

**FIRST 5 CALIFORNIA
CHILDREN AND FAMILIES COMMISSION**

August 13, 2009

Special Commission Meeting

**Holiday Inn Capitol Plaza
300 J Street
John Q Ballroom, 16th Floor
Sacramento, CA 95814**

MINUTES

Agenda Item 1 – Call to Order and Chair’s Welcome

Vice Chair David Kears called the meeting to order.

Commissioners Present: David Kears, Vice Chair
Carla Dartis
Molly Munger
Sumi Sousa
Eleni Tsakopoulos-Kounalakis

Commissioners Absent: Maria Minon, M.D.

Ex Officio Member Present: Joe Munso

Ex Officio Member Absent: Dr. Glen Thomas

Vice Chair Kears welcomed commission members and announced the appointment of Sumi Sousa, who was recently appointed to the Commission by Karen Bass, Speaker of the Assembly. Vice Chair Kears noted that Commissioner Minon was not in attendance due to a conflict of interest related to the only agenda item.

Agenda Item 1 – Determination in Support of Special Commission Meeting

Kim Gauthier, Chief Counsel, provided background information regarding the need to call a Special Commission meeting.

The First 5 California Commission conducts its meetings pursuant to and in compliance with the Bagley Keene Open Meeting Act. First 5 called this Special Commission meeting to consider only limited matters. Pursuant to the Bagley Keene Act, First 5 is required to make a factual finding that immediate action is required to protect the public interest and, therefore, the Commission was unable to comply with the usual 10-day meeting notice requirement.

On July 28, 2009, Governor Schwarzenegger signed the trailer bills, which amended the Fiscal Year 2009-10 budget passed by the Legislature in February. As part of that

budget, funding to the Healthy Families Program, administered by the Managed Risk Medical Insurance Board (MRMIB), was cut by more than \$190 million. In order to operate the program within its current allocation, MRMIB froze enrollment on July 17, 2009, and is prepared to consider a plan to begin disenrolling children currently enrolled in the Healthy Families Program. If MRMIB does not receive its additional targeted funding beyond the current General Fund allocation for the program, these actions will take effect. Approximately 25% of the children enrolled and who are currently being wait-listed are children ages 0 to 5. In order to avoid wait-listing new enrollees and/or disenrolling children ages 0 to 5, it was necessary to call a special meeting so that the Commission could consider funding an expansion of the Healthy Families Program.

MOTION/ACTION: Commissioner Dartis moved that the Commission find that calling a Special Session is necessary as immediate action is required by this Commission to protect the public interest in that the Managed Risk Medical Insurance Board has implemented a freeze on enrollment and is currently wait listing all children applying for the Healthy Families Program effective July 17, 2009. It was further moved that the Commission find that immediate action is required to protect the public interest in that the Managed Risk Medical Insurance Board is considering implementing a plan to disenroll children in the Healthy Families Program at its meeting on August 13, 2009, if it is not able to procure additional funding to expand the program. The motion was seconded by Commissioner Sousa.

PUBLIC COMMENT: None.

VOTE: The motion was approved by a unanimous vote of the members present.

Agenda Item 2 – Approval of Health Care Funds for Eligible Children 0 to 5

Kris Perry, Executive Director, requested the Commission approve funding of health care for children ages 0 to 5.

California's young children, specifically those from low-income families, are at risk of losing affordable health insurance under the Healthy Families Program. State budget cuts have left this program facing a shortfall of more than \$190 million. Hanging in the balance are thousands of young children who may no longer be able to seek medical attention for preventive care, illness or injury. Everyone understands the importance of keeping children healthy and how a child's health can profoundly effect his or her ability to perform in school. That is why improving access to affordable children's health care has always been a part of the core mission of First 5 California.

Ms. Perry recommended the Commission approve a contribution of up to \$81.4 million to MRMIB for the Healthy Families Program. This funding has the potential to cover health care costs for more than 200,000 children ages 0 to 5 through June 2010. A contribution like this would be a significant step forward in closing the budget gap for the Healthy Families Program. The recommendation to step in and provide help to the Healthy Families Program came after careful consideration of First 5 California's statutory mandate and deliberation over the Commission's other funding obligations and priorities.

MOTION/ACTION: In response to the current Healthy Families Program budget deficit of more than \$190 million for Fiscal Year 2009-10, Commissioner Tsakopoulos-Kounalakis moved that the Commission approve up to \$81.4 million to pay the health care premiums and related enrollment expenses in Fiscal Year 2009-10 for eligible children ages 0 to 5 in the Healthy Families Program. The expenditure of these funds is contingent upon the California Children and Families Act not being revised or amended during the term of this authorization. The motion was seconded by Commissioner Munger.

DISCUSSION: Commissioner Sousa asked for clarification on the motion regarding the expenditure of funds contingent upon the California Children and Families Act not being revised. Ms. Perry said that First 5 believes that the funds can be made available to meet this obligation as the Act is currently written. If the Act were to be changed in any way, First 5 would need to reconsider the decision to ensure that it was still consistent with the Act.

Commissioner Sousa asked if there were sufficient funds in the accounts to cover this request. Ms. Perry said there was adequate funding in four accounts to cover the \$81.4 million.

