INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] *(Division 2 enacted by Stats. 1935, Ch. 145.)*

PART 6.2. HEALTHY FAMILIES [12693 - 12694.2] *(Part 6.2 added by Stats. 1997, Ch. 623, Sec. 2.)*

CHAPTER 9. Eligibility [12693.70 - 12693.765] *(Chapter 9 added by Stats. 1997, Ch. 623, Sec. 2.)*

12693.70. To be eligible to participate in the program, an applicant shall meet all of the following requirements:

(a) Be an applicant applying on behalf of an eligible child, which means a child who is all of the following:

(1) Less than 19 years of age. An application may be made on behalf of a child not yet born up to three months prior to the expected date of delivery. Coverage shall begin as soon as administratively feasible, as determined by the board, after the board receives notification of the birth. However, no child less than 12 months of age shall be eligible for coverage until 90 days after the enactment of the Budget Act of 1999.

(2) Not eligible for no-cost full-scope Medi-Cal or Medicare coverage at the time of application.

(3) In compliance with Sections 12693.71 and 12693.72.

(4) A child who meets citizenship and immigration status requirements that are applicable to persons participating in the program established by Title XXI of the Social Security Act, except as specified in Section 12693.76.

(5) A resident of the State of California pursuant to Section 244 of the Government Code; or, if not a resident pursuant to Section 244 of the Government Code, is physically present in California and entered the state with a job commitment or to seek employment, whether or not employed at the time of application to or after acceptance in, the program.

(6) (A) In either of the following:

(i) In a family with an annual or monthly household income equal to or less than 200 percent of the federal poverty level.

(ii) (I) When implemented by the board, subject to subdivision (b) of Section 12693.765 and pursuant to this section, a child under the age of two years who was delivered by a mother enrolled in the Access for Infants and Mothers Program as described in Part 6.3 (commencing with Section 12695). Commencing July 1, 2007, eligibility under this subparagraph shall not include infants during any time they are enrolled in employer-sponsored health insurance or are subject to an exclusion pursuant to Section 12693.71 or 12693.72, or are enrolled in the full scope of benefits under the Medi-Cal program at no share of cost. For purposes of this clause, any infant born to a woman whose enrollment in the Access for Infants and Mothers Program begins after June 30, 2004, shall be automatically enrolled in the Healthy Families Program, except during any time on or after July 1, 2007, that the infant is enrolled in employer-sponsored health insurance or is subject to an exclusion pursuant to Section 12693.71 or 12693.72, or is enrolled in the full scope of benefits under the Medi-Cal program at no share of cost. Except as otherwise specified in this section, this enrollment shall cover the first 12 months of the infant's life. At the end of the 12 months, as a condition of continued eligibility, the applicant shall provide income information. The infant shall be disenrolled if the gross annual household income exceeds the income eligibility standard that was in effect in the Access for Infants and Mothers Program at the time the infant's mother became eligible, or following the two-month period established in Section 12693.981 if the infant is eligible for Medi-Cal with no share of cost. At the end of the second year, infants shall again be screened for program eligibility pursuant to this section, with income eligibility evaluated pursuant to clause (i), subparagraphs (B) and (C), and paragraph (2) of subdivision (a).

(II) Effective on October 1, 2013, or when the State Department of Health Care Services has implemented Chapter 2 (commencing with Section 15810) of Part 3.3 of Division 9 of the Welfare and Institutions Code, whichever is later,

eligibility for coverage in the program pursuant to this clause shall terminate. The board shall coordinate with the State Department of Health Care Services to implement Chapter 2 (commencing with Section 15810) of Part 3.3 of Division 9 of the Welfare and Institutions Code, including transition of subscribers to the AIM-Linked Infants Program. The State Department of Health Care Services shall administer the AIM-Linked Infants Program, pursuant to Chapter 2 (commencing with Section 15810) of Part 3.3 of Division 9 of the Welfare and Institutions Code, to address the health care needs of children formerly covered pursuant to this clause.

