Subpart 1603.70—Misleading, Deceptive, or Unfair Advertising

Parent topic: PART 1603—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

1603.7001 Policy.

(a) OPM prepares and distributes or makes available to Federal employees and annuitants a comparison booklet which presents summary information and a benefits brochure which details benefits, limitations, and premium rates for all participating plans. OPM does not encourage, support, or reimburse participating carriers for the costs of advertisements. However, while OPM believes that advertising is unnecessary, it recognizes that the decision to use advertising rests with each carrier.

(b) OPM discourages advertising that is misleading or deceptive. This includes advertising that is directed at other carriers' plans participating in the Program and which uses incomplete or inappropriate comparisons or disparaging or minimizing techniques. Such unfair practices are prejudicial to the interests of the vast majority of carriers whose advertising is fair and accurate.

(c) Failure to conform to the requirements of this subpart shall be a material breach of the contract and may result in withdrawal of approval to continue participation in the FEHB Program.

1603.7002 Additional guidelines.

Any advertisements which identify a carrier's participation in the FEHBP shall—

(a) Be limited to the merits of the carrier's FEHBP plan and shall be limited to factual statements of the benefits and rates offered by that plan. The official document for benefit and rate comparisons among FEHBP plans is the comparison chart issued by OPM.

(b) Not use the FEHBP logo.

(c) Recognize that the officially approved plan brochure is the sole contractual statement of benefits, limitations, and exclusions. All advertisements that in any way discuss plan benefits shall contain the following statement:

This is a summary (or brief description) of the features of the (plan's name). Before making a final decision, please read the plan's officially approved brochure, (brochure number). All benefits are subject to the definitions, limitations, and exclusions set forth in the official brochure.

(d) Set forth the rates for the plan, if the advertisements discuss benefits.

(e)

(1) Not give instructions on enrollment. Statements on enrollment procedures, requirements, or eligibility shall be limited to those such as: To sign up, fill out a Health Benefits Election Form

(Standard Form 2809) from your personnel office indicating the enrollment you want or use your agency's electronic enrollment system.

(2) The enrollment codes for (plan's name) are:

(i) Self Only ____ Enrollment Code ____

(i) Self Plus One ____ Enrollment Code ____

(iii) Self and Family ____ Enrollment Code ____

(3) The form must then be returned to your personnel office before the (date) deadline. Your (plan's name) coverage will begin the first pay period in January, (year). If you are a retired Federal employee and need forms, contact the Office of Personnel Management, 1900 E Street NW, Attn: Retirement Benefits Branch, Washington, DC 20415 or visit *www.opm.gov/forms*.

1603.7003 Contract clause.

The clause at 1652.203-70 shall be inserted in all FEHBP contracts.