

§ 800.116 Process for dispute resolution.

(a) *Determinations about applicability of State law under section 1334(b)(2) of the Affordable Care Act.* In the event of a dispute about the applicability to an MSP option or MSP issuer of a State law, the State may request that OPM reconsider a determination that an MSP option or MSP issuer is not subject to such State law.

(b) *Required demonstration.* A State making a request under paragraph (a) of this section must demonstrate that the State law at issue:

- (1) Is not inconsistent with section 1334 of the Affordable Care Act or this part;
- (2) Does not prevent the application of a requirement of part A of title XXVII of the PHS Act; and
- (3) Does not prevent the application of a requirement of title I of the Affordable Care Act.

(c) *Request for review.* The request must be in writing and include contact information, including the name, telephone number, email address, and mailing address of the person or persons whom OPM may contact regarding the request for review. The request must be in such form, contain such information, and be submitted in such manner and within such timeframe as OPM may prescribe.

- (1) The requester may submit to OPM any relevant information to support its request.
- (2) OPM may obtain additional information relevant to the request from any source as it may, in its judgment, deem necessary. OPM will provide the requester with a copy of any additional information it obtains and provide an opportunity for the requester to respond (including by submission of additional information or explanation).
- (3) OPM will issue a written decision within 60 calendar days after receiving the written request, or after the due date for a response under paragraph (c)(2) of this section, whichever is later, unless a different timeframe is agreed upon.
- (4) OPM's written decision will constitute final agency action that is subject to review under the Administrative Procedure Act in the appropriate U.S. district court. Such review is limited to the record that was before OPM when OPM made its decision.