



Maternal and Child Health Access

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May 12, 2010

Managed Risk Medical Insurance Board (MRMIB)
1000 G Street, Suite 450
Sacramento, CA 95814

Re: Changing AIM Rescission Policy

Dear MRMIB:

MCH Access and the Asian Law Alliance (ALA) would like to bring to the Board's attention again the enormous physical, mental and financial toll that AIM's rescission policies and practice take on women and their families, as in the case of a monolingual Vietnamese woman we assisted in 2005 who was billed over \$25,000 for medical care she received after AIM had her health plan coverage rescinded following a miscarriage.

AIM's policy and practice is to rescind a woman's AIM health plan without prior notice when the woman "fails" to report the end of her pregnancy to the State within 30 days (Title 10, California Code of Regulations (CCR), §§ 2699.207(a)(2)(D), 2699.209(b). Rescission takes effect on the 61st day following the date of the pregnancy's end (10 CCR § 2699.207(g)) and occurs even when:

- the woman pays all of her AIM premiums on time;¹
- her AIM health plan has continued to authorize medical services under the terms of her coverage;
- the plan has been paid by the state under its contract with AIM; and
- AIM receives its federal matching funds for the woman's coverage.²

The reason AIM gives for health plan rescissions without prior notice in these circumstances is that a woman is eligible for AIM only while pregnant and for 60 days after the pregnancy ends.

¹With very limited exceptions, AIM requires women to continue making all 12 of their monthly payments regardless of the number of months a woman may have been in AIM before her pregnancy ends. 10 CCR § 2699.400(a)(4) and (e).

²The Children's Health Insurance Program (CHIP) funds AIM; the state pays approximately one-third of the cost to draw down federal matching funds of two-thirds.

Under Health and Safety Code (H&SC) § 1371.8 (Stats. 2007, c. 702), however, health plans, including AIM plans, are now prohibited from

rescind[ing] or modify[ing] [an] authorization [for a specific type of treatment by a provider] after the provider renders the health care service in good faith and pursuant to the authorization *for any reason, including, but not limited to, the plan's subsequent rescission, cancellation, or modification of the enrollee's or subscriber's contract or the plan's subsequent determination that it did not make an accurate determination of the enrollee's or subscriber's eligibility.* . . .(Emphasis added).

In addition, after September 23, 2010, the new federal health care reform law prohibits

[a] group health plan and a health insurance issuer offering group or individual health insurance coverage. . .from rescind[ing] such plan or coverage with respect to an enrollee once the enrollee is covered under such plan or coverage involved. . .³

The only exceptions are for “fraud or an intentional misrepresentation of material fact as prohibited by the terms of the plan or coverage.” *Id.* The fact that a woman has delivered a baby or suffered a miscarriage is a fact that is clearly known to the providers and health plan providing the maternity care and can in no way be construed as the woman engaging in an intentional misrepresentation of material fact, much less fraud, when the baby is born or the pregnancy ends in miscarriage.

In addition, under the new federal law, health plan coverage “may not be cancelled except with *prior notice to the enrollee.* . .” (emphasis added). *Id.* AIM regulations used to require that all women receive written notice prior to cancellation, but the prior notice requirement for what MRMIB terms “retroactive disenrollment” was eliminated in 2008 for women who do not report the end of their pregnancies to the State in 30 days. *See*, former 10 CCR § 2699.207(b), amended by R-2-08.

Large health insurers have recently announced an end to rescissions, in advance of the new federal prohibition’s September effective date. *See, e.g.*, LA Times, 4/28/2010⁴; New York Times, 5/2/2010.⁵

We hope that AIM will soon follow suit by ending its policy practice of rescinding health plans for a woman’s “failure” to report a miscarriage or other end of her pregnancy in 30 days. MCHA looks forward to working with the Board to make sure that the necessary changes to

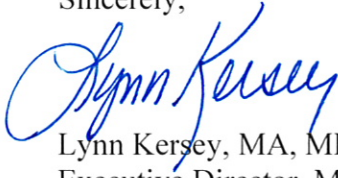
³Section 1001 of the Patient Protection and Affordable Care Act (H.R. 3590) and § 2301(a)(iii) of the Health Care and Education Reconciliation Act of 2010 (H.R. 4872), adding § 2712 of the Public Health Service Act.

⁴ <http://www.latimes.com/business/la-fi-0428-insure-rescission-20100428,0,5187685.story>

⁵ <http://www.nytimes.com/2010/05/03/opinion/03mon1.html?partner=rss&emc=rss>

AIM's program regulations and all related policies, practices, procedures and public information materials, such as the AIM application booklet and AIM website are made quickly.

Sincerely,



Lynn Kersey, MA, MPH
Executive Director, MCH Access

/s/

Jacquelyn Maruhashi
Staff Attorney, Asian Law Alliance

cc: California Department of Managed Health Care
California Health and Human Services Agency
Assemblymember William Monning, Chair, Assembly Health Committee
Assemblymember David Jones, Chair, Assembly Budget Subcommittee No. 1
Senator Elaine Alquist, Chair, Senate Health Committee
Senator Mark Leno, Chair, Senate Budget Subcommittee No. 3
Cindy Mann, Director, State Operations, U.S. Health and Human Services, Centers for Medicare and Medicaid Services, Baltimore
Don Novo, Manager of the State Programs Branch, Division of Medicaid and Children's Health Operations, State Operations, U.S. Health and Human Services, Centers for Medicare and Medicaid Services, Region IX