

§ 890.1004

5 CFR Ch. I (1–1–05 Edition)

Permissive debarment means a debarment based on 5 U.S.C. 8902a(c) or (d).

Provider or provider of health care services or supplies means a physician, hospital, clinic, or other individual or entity that, directly or indirectly, furnishes health care services or supplies.

Reinstatement means a decision by OPM to terminate a health care provider's debarment and to restore his eligibility to receive payment of FEHBP funds.

Sanction or administrative sanction means any administrative action authorized by 5 U.S.C. 8902a or this subpart, including debarment, suspension, civil monetary penalties, and financial assessments.

Should know or should have known has the meaning set forth in 5 U.S.C. 8902a(a)(1)(D).

Sole community provider means a provider who is the only source of primary medical care within a defined service area.

Sole source of essential specialized services in a community means a health care provider who is the only source of specialized health care items or services in a defined service area and that items or services furnished by a non-specialist cannot be substituted without jeopardizing the health or safety of covered individuals.

Suspending official means an OPM employee authorized to issue suspensions under 5 U.S.C. 8902a and this subpart.

MANDATORY DEBARMENTS

§ 890.1004 Bases for mandatory debarments.

(a) *Debarment required.* OPM shall debar a provider who is described by any category of offense set forth in 5 U.S.C. 8902a(b).

(b) *Direct involvement with an OPM program unnecessary.* The conduct underlying the basis for a provider's mandatory debarment need not have involved an FEHBP covered individual or transaction, or any other OPM program.

§ 890.1005 Time limits for OPM to initiate mandatory debarments.

OPM shall send a provider a written notice of a proposed mandatory debarment within 6 years of the event that

forms the basis for the debarment. If the basis for the proposed debarment is a conviction, the notice shall be sent within 6 years of the date of the conviction. If the basis is another agency's suspension, debarment, or exclusion, the OPM notice shall be sent within 6 years of the effective date of the other agency's action.

§ 890.1006 Notice of proposed mandatory debarment.

(a) *Written notice.* OPM shall inform a provider of his proposed debarment by written notice sent not less than 30 days prior to the proposed effective date.

(b) *Contents of the notice.* The notice shall contain information indicating the:

- (1) Effective date of the debarment;
- (2) Minimum length of the debarment;
- (3) Basis for the debarment;
- (4) Provisions of law and regulation authorizing the debarment;
- (5) Effect of the debarment;
- (6) Provider's right to contest the debarment to the debarring official;
- (7) Provider's right to request OPM to reduce the length of debarment, if it exceeds the minimum period required by law or this subpart; and
- (8) Procedures the provider shall be required to follow to apply for reinstatement at the end of his period of debarment, and to seek a waiver of the debarment on the basis that he is the sole health care provider or the sole source of essential specialized services in a community.

(c) *Methods of sending notice.* OPM shall send the notice of proposed debarment and the final decision notice (if a contest is filed) to the provider's last known address by first class mail, or, at OPM's option, by express delivery service.

(d) *Delivery to attorney, agent, or representatives.* (1) If OPM proposes to debar an individual health care provider, it may send the notice of proposed debarment directly to the provider or to any other person designated by the provider to act as a representative in debarment proceedings.

(2) In the case of a health care provider that is an entity, OPM shall deem