

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
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November 6, 2017

Ms. Kathleen McGettigan
Acting Director
U.S. Office of Personnel Management
1900 E Street, NW
Washington, DC 20415-1000

Dear Ms. McGettigan:

The Committee on Homeland Security and Governmental Affairs is examining the Multi-State Plan (MSP) Program administered by the Office of Personnel Management (OPM). Section 1334 of the Affordable Care Act (ACA) established the MSP Program and directed OPM to “contract with private health insurers in each State to offer high-quality, affordable health insurance options called Multi-State Plans.”¹ While the MSP Program was created to drive competition on the Health Insurance Marketplace, I am concerned it is failing to meet this goal and other statutory requirements.²

In creating the MSP Program, Congress selected OPM to administer the program due to its experience running the Federal Employees Health Benefits Program (FEHBP).³ Whereas FEHBP is solely available to federal employees, the Multi-State Plans were open to individuals and small businesses on each Marketplace as of January 2014. As its name reflects, the ACA envisioned “OPM operat[ing] the Program in multiple States.”⁴

By October 1, 2013, the ACA directed OPM to certify that at least two issuers would sell qualified health plans through each Marketplace in each State as of January 1, 2014.⁵ The ACA required at least one issuer to be a nonprofit, and one issuer to not offer coverage for abortion.⁶ By 2014, the ACA required Multi-State issuers to offer plans in at least 60 percent of states, and to expand to cover every state and the District of Columbia by 2017.⁷ The ACA also required

¹ *Multi-State Plan Program and the Health Insurance Marketplace Overview*, OFFICE OF PERS. MGMT., <https://www.opm.gov/healthcare-insurance/multi-state-plan-program/> (last visited Oct. 31, 2017).

² *Multi-State Plan Program and the Health Insurance Marketplace Fact Sheet*, OFFICE OF PERS. MGMT., <https://www.opm.gov/healthcare-insurance/multi-state-plan-program/consumer/#url=Fact-Sheet> (last visited Oct. 31, 2017).

³ *Id.*

⁴ NAT'L HEALTHCARE OPERATIONS, OFFICE OF PERS. MGMT., AN OVERVIEW OF THE MULTI-STATE PLAN PROGRAM, <https://marketplace.cms.gov/technical-assistance-resources/multistate-plan-program.pdf>

⁵ See Patient Protection and Affordable Care Act § 1334, 42 U.S.C. § 18054 (2012); see also Sarah Goodell, *The Multi-State Plan Program*, HEALTHAFFAIRS, March 26, 2013, <http://www.healthaffairs.org/doi/10.1377/hpb20130326.43447/full/>.

⁶ *Id.*

⁷ *Id.*

Multi-State issuers to offer at least a “silver” level of coverage—or 70 percent of an enrollee’s medical costs—and one “gold” level of coverage—or 80 percent of an enrollee’s medical costs in each State Marketplace.⁸

For 2014, the Obama Administration represented to insurers that “each national plan would have 750,000 people enrolled in the first year.”⁹ In reality, the actual enrollment in MSP plans never matched the Obama Administration’s expectations:

- In 2014, OPM contracted with the Blue Cross Blue Shield Association (BCBSA) to offer more than 150 MSP options in 31 states including the District of Columbia, serving only 370,000 MSP enrollees cumulatively.¹⁰
- In 2015, OPM signed contracts with BCBSA and a group of cooperatives (CO-OPS) to offer more than 200 MSP options in 36 States including the District of Columbia, serving approximately 450,000 MSP enrollees in total.¹¹
- In 2016, the OPM Inspector General issued a Management Alert about the MSP Program, citing severe program challenges in the program.¹²
- By 2017, the number of states participating in the MSP Program declined to 22 states, serving 300,000 MSP enrollees.
- As the 2018 open enrollment gets underway, only one state—Arkansas—will be participating in the MSP Program.¹³

The fact that this “multi-state” program is only being offered in a single state is a telling sign that this program has failed to meet its expectations. Despite its failure to meet objectives, OPM still employs 42 people in the MSP program and receives approximately \$10 million annually in appropriations.¹⁴ In light of OPM’s previous requests for additional funding and resource support, it appears that the MSP program may be a drain on OPM’s finite resources.¹⁵

⁸ *Id.*

⁹ Robert Pear, *U.S. Set to Sponsor Health Insurance*, THE NEW YORK TIMES, Oct. 27, 2013, <http://www.nytimes.com/2012/10/28/health/us-to-sponsor-health-insurance-plans-nationwide.html>.

