Agenda Item 6
9/14/11 Meeting

The California Managed Risk Medical Insurance Board
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September 13, 2011

Kristin Shelton, Assistant Program Budget Manager
Health and Human Services Unit
Department of Finance
915 L Street
Sacramento, CA 95814

Dear Ms. Shelton:

This is in response to your letter dated August 12, 2011, wherein you requested that the Managed Risk Medical Insurance Board (MRMIB) update you on the measures the Board is taking to ensure that the Healthy Families Program (HFP) operates within its budget appropriation.

As indicated in your letter, MRMIB faced a $130 million General Fund (GF) shortfall. Of this GF shortfall:

- $103 million resulted from the Managed Care Organization (MCO) tax not being extended;
- $23 million is associated with the savings budgeted as a result of increased premiums; and
- $5 million is associated with the co-payment increase that conforms to the Medi-cal co-payment increase and is pending CMS review.

Given the recent legislative approval of ABx1 21 the MCO tax extension bill, I will limit my response to the remaining $28 million GF ($79 million TF) shortfall. You should know however that after the August Board meeting I received oral communication from CMS informing me that disenrolling children from HFP due to a budget shortfall is a maintenance of effort (MOE) violation. CMS further indicated that establishing a wait list due to budgetary constraints is also an MOE violation. In either case, an MOE violation would result in the loss of $35 billion in federal funding for California.

Maintenance of Effort. The CHIP MOE provision is in section 2105(d)(3) of the Social Security Act, as added by section 2101(b) of the Affordable Care Act. This MOE requires that a *State must maintain CHIP "eligibility standards, methodologies, and procedures" that are no more restrictive than those in effect on March 23, 2010*. Given this restriction, the Board's options are limited in addressing alternatives to reduce program costs. If MRMIB were to take any actions interpreted by CMS to restrict eligibility, this would constitute a violation of the maintenance of effort (MOE) requirements set forth in the Affordable Care Act (ACA) of 2010.

Premium Increase. MRMIB is in consultation with CMS on the provisions that permit increases in premiums. We will keep you abreast of federal communication and continue to work with you on this issue as we receive their guidance.

Co-pay Increase. The Governor's 2011-12 Budget reflects a reduction in the HFP budget, as it assumes implementation of an increase in emergency room co-pays as well as establishing a co-pay for inpatient hospitalization. These program changes were presented as conforming changes consistent with those in the Medi-Cal Program. The enacting legislation states that HFP implementation is to occur after Medi-Cal receives CMS approval to implement these same changes. We continue to wait for CMS approval on the changes for the Medi-Cal Program.

Participating Plan Rate Reductions. Over the past six years HFP plans have had two years of a rate freeze, two years with rate reductions and two years with a minimal to modest increase most of which was a restoration of prior reductions. You should know that HFP plan rates are negotiated and therefore the plan must agree to the rate. Capitation rates vary by region and in some cases by county. Depending on the capitation rate that is negotiated, a plan may opt to exit one or more counties. Over the past years, HFP families have had a reduction in plan selection due to plans exiting one or more counties. In 2009-10 there were only 8 counties that had only one plan available. Due to rate reductions and rate freezes, there are now 20 counties that have only one plan available. If MRMIB does not maintain statewide access to HFP subscribers HFP will have to disenroll children which will be an MOE violation as discussed above. Therefore a reduction in plan capitation rates is not an option for reducing program expenditures given the past six years of capitation history.

We continue to explore ways in which we can reduce program expenditures without violating the maintenance of effort provisions as noted in the Affordable Care Act. I look forward to a continued collaboration on this issue. If you have any questions please do not hesitate to contact me at (916) 324-4695.

Sincerely,

Janette Casillas

Janette Casillas
Executive Director

cc: Michael Wilkening, Undersecretary
California Health and Human Services Agency