligibility, Enrollment, and Marketing; Shelley Rouillard, Deputy Director for Benefits and Quality Monitoring; Terresa Krum, Deputy Director of Administration, Ginny Puddefoot, Deputy Director of Office of Health Policy and Legislative and External Affairs; Will Turner, Analyst with the Office of Health Policy and Legislative and External Affairs; Mary Watanabe, Analyst in the Benefits and Quality Monitoring Division; Tara Alcione, Acting Assistant to the Board and Stacey Sappington, Executive Assistant to the Board and the Executive Director. |

Chairman Allenby called the meeting to order at 10:00 a.m. The Board then went into Executive Session. It reconvened for Public Items at 11:30 a.m.

**Review and Approval of Minutes of June 17, 2009**

The Board unanimously approved the minutes of the June 17, 2009 meeting.

Chairman Allenby asked if there were any questions or comments. There were none.

This document can be found at:
http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062909/Public_6-17-09_draft.pdf

**Federal Budget, Legislation and Executive Branch Activity (Including Healthcare Reform, Economic Stimulus & Budget)**

Ms. Watanabe reported that she had received a call from a CMS official indicating that CMS intends to recommend the Healthy Families Program's (HFP's) (new) dental quality measures to the AHRQ –Agency for Healthcare Research and Quality – for consideration as national standards are developed pursuant to CHIPRA. She also drew the official's attention to the D-CAHPS survey, a survey conducted only by California. The official expressed interest in it and will review it as well.

Ms. Puddefoot highlighted three articles on national healthcare reform. Of greatest interest is one by the Commonwealth Fund that reviews how a public plan could contribute to the goal of cost containment. Another is a side-by-side prepared by the National Governors Association that compares different approaches to national reform under consideration in the U.S. Congress.

Chairman Allenby asked for any questions or comments. There were none.

The documents can be found at:
http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062909/Agenda_Item_4.pdf

**STATE BUDGET UPDATE**

Ms. Krum reminded the Board that the state enacted an 18-month budget in February of 2009. The Governor and the Legislature have plans to revise that budget to reduce state costs significantly. However, they have yet to agree on the final budget.

In acting on the HFP budget, the Budget Conference Committee reduced the 18-month budget by $74.6 million General Fund. This action passed on a 5-0, 5-0 vote (5 votes from Assembly members and 5 votes from Senate members). However, the budget that included this revision failed passage and the legislature and Governor continue to work on resolving the budget. Staff will discuss the implications of the budget later in the agenda.

Chairman Allenby asked for any comments or questions. There were none.

**STATE LEGISLATION**

Mr. Turner highlighted bills of interest to the Board from the regular and special sessions.

As part of his review, Mr. Turner noted that staff had submitted a support letter to the Assembly Health Committee for SB 227. Staff also discussed technical amendments with the author's office.

Chairman Allenby called for any questions or comments.

Ms. Cummings told the Board that the bill would be heard in the Assembly the next day, and that Ms. Puddefoot would be there to testify on the Board's position.

The legislative reports can be found at:
http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062909/Agenda_Item_6.a_Legislative_Summary_Regular_Session.pdf

and:
http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062909/Agenda_Item_6.b_Legislative_report_Special_Session.pdf

**HEALTHY FAMILIES PROGRAM UPDATE**

Consideration of Findings Pursuant to Title 10 California Code of Regulations Section 2699.6603 to Limit Enrollment Consistent with Funding

Ms. Cummings stated that California law requires the Board to operate HFP within the funding available and to take actions to do so if they foresee inadequate funding. Ms. Cummings informed the Board that there is not sufficient funding for HFP for the fiscal year beginning July 1, 2009. The enacted 18-month budget previously passed is short by $14 million. The expectation is that the Budget will be significantly reduced in an act passed by the Legislature and signed by the Governor: The Budget Conference Committee, in considering the HFP budget, reduced funding by an additional $70 million, by a 5-0, 5-0 vote of members of both houses and both parties. This is actually a $90 million shortfall.

