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§ 800.102 Compliance with Federal law.

(a) *Public Health Service Act.* As a condition of participation in the MSP Program, an MSP issuer must comply with applicable provisions of part A of title XXVII of the PHS Act. Compliance shall be determined by the Director.

(b) *Affordable Care Act.* As a condition of participation in the MSP Program, an MSP issuer must comply with applicable provisions of title I of the Affordable Care Act. Compliance shall be determined by the Director.

§ 800.103 Authority to contract with issuers.

(a) *General.* OPM may enter into contracts with health insurance issuers to offer at least two MSP options on Exchanges and SHOPs in each State, without regard to any statutes that would otherwise require competitive bidding.

(b) *Non-profit entity.* In entering into contracts with health insurance issuers to offer MSP options, OPM will enter into a contract with at least one nonprofit entity as defined in § 800.20 of this part.

(c) *Group of issuers.* Any contract to offer MSP options may be with a group of issuers as defined in § 800.20 of this part.

(d) *Individual and group coverage.* The contracts will provide for individual health insurance coverage and for group health insurance coverage for small employers.

§ 800.104 Phased expansion, etc.

(a) *Phase-in.* OPM may enter into a contract with a health insurance issuer to offer MSP options if the health insurance issuer agrees that:

(1) With respect to the first year for which the health insurance issuer offers MSP options, the health insurance issuer will offer MSP options in at least 60 percent of the States;

(2) With respect to the second such year, the health insurance issuer will offer the MSP options in at least 70 percent of the States;

(3) With respect to the third such year, the health insurance issuer will offer the MSP options in at least 85 percent of the States; and

(4) With respect to each subsequent year, the health insurance issuer will offer the MSP options in all States.

(b) *Partial coverage within a State.* (1) OPM may enter into a contract with an MSP issuer even if the MSP issuer's MSP options for a State cover fewer than all the service areas specified for that State pursuant to § 800.110 of this part.

(2) If an issuer offers both an MSP option and QHP on the same Exchange, an MSP issuer must offer MSP coverage in a service area or areas that is equal to the greater of:

(i) The QHP service area defined by the issuer or,

(ii) The service area specified for that State pursuant to § 800.110 of this part covered by the issuer's QHP.

(c) *Participation in SHOPs.* (1) An MSP issuer's participation in a Federally-facilitated SHOP must be consistent with the requirements for QHP issuers specified in 45 CFR 156.200(g).

(2) An MSP issuer must comply with State standards governing participation in a State-based SHOP, consistent with § 800.114. For these State-based SHOP standards, OPM retains discretion to allow an MSP issuer to phase-in SHOP participation in States pursuant to section 1334(e) of the Affordable Care Act.

(d) *Licensed where offered.* OPM may enter into a contract with an MSP issuer who is not licensed in every State, provided that the issuer is licensed in every State where it offers MSP coverage through any Exchanges in that State and demonstrates to OPM that it is making a good faith effort to become licensed in every State consistent with the timeframe in paragraph (a) of this section.

§ 800.105 Benefits.

(a) *Package of benefits.* (1) An MSP issuer must offer a package of benefits that includes the essential health benefits (EHB) described in section 1302 of the Affordable Care Act for each MSP option within a State.

(2) The package of benefits referred to in paragraph (a)(1) of this section must comply with section 1302 of the Affordable Care Act, as well as any applicable standards set by OPM and any applicable standards set by HHS.