

false claims, or improper claims involving several types of items or services constitutes aggravating circumstances. OPM may consider a small number of improper claims for relatively low dollar amounts to be less serious.

(5) Every violation involving any harm, or the risk of harm, to the health and safety of an FEHBP enrollee, must be considered an aggravating circumstance.

(6) Any prior violation described in § 890.1062(b)(5) constitutes an aggravating circumstance. OPM may consider repeated or multiple prior violations to represent an especially serious form of aggravating circumstances.

(7) OPM may consider other circumstances or actions to be aggravating or less serious within the context of an individual case, as the interests of justice require.

**§ 890.1065 Deciding whether to suspend or debar a provider in a case that also involves penalties and assessments.**

In a case where both penalties and assessments and debarment are proposed concurrently, OPM must decide the proposed debarment under the same criteria and procedures as if it had been proposed separately from penalties and assessments.

**§ 890.1066 Notice of proposed penalties and assessments.**

(a) *Written notice.* OPM must inform a provider of proposed penalties and assessments by written notice, sent via certified mail with return receipt requested, to the provider's last known street or post office address. OPM may, at its discretion, use an express service that furnishes a verification of delivery instead of postal mail.

(b) *Statutory limitations period.* OPM must send the notice to the provider within 6 years of the date on which the claim underlying the proposed penalties and assessments was presented to an FEHBP carrier. If the proposed penalties and assessments do not involve a claim presented for payment, OPM must send the notice within 6 years of the date of the actions on which the proposed penalties and assessments are based.

(c) *Contents of the notice.* OPM's notice must contain, at a minimum:

(1) The statement that OPM proposes to impose penalties and/or assessments against the provider;

(2) Identification of the actions, conduct, and claims that comprise the basis for the proposed penalties and assessments;

(3) The amount of the proposed penalties and assessments, and an explanation of how OPM determined those amounts;

(4) The statutory and regulatory bases for the proposed penalties and assessments; and

(5) Instructions for responding to the notice, including specific explanations regarding:

(i) The provider's right to contest the imposition and/or amounts of penalties and assessments before they are formally imposed; and

(ii) OPM's right, if the provider does not contest the proposed penalties and assessments within 30 days of the date he receives the notice, to implement them immediately without further administrative appeal or recourse.

(d) *Proposing debarment in the same notice.* OPM may propose a provider's debarment in the same notice that also proposes penalties and assessments. In this case, the notice must also provide the elements of information required to appear in a notice of proposed debarment under § 890.1006(b).

(e) *Procedures if the notice cannot be delivered.* OPM must apply the provisions of § 890.1006(f) if the notice of proposed penalties and assessments cannot be delivered as originally addressed.

(f) *Sending notice by electronic means.* [Reserved]

**§ 890.1067 Provider contests of proposed penalties and assessments.**

(a) *Contesting proposed sanctions.* A provider may formally contest the proposed penalties and assessments by sending a written notice to the debarring official within 30 days after receiving the notice described in § 890.1066. The debarring official must apply the administrative procedures set forth in §§ 890.1069 and 890.1070 to decide the contest.

(b) *Contesting debarments and financial sanctions concurrently.* If OPM proposes