Ms. Cummings stated that, in order to save that $90 million by freezing enrollment only – doing everything possible to avoid disenrollment of children at all costs – the Board would have had to start freezing enrollments at the beginning of June. Ms. Cummings reviewed a handout with charts that showed the savings the Board could achieve by closing the program to new enrollment. The charts show that with every passing month an enrollment freeze is delayed, there are considerably less savings. This is because the program is budgeted in case months. For example, if enrollment were frozen July 1, the state would save plan payments for 12 months for the children who would have come in to the program July 1. For every month that goes by without freezing enrollment, the number of months of savings decline. The Board's ability to manage a

significant reduction for the program by freezing enrollments but avoiding disenrollments depends on how orderly a freeze is implemented.

Ms. Cummings pointed out that the handout included three different scenarios. One assumes disenrollments at the current trend levels. The second assumes that disenrollments decrease by eight percent because families hold on to their coverage more cautiously and tightly. The third assumes that disenrollments decrease by 15 percent. The second and third scenario would significantly increase the budget shortfall that the Board would be responsible for making up.

Ms. Cummings explained that the exact reduction in the HFP appropriation is not known. However, the enacted 18-month budget already has a $14 million shortfall, and the Conference Committee action, which created a $90 million shortfall, represents a best case scenario. She also pointed out that the Governor, who has proposed either eliminating the program or reducing income eligibility to 200 percent of the Federal Poverty Level, holds the “blue pencil” and ultimately decides the level of program funding.

Ms. Cummings also explained that staff used averages in preparing the numbers presented to the Board at this meeting. She added that both the Conference Committee and the Board asked staff to search for alternative funding for the program. The staff has been doing so but has nothing to report at this meeting.

The Chairman called for comments or questions.

Kristin Golden-Testa, representing the Children's Partnership and 100 Percent Campaign, remarked that it is a very sad day that requires the Board to discuss freezing enrollment. She emphasized that advocate groups take very seriously the dilemma the Board faces. And they do appreciate the Board’s priority of first protecting enrolled children.

But, she pointed out, having a wait list is disenrolling children. There are children now on Medi-Cal who will “age out” of Medi-Cal and then have nowhere to go for continued coverage. She estimated that about 2,500 children/month would lose coverage due to “aging out” of Medi-Cal coverage. Ms. Testa also stated that coverage will be lost to presently-enrolled children in families who make a mistake such as accidentally missing a payment. Under usual circumstances, the children could re-enroll within a month or so. She did not have an estimate of the number of children whose coverage might be affected by these types of circumstances.

Ms. Testa acknowledged the funding problems the program faces, but noted that there are important partners who have stepped up in the past and have a great commitment to kids, like the First Five Commission. She urged the Board to defer the wait list decision until after the July 15 meeting of the First Five Commission when the Commission will deliberate on this matter.

Ms. Cummings added that the Board had received correspondence from a number of stakeholders on this matter. All are included in the Board packet. They include an editorial in the *Mercury News* and letters from Health Access, the 100 Percent Campaign, the United Way, the American Academy of Pediatrics, the California Children's Health Initiative, United Way, PICO, the California Health Network, the Children's Hospital Association, and Cal Optima.

Michelle Wood with Community Health Councils asked that the Board not impose a wait list prematurely. She suggested that the Governor and the Legislature should find a solution to protect children from being denied healthcare. She emphasized that program changes, such as freezes in enrollment, can be irreversible. She stated that Florida implemented a waiting list in 2003-04 and found a significant reduction in their applications after that point. Florida now has about 220,000 children in the Program, down from 330,000 children in 2003. Of most concern are children with chronic and serious illness or injury who would have to go without needed care.

She then introduced David Crumb, who has children enrolled in HFP.

Mr. Crumb reported that he had enrolled his two children in HFP after he lost his job. He is very satisfied with the coverage and finds it affordable. One of his children has asthma and could be struck at any time. He asked how he could pay for these treatments without health insurance.

