



Maternal and Child Health Access



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Proposed AIM Regulations Unfair to Women Who Miscarry.

**Would Also Harm *All* AIM Enrollees
by Repealing the Existing Requirement That
Notice Be Given *Before* AIM Coverage Ends.**

COMMENTS DUE JUNE 3, 2008.

The Access for Infants and Mothers (AIM) program is proposing to:

- Help women who miscarry during the first trimester by reducing their AIM payments; but also
- Harm *all* AIM enrollees by eliminating the existing 20-day prior notice requirement before AIM health plan coverage ends.

A public hearing has been scheduled in Sacramento for June 3 at 9:00 a.m., with the deadline for written comments to the Office of Administrative Law ending at 5:00 p.m. on the same day.

[Click [HERE](#) for details along with a proposed copy of the regulations]

A short sample comments letter is attached. In addition, we provide background information and examples of how the proposed elimination of the 20-day prior notice women could result in significant medical debt for women with AIM coverage.

Separately, MCHA will be preparing more technical comments on the regulations; if you're interested in reviewing or possibly signing on to those, please contact lynnk@mchaccess.org.

Thank you.

Summary

- 1) **Reduced Rates for Some Women Who Miscarry:** The proposed regulations are only in part about the topic described in their title, *Proposed AIM Reduced Rates After 1st Trimester Miscarriage*. MCHA proposed this rule change and continues to support it-- though we think women who miscarry in the second trimester should get similar relief, especially since the exact cut off date between trimesters can be imprecise.
 - It is also important to note that, even with the “rebate”, AIM would still continue to **retroactively disenroll** women who “fail”, either because of post-partum depression, medical complications, or other reasons, to quickly report the miscarriage to AIM.
 - Recommendations to fix this gross injustice are set out at the end of this memo.

- 2) **Repealing AIM’s Prior Notice of Termination Requirement:** The proposed regulations would also repeal the existing requirement that the AIM program give women at least 20-days prior notice of termination before AIM eligibility and health insurance benefits end (see proposed changes to Section 2699.209(b)). **AIM’s existing retroactive disenrollment problem would become even worse if this change is adopted.**
 - Denying women prior notice that their health insurance is about to end raises major procedural due process concerns, not just for the women who miscarry (fewer than 60 a year) but for *all* women with AIM (about 11,500 a year).
 - The proposed repeal of the 20-day prior notice requirement must be rejected. Giving women at least 20-days notice before AIM coverage ends is important for many reasons:
 - **To avoid confusion:** AIM keeps billing women monthly over 12 months and obliges them to pay, *even after their pregnancies end*. This is very confusing, and most women believe, quite reasonably, that they continue to have health insurance as long as they keep making their AIM payments on time each month. Prior notice of health plan disenrollment at least helps inform a woman that she is about to become uninsured, even though her monthly AIM bills will continue.
 - **To give lead time to prepare:** Women need precise prior notice of the exact date their health insurance coverage is to end so that they can prepare and act accordingly--for example, by not scheduling medical appointments that would otherwise take place after the termination date--in order to avoid medical debt when they become uninsured.
 - **To give women and their doctors a chance to clarify the date on which the 60th day post-partum occurs:** AIM’s 60-day post-partum coverage period is triggered by the end of the pregnancy. But when there’s been a miscarriage, the exact day that a pregnancy ends is not always clear and may involve complex issues of medical fact. Similarly, establishing the day on which the first trimester ended may also be a question of fact.
 - **To give women an opportunity to challenge erroneous allegations about lack of eligibility:** The AIM program retroactively disenrolls women not just after the pregnancy has ended, but also if the program believes that the woman is not a California resident. In addition, AIM retroactively disenrolls if it believes that a woman has committed fraud. Where facts such as these may be in dispute, women must be given an opportunity to present their side of the story before being disenrolled.
 - **To be fair to women who the AIM program has determined are eligible and who are issued AIM health plan cards but whose pregnancies end before the technical “effective date of coverage” begins:** At present, the AIM program treats women in this situation as if they’ve never been found eligible at all and provides no coverage whatsoever, not even for the miscarriage itself or any follow-up care during the 60-day post-partum period. A woman in this tragic situation deserves at least 20-days prior notice before being disenrolled from her health plan.

Background

Eligibility for AIM is over on the 61st day post-partum. AIM doesn't disenroll a woman from her health plan, however, until AIM learns that the pregnancy is over.

AIM puts all of the burden and financial risk on the women to report the end of the pregnancy to AIM. If women do not report the end of the pregnancy to AIM shortly after the end occurs, AIM will not inform them beforehand of the date their health insurance is to end. Because they keep getting billed for their AIM payments for a total of 12 months, some women believe that as long as they keep making their monthly payments to AIM, they have health insurance, and they use it. AIM is not limited to pregnancy-related care.

If, by the 11th month from the date of her enrollment in AIM, a woman has neither informed the AIM program directly that the pregnancy has ended nor enrolled a newborn in Healthy Families, the AIM program contacts the health plan to find out what happened.

If during the 11th month review AIM learns from the health plan that the woman has miscarried or delivered a baby, AIM disenrolls her, both from AIM and her health plan, **retroactive to the 61st day post-partum**.