(B) All income over 200 percent of the federal poverty level but less than or equal to 250 percent of the federal poverty level shall be disregarded in calculating annual or monthly household income.

(C) In a family with an annual or monthly household income greater than 250 percent of the federal poverty level, any income deduction that is applicable to a child under Medi-Cal shall be applied in determining the annual or monthly household income. If the income deductions reduce the annual or monthly household income to 250 percent or less of the federal poverty level, subparagraph (B) shall be applied.

(b) The applicant shall agree to remain in the program for six months, unless other coverage is obtained and proof of the coverage is provided to the program.

(c) An applicant shall enroll all of the applicant's eligible children in the program.

(d) In filing documentation to meet program eligibility requirements, if the applicant's income documentation cannot be provided, as defined in regulations promulgated by the board, the applicant's signed statement as to the value or amount of income shall be deemed to constitute verification.

(e) An applicant shall pay in full any family contributions owed in arrears for any health, dental, or vision coverage provided by the program within the prior 12 months.

(f) By January 2008, the board, in consultation with stakeholders, shall implement processes by which applicants for subscribers may certify income at the time of annual eligibility review, including rules concerning which applicants shall be permitted to certify income and the circumstances in which supplemental information or documentation may be required. The board may terminate using these processes not sooner than 90 days after providing notification to the Chair of the Joint Legislative Budget Committee. This notification shall articulate the specific reasons for the termination and shall include all relevant data elements that are applicable to document the reasons for the termination. Upon the request of the Chair of the Joint Legislative Budget Committee, the board shall promptly provide any additional clarifying information regarding implementation of the processes required by this subdivision.

(Amended by Stats. 2014, Ch. 31, Sec. 35. (SB 857) Effective June 20, 2014.)

12693.71. (a) The board shall monitor applications to determine whether employers and employees have dropped employer-sponsored dependent coverage in order to participate in the program.

(b) The board may disapprove an application if it is determined that the children to be covered under the application were covered by an employer-sponsored insurance within the last three months.

(c) If the board imposes the limitation identified in subdivision (b) or (d), it shall also establish exceptions to this limitation in cases where prior coverage ended due to reasons unrelated to the availability of the program. This shall include, but not be limited to:

(1) Loss of employment due to factors other than voluntary termination.

(2) Change to a new employer that does not provide an option for dependent coverage.

(3) Change of address so that no employer sponsored coverage is available.

(4) Discontinuation of health benefits to all employees of the applicant's employer.

(5) Expiration of COBRA coverage period.

(6) Coverage provided pursuant to an exemption authorized under subdivision (i) of Section 1367 of the Health and Safety Code.

(d) If the board determines, based on evidence gathered during a reasonable period of program operation, that a substantial share of funds expended for the program are providing health coverage for children that have discontinued employer-based coverage in order to enter the program or if required by the federal government for state plan approval, the board may take actions to increase the three-month time limit specified in subdivision (b), to such a time limit that cannot exceed six months.

(Added by Stats. 1997, Ch. 623, Sec. 2. Effective January 1, 1998.)

12693.72. (a) The board may disapprove an application if it is determined that the children to be covered under the application were covered by an individual health care service plan contract or individual disability insurance policy during a specified period of time prior to the date of application only if required by the federal government for state plan approval. This time limitation period shall not exceed the time period required by the federal government.

(b) If the board imposes the time limitation identified in subdivision (a), it shall also establish exceptions to this limitation in cases where the prior coverage ended due to reasons unrelated to the availability of the program. This shall include, but not be limited to, the prior coverage being pursuant to a health plan operating pursuant to an exemption authorized by subdivision (i) of Section 1367 of the Health and Safety Code.

(Added by Stats. 1997, Ch. 623, Sec. 2. Effective January 1, 1998.)