Judy Darnell, representing the United Way of California, an association of 37 United Ways in California, said that United Way is part of the children's coalition fighting for all children to have health insurance in California. Over the last five years, United Way has educated over 500 business leaders and United Way constituents about children's health issues and children's coverage. Many were surprised that all children don't have access to health care and have joined the effort to ensure universal coverage of children. There are almost a million children who lack coverage now.

Ms. Darnell stated that cutting HFP is a poor economic decision as it shifts costs to more costly care and stated that this is not going to solve the budget crisis. The State should continue to invest in the care and nurturing that enables children to grow and develop and assure that they are protected in these terrible times. HFP is one of the legs in a three-legged stool that provides children’s coverage. If that leg is gone, the entire system is at risk of collapse, right as the state heads into a potentially unpredictable and unprecedented flu season in the fall.

Ms. Darnell asked the Board to delay consideration of the wait list. She said she is mindful of the Board’s financial responsibility for the program. But a solution

may arise over the course of the next couple of weeks. Many people in the audience are working toward that goal vigorously.

Kelly Hardy, with Children Now and the 100 Percent Campaign, expressed support for the comments of the prior speakers and urged the Board to refrain from freezing enrollment in HFP. Families are losing coverage at higher rates due to the recession. Over 300,000 children have lost coverage since February 2007, because their parents have lost jobs.

Ms. Hardy stated that there are some potential sources of funding for HFP. AB 1383, which will be heard on Wednesday, could provide some funding for children's coverage that may be helpful in this scenario. First Five has been extremely helpful in the past.

Ms. Hardy pointed out the deleterious effect of freezing enrollment on the draw-down of federal funds. Pursuant to CHIPRA, Federal Fiscal Year 2009 is a base year for future funding, meaning that future allotments depend on current expenditures. Having less federal funding will undermine efforts to cover all children in California in the future.

Suzie Shupe, representing the California Children's Health Initiative (CCHI), informed the Board that there are 29 children's health initiatives across the state. CCHI represents all of them. The local initiatives play a critical role in ensuring that eligible children get enrolled in HFP. They have enrolled hundreds of thousands of children in HFP in the last several years. She said that some people have suggested waitlisted HFP eligible children might be able to obtain coverage in the 29 CCHI counties. The Board needs to understand that this is not possible. Quite simply, Healthy Kids and CCHIs are already under-funded and do not have the resources to absorb even a small number of kids. At the end of 2010, the initiatives will experience a significant reduction in private funding. Further, it is becoming increasingly difficult to raise money at the local level.

Ms. Shupe also stated that the initiatives are unable to enroll HFP children without major changes to their eligibility systems. The systems were designed to forward eligible children to HFP. Doing anything else would require major system re-designs in each of the 29 CCHI's.

Ms. Shupe cited another major reason that the Board should not implement a wait list. She said that doing so is costly, difficult, cumbersome and a huge administrative burden. CCHI's have experience with waitlists. Collectively, there are 15,000 kids on waitlists now. Having a waiting list is one of the most difficult things the CCHI's do. It's very hard to maintain, and when it is time to re-open there are significant costs associated with contacting families, reopening the applications, and ensuring timely re-enrollment of those wait listed. This work has to occur for all the children on the list, many of whom may no longer be

eligible, many of whom may have moved to a new address. Taking on this burden should be entered into very carefully.

She acknowledged the irony that an organization that maintains wait lists is urging the Board not to do so. But she contended that it is premature and that there are options that still can be explored. Admittedly the Board must be prudent with funding and not over-enroll. The CCHIs face the same dilemma everyday across the State. However, the Board should wait and see how the budget comes out before implementing a waiting list.
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Marc Diel, representing the Napa Children's Health Initiative, thanked the Board for its work in insuring so many children. He commented that the HFP is projected to have a $14 million deficit. That is what is known. What may happen in July is speculation. He asked the Board to react to the $14 million figure if it is going to react, not to a speculative number. The Board should work together with stakeholders to assess what to do that provides the least amount of harm to children.