If a woman has incurred charges for health care in the interim, she gets stuck with all of those bills, assessed at the private-pay cost-shifted rate for the uninsured, which is significantly more than what AIM or any other insurance would pay.

Example 1: Mrs. Chen enrolls in AIM on March 5, 2007 and miscarries on April 10, close to the end of her first trimester. Her eligibility for AIM technically ends 60 days later, on June 10.

Mrs. Chen doesn't read in any language, and none of the neighbors who help her with paperwork reads English, so Mrs. Chen didn't understand the AIM handbook or any of the materials that AIM has been sending her, all of which have been in English. Mrs. Chen is thus unaware that AIM expects her to report the miscarriage right away or risk becoming financially responsible for any medical care she receives after the 60th day post-partum.

On June 12 (63 days after her miscarriage), Mrs. Chen returns to see her doctor, for additional D&C. This is not uncommon with miscarriages (or even live births).

On June 15, Mrs. Chen receives medical care in a hospital emergency room. She had been feeling very ill and had a high fever for days; she called her doctor's office first, before going to the ER. The doctor's office told her to go to the ER immediately.

On July 10, Mrs. Chen faints, breaking her wrist in the fall. A neighbor takes her to the ER. (AIM is not limited to pregnancy-related care.)

On February 5 of the following year, 2008, the AIM program conducts an 11th month review of Mrs. Chen's case and learns from her health plan that she miscarried on April 10, 2007.

For each of the past 11 months, the AIM program had sent Mrs. Chen a monthly bill. Each month, Mrs. Chen paid AIM on time. Mrs. Chen thought she had the insurance.

On February 20, 2008, AIM sends Mrs. Chen and her health plan a letter saying that Mrs. Chen has been disenrolled retroactively from the health plan, back to April 11, 2007.

All of the providers Mrs. Chen saw after April 10, 2007, when both she and they were led by AIM to believe she was covered by AIM, start billing her, at private-pay uninsured rates. When Mrs. Chen doesn't pay, the medical providers turn her accounts over to collections. When she doesn't pay the collection agency, it sues her. Mrs.

Chen's credit is ruined and she files for bankruptcy.

Under the new proposed AIM contribution reduction rule, Mrs. Chen will get reimbursed the equivalent of two-thirds of what she has already paid to AIM and will be relieved of two-thirds of her 12th and final payment to AIM. **The reimbursement, however, is a pittance in comparison to the amount of the medical bills she is being sued for.**

- In our example, Mrs. Chen might originally have been responsible to pay AIM about \$600. Under the proposed two-thirds reduction for first trimester miscarriages, she will be reimbursed about \$400.
- But Mrs. Chen is being sued by her providers for tens of thousands of dollars at private-pay cost-shifted rates for the uninsured.
- Under AIM's existing 20-day prior notice rule, Mrs. Chen can at least try to defend herself on the ground that she was denied proper notice of termination of benefits and disenrollment from the plan. **MRMIB's proposed regulation package would take this defense away.**

Example 2: Mary Johnson suffered from serious, long-term post-partum depression after her miscarriage and was barely functioning for many months. She never reported her miscarriage to AIM, but her husband kept making monthly payments to AIM in response to the bills sent to the family by AIM. Mrs. Johnson used extensive prescription drug benefits, her plan's full mental health benefit, and various other medical benefits before being retroactively disenrolled after AIM's 11th month review. She is now being sued for all of those charges at the private-pay cost-shifted rate for the uninsured.

Possible Solutions

There are many reasonable alternatives to both the current way the AIM program responds after learning that a pregnancy has ended as well as to the proposed repeal of the existing 20-day prior notice requirement. Several of these alternatives could work in combination with each other.

- 1) **Plans/providers could notify AIM when a miscarriage occurs:** Have plans and/or providers report miscarriages to AIM after providing treatment for them.
 - AIM staff and the Board have rejected this approach, saying the plans have indicated that reporting would be too burdensome for them.
- 2) **Explain to women what AIM expects them to do following the end of the pregnancy:** Improve the way AIM tells women that the program expects them to report the end of their pregnancies-- however they end--, the timeframe for reporting in order to ensure prior notice of termination of benefits before the end of the 60-day post-partum coverage period, and the consequences to the woman if she does not follow these instructions. **Better instructions, however, are not enough.**
 - Improve what's in the AIM Handbook: AIM has agreed to this, but there's no draft yet.
 - Create a form, for inclusion in the Handbook, for women to use to report miscarriages to AIM. Such a form would also help draw attention to AIM's position that the responsibility to report is exclusively the woman's: AIM has prepared a draft of a new reporting form; MCHA has suggested revisions.
 - Add information to the routine "Welcome to AIM" letter: AIM has also drafted a new letter; MCHA has suggested revisions.