Commissioner Tsakopoulos-Kounalakis commended Ms. Perry and First 5 staff for their hard work to make this happen and for recognizing that health care for children is a fundamental basic need. With regard to the legal analysis that was done, she asked if it was consistent with First 5 regulations relative to not replacing funding to the General Fund. Ms. Perry said by including that funds have to be spent consistent with the Act, then MRMIB will be guided by First 5 in the way that they spend the funds to ensure consistency with the Act.

Commissioner Dartis questioned if there was any supplantation of funds. Ms. Perry said that in order for it to be consistent with the California Children and Families Act, there can not be supplantation.

Commissioner Munso thanked First 5 California on behalf of the Administration for its partnership and stated that other solutions need to be brought to the table in order to make the Healthy Families Program whole again. He had clarifying questions regarding the contingency clause listed in the motion statement. He asked if First 5 would not give funding to the Healthy Families Program if there were changes made to the Act. Vice Chair Kears said no and explained that if in fact there is a change in the law, then First 5 would have to reevaluate what it could do within the change of that law. He expressed the importance of this positive commitment and that it is one that is given freely within the understanding of the law as it is currently written. Ms. Perry stated that First 5 believes there is no need to amend the Act to meet this obligation and to offer this solution. If changes are enacted, then First 5 would revisit this commitment against those changes.

Commissioner Dartis asked if the commitment of \$81.4 million was contingent upon the state finding the additional funding needed to make the program whole. Ms. Perry said this was a contribution to the Healthy Families Program budget

shortfall. MRMIB is working with the Administration and other legislative leaders in finding ways to help bridge the gap left after First 5's contribution. First 5 is bringing this solution as the first step in helping solve the Healthy Families shortfall and hopes that this first step will help MRMIB in achieving that goal.

Commissioner Munger said she wished that there were others who would step up to help. Commissioner Munger said she supported the motion without any contingency about what anyone else might decide to do. Commissioner Dartis agreed with Commissioner Munger. She said sometimes the road to being a real leader means going it alone and that the families and children 0 to 5 are counting on First 5 California. Vice Chair Kears agreed by saying that it was very important and the right thing to do.

PUBLIC COMMENT: There were four individuals representing children's and health advocacy organizations who thanked First 5 California for their incredible leadership and commitment to ensure that young children 0 to 5 have access to health care coverage.

Commissioner Sousa asked if a statement could be added at the end of the motion to say that if any amendment to the Act that was inconsistent with what is trying to be accomplished would be prohibited. Commissioner Munger said she was impressed and had full confidence in the legal staff currently advising First 5 California and is comfortable with the motion statement just the way it was. She said if the Legislature changes the Act in a harmless way that does not alter all the factors presently before the Commission, then the Commission could just reauthorize that commitment. Commissioner Munger said that First 5 does not want to be bound in a landscape that can not be predicted. Commissioner Tsakopoulos-Kounalakis agreed that the way that it was written was appropriate.

Commissioner Dartis said that if First 5 staff needed to make some operational amendments that they have the authorization to do that and it does not conflict with the existing Act as it now stands. She said that the wording in the motion statement and the steps being taken today will not create a risk that impedes First 5 staff to be able to act if necessary.

Commissioner Sousa expressed concerns on the timing of having to come back for something minor. Ms. Gauthier said legislative changes to the Act could be a basis for calling a special meeting with 48 hours notice.

Vice Chair Kears said that he did not want anyone to read into the action being taken anything less than First 5's commitment of the \$81.4 million and to do so because of our belief in the value and the importance of the Healthy Families Program. He said that the technicality of the contingency was due to a little bit of the uncertainty of the world, but not the uncertainty of First 5's firm commitment. Commissioner Tsakopoulos-Kounalakis said the commitment was clear. Commissioner Munger said that this should not detract from the heartfelt support for the program and the real enthusiasm with which First 5 steps forward to help.

Commissioner Munso asked, from a legal perspective, if the money would go away if there was another amendment to the Act. Ms. Gauthier said that if the Act were amended, it would be necessary to call a special meeting to reaffirm the commitment. Commissioner Munso said if a special meeting would have to be called anyway with regard to changes in legislation, then why is there a need to have the contingency language. Vice Chair Kears said that if there was proposed legislation that was harmless, then a meeting could be called to reaffirm the commitment. If an item were to come up, it would be acted on in a proactive way. First 5 is not looking for a way to pull back. Commissioners said if that was the intent the Commission would not be meeting. Commissioner Tsakopoulos-Kounalakis said it was important to recognize that in general, organizations tend to be territorial with regard to their funding. She said that First 5 staff is constantly looking at ways to help kids 0 to 5 and First 5 is in a position to help and that is what is being done. Commissioner Munso said that the Administration did not want to appear to be unthankful; rather he was asking what it meant operationally. Vice Chair Kears reiterated that a special meeting would be called if needed to preempt any disruption of the funding commitment, unless an amendment is such that it would completely undermine it.

VOTE: The motion was approved by a unanimous vote of the members present.

Agenda Item 3 – Adjournment

Commissioner Tsakopoulos-Kounalakis moved for adjournment of the commission meeting. The motion was seconded by Commissioner Munger and was approved by a unanimous vote of the members present.

Vice Chair Kears announced that Ms. Perry was scheduled to appear before MRMIB's board meeting, who was also holding a meeting today, to advise them of the action taken by the First 5 California Commission regarding the Healthy Families Program. Commissioners were welcomed to attend MRMIB's meeting.

The next scheduled Commission meeting is October 21, 2009, in Los Angeles.