12693.73. Notwithstanding any other provision of law, children excluded from coverage under Title XXI of the Social Security Act are not eligible for coverage under the program, except as specified in clause (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 12693.70 and Section 12693.76.

(Amended by Stats. 2003, Ch. 230, Sec. 19. Effective August 11, 2003.)

12693.74. (a) Subscribers shall continue to be eligible for the program for a period of 12 months from the month eligibility is established.

(b) (1) If the voters approve the addition of Chapter 7.5 (commencing with Section 14199.100) to Part 3 of Division 9 of the Welfare and Institutions Code at the November 5, 2024, statewide general election and the conditions described in paragraph (1) of subdivision (b) of Section 12693.74, as added by Section 36 of the act that added this subdivision, have been met, this section shall become inoperative on January 1, 2025, or the date certified by the State Department of Health Care Services pursuant to paragraph (2) of subdivision (b) of Section 12693.74, as added by Section 36 of the act that added this subdivision, whichever is later, and shall be repealed on January 1 directly following that date.

(2) If the voters do not approve the addition of Chapter 7.5 (commencing with Section 14199.100) to Part 3 of Division 9 of the Welfare and Institutions Code at the November 5, 2024, statewide general election and the conditions described in paragraph (1) of subdivision (b) of Section 15832, as added by Section 137 of the act that added this subdivision, have been met, this section shall become inoperative on January 1, 2026, or the date certified by the department pursuant to paragraph (2) of subdivision (b) of Section 15832, as added by Section 137 of the act that added this subdivision, whichever is later, and shall be repealed on January 1 directly following that date.

(Amended (as amended by Stats. 2022, Ch. 47, Sec. 35) by Stats. 2024, Ch. 40, Sec. 24. (SB 159) Effective June 29, 2024. Inoperative on or after January 1, 2025, as prescribed by its own provisions. Conditionally repealed on January 1, 2026, by its own provisons. See later operative version, as amended by Sec. 25 of Stats. 2024, Ch. 40.)

12693.74. (a) To the extent federal financial participation is available, and subject to subdivision (e), the child shall remain continuously eligible for the program up to five years of age. The department shall seek any federal approvals that may be necessary to implement this subdivision.

(b) (1) Implementation of this section is contingent on all of the following conditions:

(A) All necessary federal approvals have been obtained by the department pursuant to subdivision (e).

(B) The Legislature has appropriated funding to implement this section after a determination that ongoing General Fund resources are available to support the ongoing implementation of this section in the 2024–25 fiscal year and subsequent fiscal years.

(C) The department has determined that systems have been programmed to implement this section.

(2) The department shall issue a declaration certifying the date that all conditions in paragraph (1) have been met. The department shall post the declaration on its internet website and provide a copy of the declaration to the Secretary of State, the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel.

(c) If at any time the director determines that the eligibility criteria established under this section for the program may jeopardize the state's ability to receive federal financial participation under the federal Patient Protection and Affordable Care Act (Public Law 111-148), any amendment or extension of that act, or any similar federal legislation affecting federal financial participation, the director may alter the eligibility criteria to the extent necessary for the state to receive that federal financial participation.

(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and Chapter 4 (commencing with Section 12693.25) and Part 6.1 (commencing with Section 12670), the department may implement,

interpret, or make specific this section, in whole or in part, through all-county letters or similar instructions, without taking any further regulatory action.

(e) This section shall be implemented only to the extent that any necessary federal approvals are obtained, and federal financial participation is available and not otherwise jeopardized.

(f) (1) If the voters approve the addition of Chapter 7.5 (commencing with Section 14199.100) to Part 3 of Division 9 of the Welfare and Institutions Code at the November 5, 2024, statewide general election, this section shall become operative on January 1, 2025, or the date certified by the department pursuant to paragraph (2) of subdivision (b), whichever is later.

(2) If the voters do not approve the addition of Chapter 7.5 (commencing with Section 14199.100) to Part 3 of Division 9 of the Welfare and Institutions Code at the November 5, 2024, statewide general election, this section shall be repealed as of January 1, 2025.