Leona Butler indicated that she was present on behalf of David Panush (Senate staff), who had asked for her assistance in developing a resolution to the funding problem, and the California Healthcare Foundation, which is funding her work. She just began working on the issue in the last week but has already seen that there are many very committed people working to address it. She asked that the Board delay taking action on the issue, noting that there are real potentials for getting the needed funding, some which do not involve state dollars. Hopefully, by the 15th of July a package will come together that funds the entire program without the need for additional dollars from the state – but still allows for the capture of federal matching dollars.

Ms. Butler noted that Santa Clara County had had a waiting list for its CHI. It was difficult and children were lost to all the programs because of it. She put together a package of funding involving existing funders, First Five and the Kaiser Health Plan. The package allowed Santa Clara fund every single child. The community came together. The same thing can happen here. If the waiting list is imposed, people will be so discouraged that it might not be possible to put the package together. She again asked the Board to allow for a few more weeks.

Chairman Allenby commented that he had listened to all of the speakers very carefully. As the Executive Director had explained, HFP is $90 million short. A shortfall of $90 million in state dollars is a $270 million shortfall with federal funding. A $270 million hole is a significant hole. The Board has a fiduciary responsibility that it must meet and is going to do so. The Board has listened to the concerns expressed about the effect on the Board’s constituents-children.

He suggested to the other Board members that it act to impose a waiting list but one that did not take effect until August 1. That provides time for the staff to meet with potential funders. He further suggested that staff meet with HFP plans to see if they could participate in keeping this program going at a reasonable rate. He noted that the Executive Director can decide not to impose the waiting list if in fact, the program has sufficient funding.

Ms. Cummings commented that technically, the regulations give her authority to un-do a waiting list that the Board has put in place.

Chairman Allenby replied that he had suggested a waiting list effective August 1 so that the Executive Director could make a judgment about whether to keep it in place.

Ms. Cummings informed the Chairman that staff has suggested moving the July 15th meeting to July 30th. So, in fact, the Board would be meeting right when such a decision would need to be made.

Chairman Allenby specified that his suggestion is to have a waitlist requirement in place so that everyone (carriers, First Five, the legislature) is clear on the parameters of the matter, and the consequences if a funding solution is not achieved. People need to know that the waiting list is a real alternative. In fact, it is the only alternative the Board has right now.

He also suggested that staff work with the administrative vendor to know what really operating a waiting list means. Those who have imposed a waiting list say that it is hard.

Ms. Cummings commented that she had been asked earlier in the day whether the Board could just freeze enrollment without maintaining a waiting list. Some of the states with experience in this area have suggested that doing so would be the far wiser course. But the HFP regulations don't currently provide for that option.

The administrative vendor and MRMIB staff has worked diligently to make sure that if the Board establishes a waiting list it can be in place as early as July 1st. She acknowledged that it would be difficult and expressed appreciation for the points made by those that have actual experience in doing it but indicated that the program is ready.

Chairman Allenby called for comments from the Board.

Mr. Figueroa commented that he concurred with staff's assessment of HFP's fiscal problems. The program is in a deficit situation already. It is not going to get better with the Legislature or the Governor. The Board's first responsibility is to try not to disenroll currently enrolled children. This is the Board's long-

standing position. Mr. Figueroa expressed concern about delaying action and then finding that disenrollments had become necessary. Even with imposition of a waiting list immediately, there is still the possibility of having to disenroll children as the math shows. A number of people have spoken about the possibility of receiving funding from the First Five Commission. It's possible that the budget will be resolved by the time of their meeting.

Mr. Figueroa indicated that he had been prepared to support establishing a wait list on July 1st. He said he would be more comfortable delaying to July 16th or 17 rather than August 1, understanding that, if there were available money, the Executive Director wouldn't wait to the first of the next month to re-open.

Chairman Allenby asked if Mr. Figueroa wanted to make a motion to this effect.