¹⁰ OFFICE OF PERS. MGMT., *supra*, note 4.

¹¹ *Id.*

¹² Memorandum from Norbert E. Vint, Deputy Inspector Gen. of the Office of Pers. Mgmt. to Beth F. Cobert, Acting Dir. of the Office of Pers. Mgmt. 10 (Oct. 12, 2016), <https://www.opm.gov/our-inspector-general/special-reports-and-reviews/fy2016-management-challenges.pdf>.

¹³ *Multi-State Plan Program and the Health Insurance Marketplace Frequently Asked Questions*, OFFICE OF PERS. MGMT., <https://www.opm.gov/healthcare-insurance/multi-state-plan-program/consumer/?page=1#url=FAQs> (last visited Oct. 31, 2017).

¹⁴ E-mail from Stephen Billy, Deputy Dir., Cong., Legis. & Intergovernmental Aff., U.S. Off. of Personnel Mgmt. to S. Comm. on Homeland Sec. & Governmental Aff. Staff (Oct. 6, 2017) (responses to HSGAC questions) (on file with S. Comm. on Homeland Sec. & Governmental Aff. Staff).

¹⁵ OPM’s congressional budget justifications indicate that funding to support the processing of retirement claims decreased in FY2017 (\$93,289,265 annualized dollars) from FY2016 (\$96,638,907 enacted dollars)—for a difference of \$3.35 million. In FY 2018, OPM requested additional funding (\$105,030,647) to help it address the processing of retirement claims (\$11.74 million above its FY2017 level). In asking for additional funds, OPM stated, “In FY 2016, [Retirement Services’] call handling rate was 67 percent, well below the industry standard of 95

Ms. Kathleen McGettigan
November 6, 2017
Page 3

Congress erred in the creation of this program, which was inserted into the ACA in the eleventh hour and without the benefit of any congressional hearings.¹⁶ While OPM did not request the authority to administer the program, it was nevertheless tasked with implementing a flawed idea that has resulted in record of failure. The time has come for Congress to refocus OPM on its primary missions. I request that you arrange a staff-level briefing no later than November 20, 2017 to review how best to wind down the program and refocus OPM's attention and resources from the failing MSP Program to mission-critical OPM programs that serve the needs of the federal workforce.

If you have any questions regarding this letter, please ask your staff to contact Josh McLeod of the Committee staff at (202) 224-4751. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Claire McCaskill
Ranking Member

to 97 percent. The actual number of calls after duplicates can be estimated at 2.3 million calls annually. RS' budget increase will provide additional resources in order to increase its capacity and improve the average speed of answer from 16 minutes to 10 minutes. These additional resources will also improve e-mail response. Since 2010, RS experienced a 30 percent increase in the volume that was received via retire@opm.gov, accounting for over 370,000 e-mails received annually." See OFFICE OF PERS. MGMT., CONGRESSIONAL BUDGET JUSTIFICATION FISCAL YEAR 2018 (2017), <https://www.opm.gov/about-us/budget-performance/budgets/congressional-budget-justification-fy2018.pdf>.

¹⁶ ROBERT MOFFIT, DAN BLAIR & LINDA SPRINGER, THE OFFICE OF PERSONNEL MANAGEMENT: A POWER PLAYER IN AMERICA'S HEALTH INSURANCE MARKETS? (2010), <http://www.heritage.org/node/9221/print-display> (statement of Dan Blair).