(Amended (as added by Stats. 2022, Ch. 47, Sec. 36) by Stats. 2024, Ch. 40, Sec. 25. (SB 159) Effective June 29, 2024. Section conditionally operative on January 1, 2025, or later, as prescribed by its own provisions.)

12693.75. (a) The program shall make use of a simple and easy to understand mail-in application process.

(b) For children referred pursuant to Section 14005.41 of the Welfare and Institutions Code, the program shall utilize the school lunch application and any supplemental forms received pursuant to Section 14005.41 of the Welfare and Institutions Code to make an eligibility determination and shall request additional information only as needed to complete the eligibility process.

(c) The Managed Risk Medical Insurance Board may adopt emergency regulations to implement subdivision (b) and coordinate with all other state and local government entities in the implementation of Section 49557.2 of the Education Code and Section 14005.41 of the Welfare and Institutions Code. Any rules and regulations issued by the board pertaining to the implementation of this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption and one readoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare, and shall be exempt from review by the Office of Administrative Law. Any emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations, and shall remain in effect for not more than 180 days unless the department readopts those regulations. The regulations shall become effective immediately upon filing with the Secretary of State.

(Amended by Stats. 2004, Ch. 729, Sec. 2. Effective January 1, 2005.)

12693.755. (a) Subject to subdivision (b), commencing four months after the initial federal approval is obtained pursuant to the waiver described in subdivision (b), the board shall expand eligibility under this part to uninsured parents of, and as defined by the board, adults responsible for, children enrolled to receive coverage under this part or who are enrolled to receive the full scope of Medi-Cal services with no share of cost and whose income does not exceed 250 percent of the federal poverty level, before applying the income disregard provided for in subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70.

(b) (1) The board shall implement a program to provide coverage under this part to any uninsured parent or responsible adult who is eligible pursuant to subdivision (a), pursuant to the waiver identified in paragraph (2).

(2) The program shall be implemented only in accordance with a State Child Health Insurance Program waiver pursuant to Section 1397gg(e)(2)(A) of Title 42 of the United States Code, to provide coverage to uninsured parents and responsible adults, and shall be subject to the terms, conditions, and duration of the waiver. The services shall be provided under the program only if the waiver is approved by the federal Centers for Medicare and Medicaid Services, and, except as provided under the terms and conditions of the waiver, only to the extent that federal financial participation is available and funds are appropriated specifically for this purpose.

(Amended by Stats. 2001, Ch. 171, Sec. 15. Effective August 10, 2001.)

12693.76. (a) Notwithstanding any other provision of law, a child who meets the definition of the term defined in subsection (b) or (c) of Section 1641 of Title 8 of the United States Code shall not be determined ineligible solely on the basis of the child's date of entry into the United States.

(b) Notwithstanding any other provision of law, subdivision (a) may only be implemented to the extent provided in the annual Budget Act.

(c) Notwithstanding any other provision of law, any uninsured parent or responsible adult who meets the definition of the term defined in subsection (b) or (c) of Section 1641 of Title 8 of the United States Code shall not be determined to be ineligible solely on the basis of that person's date of entry into the United States.

(d) Notwithstanding any other provision of law, subdivision (c) may only be implemented to the extent of funding provided in the annual Budget Act.

(Amended by Stats. 2021, Ch. 296, Sec. 37. (AB 1096) Effective January 1, 2022.)

12693.765. (a) Notwithstanding any other provision of law and subject to subdivision (b), a child described in clause (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 12693.70 shall be deemed eligible to participate in the program at birth.

(b) Notwithstanding any other provision of law, subdivision (a) and clause (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 12693.70 may only be implemented to the extent that funds are appropriated for that purpose in the annual Budget Act or other statute.

(Added by Stats. 2003, Ch. 230, Sec. 20. Effective August 11, 2003.)