

§ 800.405 Reconsideration of compliance actions.

(a) *Right to request reconsideration.* An MSP issuer may request that OPM reconsider a determination to impose one of the following compliance actions:

- (1) Withdrawal of the certification of the MSP option or options offered on one or more Exchanges;
- (2) Nonrenewal of participation
- (3) Nonrenewal of contract; or
- (4) Termination of the MSP Program contract.

(b) *Request for reconsideration and/or hearing.* (1) An MSP issuer with a right to request reconsideration specified in paragraph (a) of this section may request a hearing in which OPM will reconsider its determination to impose a compliance action.

(2) A request under this section must be in writing and contain contact information, including the name, telephone number, email address, and mailing address of the person or persons whom OPM may contact regarding a request for a hearing with respect to the reconsideration. The request must be in such form, contain such information, and be submitted in such manner as OPM may prescribe.

(3) The request must be received by OPM within 15 calendar days after the date of the MSP issuer's receipt of the notice of compliance action. The MSP issuer may request that OPM's reconsideration allow a representative of the MSP issuer to appear personally before OPM.

(4) A request under this section must include a detailed statement of the reasons that the MSP issuer disagrees with OPM's imposition of the compliance action, and may include any additional information that will assist OPM in rendering a final decision under this section.

(5) OPM may obtain additional information relevant to the request from any source as it may, in its judgment, deem necessary. OPM will provide the MSP issuer with a copy of any additional information it obtains and provide an opportunity for the MSP issuer to respond (including by submitting additional information or explanation).

(6) OPM's reconsideration and hearing, if requested, may be conducted by the Director or a representative designated by the Director who did not participate in the initial decision that is the subject of the request for review.

(c) *Notice of final decision.* OPM will notify the MSP issuer, in writing, of OPM's final decision on the MSP issuer's request for reconsideration and the specific reasons for that final decision. 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 it made its decision.