

§ 800.404 Compliance actions.

(a) *Causes for OPM compliance actions.* The following constitute cause for OPM to impose a compliance action described in paragraph (b) of this section against an MSP issuer:

- (1) Failure by the MSP issuer to meet the requirements set forth in § 800.401(a) and (b);
- (2) An MSP issuer's sustained failure to perform the MSP Program contract in accordance with prudent business practices, as described in § 800.401(c);
- (3) A pattern of poor conduct or evidence of poor business practices such as those described in § 800.401(d); or
- (4) Such other violations of law or regulation as OPM may determine, including pursuant to its authority under §§ 800.102 and 800.114.

(b) *Compliance actions.* (1) OPM may impose a compliance action against an MSP issuer at any time during the contract term if it determines that the MSP issuer is not in compliance with applicable law, this part, or the terms of its contract with OPM.

(2) Compliance actions may include, but are not limited to:

- (i) Establishment and implementation of a corrective action plan;
- (ii) Imposition of intermediate sanctions, such as suspension of marketing;
- (iii) Performance incentives;
- (iv) Reduction of service area or areas;
- (v) Withdrawal of the certification of the MSP option or options offered on one or more Exchanges;
- (vi) Nonrenewal of participation
- (vii) Nonrenewal of contract; and
- (viii) Withdrawal of approval or termination of the MSP Program contract.

(c) *Notice of compliance action.* (1) OPM must notify an MSP issuer in writing of a compliance action under this section. Such notice must indicate the specific compliance action undertaken and the reason for the compliance action.

(2) For compliance actions listed in § 800.404(b)(2)(v) through (viii), such notice must include a statement that the MSP issuer is entitled to request a reconsideration of OPM's determination to impose a compliance action pursuant to § 800.405.

(3) Upon imposition of a compliance action listed in paragraphs (b)(2)(iv) through (vii) of this section, OPM must notify the State Insurance Commissioner(s) and Exchange officials in the State or States in which the compliance action is effective.

(d) *Notice to enrollees.* If the contract is terminated, if OPM withdraws certification of an MSP option, or if a State-level issuer's participation in the MSP Program contract is not renewed, as described in §§ 800.306 and 800.404(b)(2), or in any situation in which an MSP option is no longer available to enrollees, the MSP issuer must comply with any State or Exchange requirements regarding discontinuing a particular type of coverage that are applicable to a QHP offered on the Exchange on which the MSP option was offered, including a requirement to provide advance written notice before the coverage will be discontinued. If a State or Exchange does not have requirements about advance notice to enrollees, the MSP issuer must inform current MSP enrollees in writing of the discontinuance of the MSP option no later than 90 days prior to discontinuing the MSP option, unless OPM determines that there is good cause for less than 90 days' notice.

(e) *Definition.* As used in this subpart, “termination” means a decision by OPM to cancel an MSP Program contract prior to the end of its contract term. The term includes OPM's withdrawal of approval of an MSP Program contract.