

§ 800.602 Consumer choice with respect to certain services.

(a) *Assured availability of varied coverage.* Consistent with § 800.104 of this part, OPM will ensure that at least one of the MSP issuers on each Exchange in each State offers at least one MSP option that does not provide coverage of services described in section 1303(b)(1)(B)(i) of the Affordable Care Act.

(b) *State opt-out.* An MSP issuer may not offer abortion coverage in any State where such coverage of abortion services is prohibited by State law.

(c) *Notice to Enrollees—(1) Notice of exclusion.* The MSP issuer must provide notice to consumers prior to enrollment that non-excepted abortion services are not a covered benefit in the form, manner, and timeline prescribed by OPM.

(2) *Notice of coverage.* If an MSP issuer chooses to offer an MSP option that covers non-excepted abortion services, in addition to an MSP option that does not cover non-excepted abortion services, the MSP issuer must provide notice to consumers prior to enrollment that non-excepted abortion services are a covered benefit. An MSP issuer must provide notice in a manner consistent with 45 CFR 147.200(a)(3), to meet the requirements of 45 CFR 156.280(f). OPM may provide guidance on the form, manner, and timeline for this notice.

(3) *OPM review and approval of notices.* OPM may require an MSP issuer to submit to OPM such notices. OPM reserves the right to review and approve these consumer notices to ensure that an MSP issuer complies with Federal and State laws, and the standards prescribed by OPM with respect to § 800.602.