- Include a sensitive reminder with each monthly AIM bill that if a miscarriage has occurred, the woman needs to inform AIM and explain the consequences to the woman if she does not do so: MCHA recently made this suggestion to AIM. No response yet.
 - We note, however, that this would not benefit the small number of women who do not get monthly bills from AIM because they made their 12 months-worth of payments upfront.
- Translate all of AIM's materials into necessary threshold languages for the AIM population (Medi-Cal and Healthy Families use 14; AIM uses only English and Spanish): This may be under consideration by AIM, but no commitment has been made yet, and it's not clear the program will agree to do all of the necessary translations.
- Clearly inform providers that they can help their patients by letting AIM know, via the new Early End of Pregnancy reporting form, with the patient's permission, when the patient's pregnancy has ended.

3) **The AIM program should conduct program reviews more frequently than 11 months following a woman's AIM application date; the reviews should instead be linked to the woman's expected due date and be conducted by AIM well before the end of her anticipated 60-day post-partum period.** As part of the application process, women give AIM their expected due dates. Instead of waiting until the 11th month after a woman applies to AIM to contact her health plan, AIM could contact the plans shortly after the woman's expected due date if she hasn't already enrolled her newborn into Healthy Families or reported a miscarriage directly to AIM.

- The 20-day prior notice of termination requirement must be retained, and its timing would fit well with the end of coverage on the 60th day post-partum.
- AIM may point out that reviewing cases shortly after the expected due date is "too early", since a woman with AIM has until the infant's first birthday to enroll the child into Healthy Families, and, when the child is enrolled, AIM will find out that the pregnancy has ended. In addition, this approach might require more than one contact to the health plan by AIM, since the woman may not have delivered by the time of her original estimated due date.
- But in the spirit of reaching a just and equitable solution, this approach should be given serious consideration: a little more burden on the AIM program to relieve women from bankrupting medical debt seems like a reasonable compromise.

4) **Alternatively, AIM reviews could be conducted 120 days after the estimated due date.** If, however, AIM believes that it is too burdensome administratively for the program to conduct the AIM reviews shortly after the estimated due date, then, where a woman has not reported to either Healthy Families or AIM by the 60th day after her estimated due date, AIM should conduct its review with the health plan in another 60 days (i.e., 120 days after the estimated due date). The subscriber contribution obligation would remain intact for the additional 60 days, and the woman's health plan coverage would continue during that time.

- The additional 60 days gives ample leeway where the estimate for the due date was too early; in addition, more women can be expected to have reported their newborns to Healthy Families by then.
- It's reasonable to believe that few women will need the extra time: With improved methods for informing the women, advocates, and providers that AIM places the duty to quickly report the end of a pregnancy, whether by miscarriage or a live birth, on the woman, more women will report more quickly, especially if the information is translated into all the necessary languages.
- The 20-days' prior notice requirement must be retained.

SAMPLE LETTER ON PROPOSED AIM REGULATIONS R-2-08

Comments are due – must arrive – by June 3, 2008.

[Your letterhead]

[Date]

Managed Risk Medical Insurance Board
Attn: JoAnn French
1000 G. St., Suite 450
Sacramento, CA. 95814

RE: R-2-08, *Proposed AIM Reduced Rates After 1st Trimester Miscarriage*

Dear Members of the Managed Risk Medical Insurance Board:

[Describe your agency and how you work with pregnant women.]

Thank you for the action you have taken to provide a rebate to those women who miscarry in the first trimester of their pregnancy and are able to inform AIM of this tragic occurrence. The ability for women to avoid a painful reminder of their loss in the form of continued billing is a good first step to address what we hope will be additional work on AIM. Specifically, we want continued billing to be dropped for ALL women who miscarry, both because trimesters are often somewhat arbitrary and because of the impact of later miscarriages. Second and third trimester miscarriages might be even more painful and tragic to women who've had a longer period of time with their pregnancies and for whom a miscarriage may be a more complex occurrence requiring even more follow-up.

However, these regulations address a second issue not reflected in the title— elimination of the existing 20-day prior notice of termination of AIM benefits and health plan coverage. Prior notice must be given to *all* women with AIM.

Most enrollees get billed by AIM for 12 months and believe, quite reasonably, that they continue to have insurance as long as they send in their AIM payments on time; prior notice that AIM benefits and coverage are ending is key to avoiding confusion for AIM enrollees.

In addition, when AIM decides to disenroll a woman for cause, such as because AIM thinks there is fraud, under the proposed regulations AIM would not tell the woman about the allegations against her beforehand or give the woman a chance to tell her side of the story before disenrolling her. This is completely unfair.

If women are not made aware that their health coverage is about to end, they are in danger of piling up huge medical bills that they can't afford, thinking that AIM will pay for them. This is a recipe for confusion and disaster.

It is critical that AIM's materials instruct women to contact the AIM program as soon as they have miscarried or the Healthy Families program as soon as a baby is born-- but this is not enough. The materials are not translated into all of the necessary languages, and some women can't read in any language at all. In any event, there may be a perfectly valid reason why it may take a woman some time to report the end of her pregnancy to a bureaucracy in Sacramento. For example, she may be in deep post-partum depression, or ill, or back working two jobs.

It is completely unnecessary to eliminate the 20-day prior notice to women that their AIM program benefits and health plan coverage are ending. MRMIB should not make this change.

Sincerely,

[your name, title, and organization]