

§ 800.202 Rating factors.

(a) *Permissible rating factors.* In proposing premiums for each MSP option, an MSP issuer must use only the rating factors permitted under section 2701 of the PHS Act.

(b) *Application of variations based on age or tobacco use.* Rating variations permitted under section 2701 of the PHS Act must be applied by an MSP issuer based on the portion of the premium attributable to each family member covered under the coverage in accordance with any applicable Federal or State laws and regulations implementing section 2701(a) of the PHS Act.

(c) *Age rating.* For age rating, an MSP issuer must use the ratio established by the State in which the MSP option is offered, if it is less than 3:1.

(1) *Age bands.* An MSP issuer must use the uniform age bands established under HHS regulations implementing section 2701(a) of the PHS Act.

(2) *Age curves.* An MSP issuer must use the age curves established under HHS regulations implementing section 2701(a) of the PHS Act, or age curves established by a State pursuant to HHS regulations.

(d) *Rating areas.* An MSP issuer must use the rating areas appropriate to the State in which the MSP option is offered and established under HHS regulations implementing section 2701(a) of the PHS Act.

(e) *Tobacco rating.* An MSP issuer must apply tobacco use as a rating factor in accordance with any applicable Federal or State laws and regulations implementing section 2701(a) of the PHS Act.

(f) *Wellness programs.* An MSP issuer must comply with any applicable Federal or State laws and regulations implementing section 2705 of the PHS Act.