Ms. Cummings indicated that she needed to consult with staff on the amount of time needed to implement after the Board makes a determination. Mr. Sanchez indicated that the vendor would need two days. After some discussion of whether this would mean July 17th or July 18th, Ms. Cummings indicated that it could be done on the 17th.

Chairman Allenby asked if Mr. Figueroa wanted to make motion calling for implementation of a waiting list on July 17th.

Ms. Rosenthal interjected that the Determination document before the Board currently states July 1st. So the motion would be to adopt the "Determination Pursuant to Title 10 CCR Section 2699.6603" that is included in agenda Item 7.a as amended to substitute July 17th for July 1st.

Chairman Allenby confirmed that this was the proposed motion.

Ms. Cummings asked to clarify her understanding of the process. A waiting list would go into effect on the day the Board determines. But to the extent that she, in consultation, believes that it is not necessary, she would then void the action.

Chairman Allenby concurred with her assessment of the process.

Mr. Figueroa asked for Dr. Chang's views.

Dr. Chang replied that the economic environment in California is far from an optimistic one. There is no right answer. The balancing act is trying to mitigate as much harm as possible. Imposing a waiting list is a very difficult thing to have to do. It seems appropriate to allow for a little more time in case something magical might happen in the next couple weeks.

Mr. Figueroa then made the motion as previously articulated by Ms. Rosenthal.

Chairman Allenby called for any further discussion. Hearing none, he asked for a vote on the motion. The Board approved it unanimously.

The declaration can be found at:
http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062909/Agenda_Item_7.a_HFP_Impact_of_90_Millions_GF_Shortfall.pdf

CHIP Reauthorization Implementation

Ms. Puddefoot reminded the Board that at the prior meeting she had presented a paper looking at options for complying with CHIPRA's requirements for reimbursing federally qualified health centers and rural health centers via a prospective payment system. Staff had been looking to the Board for guidance on the general approach to take and had suggested using a process like that now in use for Medi-Cal. Dr. Crowell wanted some additional time to review the document before weighing in on the approach. She has now reviewed that document and concurs with the recommended approach.

Chairman Allenby replied that it is the sense of the Board for staff to develop the Medi-Cal like approach.

The document can be found at:
http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062909/Agenda_Item_7.b.ii.pdf

**Access for Infants and Mothers (AIM) Update**

AIM Funding and Enrollment Capacity

Ms. Cummings asked the Board to review the chart on AIM funding included in their packets.

The chart shows that the Governor had proposed, and the Conference Committee approved, a reduction in the funding for the AIM Program. To live within the funding provided, the Board will have to close AIM to new enrollments in January. The Board does not need to take action on this topic today, but staff wanted the Board to know of the situation.

Chairman Allenby reported that the program had to close suddenly to new enrollment a number of years ago and it had been really disastrous in its effect on people. He suggested that the Board and staff work to figure out what needs to be done to ensure that program closure is not sudden and that people are well-informed.

The document can be found at:

http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062909/Agenda_Item_8a_AIM_ANALYSIS_FOR_CAPPING_ENROLLMENT_JAN%202010.pdf

**Major Risk Medical Insurance Program (MRMIP) Update**

2009-10 Health Plan and Administrative Vendor Contract Extensions

Ms. Cummings asked the Board to extend plan and administrative vendor contracts at current rates.

Ms. Rosenthal added that the motion is to adopt the four resolutions included as agenda Item 9.a. as to Kaiser Foundation Health Plan, Contra Costa Health Plan, Blue Shield of California and Anthem Blue Cross.

Chairman Allenby stated that this was moved asked for a second. Following a second, the Board unanimously voted approval.

The documents can be found at:
http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062909/Agenda_Item_9.pdf

and:
http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062909/agenda_item_9.a.pdf

Financial Report

Ms. Cummings moved the report to the next meeting.

Chairman Allenby reminded the audience that the July Board meeting would be on the 30th.

There being no other items before the Board, the Chairman adjourned the meeting.