



Multi-State Plan Program Issuer Letter

Number: 2015-001

Date: January 22, 2015

Subject: Multi-State Plan Program Call Letter for Plan Year 2016

SUBMISSION OF PROPOSALS

This is our annual call for applications and recertification submissions from prospective and current Multi-State Plan (MSP) issuers for the contract term beginning January 1, 2016. We will provide a timeline as well as specific application and recertification instructions at a later date.

MSP PROGRAM BENEFITS AND INITIATIVES

I. Introduction

The MSP Program was created to bring choice and competition on the Affordable Insurance Exchanges, or “Exchanges” (also called Health Insurance Marketplaces, or “Marketplaces”). The Program’s charge is to make available at least two affordable MSP options on each Exchange in each State and the District of Columbia.

We have built a strong foundation for the MSP Program. In 2014, OPM contracted with one group of issuers to offer more than 150 MSP options to consumers in 30 States and the District of Columbia. In 2014, approximately 371,000 individuals enrolled in an MSP option. In 2015, OPM is welcoming a second group of issuers and expanding the MSP Program into 35 States and the District of Columbia with more than 200 MSP options. For 2016, our goals are to expand the availability of MSP options in current and additional States, and to attract new issuers to participate in the MSP Program so that consumers may have more choices in more Marketplaces.

II. MSP Program Priorities for 2016

A. MSP Program Rulemaking

One of the MSP Program’s key priorities is to promote greater competition and consumer choice on the Exchanges. To that end, on November 24, 2014, OPM proposed modifications to its existing regulations based on the MSP Program’s experience to date.¹ The proposed rule clarifies

¹ Patient Protection and Affordable Care Act; Establishment of the Multi-State Plan Program for the Affordable

our existing policies for current and potential MSP issuers; makes regulatory changes to expand issuer participation and offerings in the MSP Program; and maintains protections for consumers. The public comment period for the proposed rule closed on December 24, 2014 and OPM intends to publish a final rule in 2015.

B. MSP Issuer Continuing Obligations

In addition to the priorities set forth in the proposed rule, we remind MSP issuers about their continuing obligations with regard to the MSP Program's External Review Process and coverage of abortion services. Prospective MSP issuers should also take note of these obligations.

1. MSP Program External Review Process

The standards for the MSP Program's External Review Process are set forth in Program Administration Letter No. 2013-002.² MSP issuers must ensure that all MSP documents (*e.g.*, adverse benefit determinations and consumer notices) appropriately reflect these standards for the MSP Program External Review Process. In addition, we remind MSP issuers that MSP benefit plan materials or information must meet standards set forth in at 45 C.F.R. § 800.113, including being written in plain language. Finally, OPM reserves the right to review and approve these materials as set forth at 45 C.F.R. § 800.113.

2. Abortion Services

Under appropriations law for the fiscal year ending September 30, 2015,³ the Department of Health and Human Services (HHS) may not expend Federal funds for coverage of abortion services *except* where a pregnancy is the result of rape or incest, or for a pregnancy which, as certified by a physician, places the woman in danger of death unless an abortion is performed.

The Affordable Care Act imposes this limitation on abortion services for purposes of MSP Program requirements.⁴ As a result, OPM requires each MSP issuer to offer at least one gold and one silver MSP option that exclude abortion coverage, consistent with the HHS appropriations definition, in every service area within every State where they offer MSP coverage. The Official Statement of Benefits explaining coverage under these MSP options must utilize the express language of the HHS appropriations restriction when describing the abortion exclusion (*i.e.*, "excluded except where a pregnancy is the result of rape or incest, or for a pregnancy which, as certified by a physician, places the woman in danger of death unless an abortion is performed"). Please note that when there are additional State restrictions on coverage of abortion services, the Official Statement of Benefits must utilize language reflecting those additional State restrictions.

Because this definition is tied to the annual Federal appropriations cycle, it may change for any given *fiscal year*. The Affordable Care Act directs issuers to follow the definition that is in effect 6 months before the beginning of a given *plan year*.⁴

Insurance Exchanges, 79 FR 69802 (proposed November 24, 2014) (to be codified at 45 C.F.R. pt. 800), available at <https://federalregister.gov/a/2014-27793>.

² Program Administration Letter No. 2013-002, "Multi-State Plan Program External Review Process," available at http://www.opm.gov/media/4592632/pal_2013-002.pdf (November 27, 2013).

³ Currently, the applicable law is set forth in the Consolidated and Further Continuing Appropriations Act, 2015, Division G, Title V, sections 506 and 507.

⁴ Affordable Care Act section 1303(b)(1)(B); Affordable Care Act section 1334(a)(6).

In addition to the one gold and one silver MSP option referenced above, issuers may offer other options that either offer or exclude abortion coverage consistent with applicable Federal and State law. Please note that MSP issuers offering non-excepted abortion services must include a plan for compliance with HHS rules requiring segregation of funds.⁵

Given the complexity of the law, MSP issuers must diligently ensure that all MSP documents in addition to the Official Statement of Benefits (*e.g.*, Plans & Benefits templates) clearly, accurately and consistently describe the scope of covered and non-covered abortion services. As noted above, MSP benefit plan materials or information must meet standards set forth in at 45 C.F.R. § 800.113. Similar to benefit plan materials or information that describe the MSP Program External Review Process, OPM reserves the right to review and approve materials that describe the scope of abortion services, as set forth at 45 C.F.R. § 800.113.

CONCLUSION

Although there is no official public comment period for this letter, OPM welcomes recommendations to improve business flexibilities, expand issuer participation in the MSP Program, and meet consumers' needs. If you have any questions about this letter, please address them to MSPPIssuer@opm.gov.

Sincerely,

John O'Brien
Director
Healthcare and Insurance

⁵ HHS regulation on segregation of funds is set forth at 45 C.F.R. § 156.280.