



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <http://www.fcc.gov>  
TTY: 1-888-835-5322

DA 14-149

Released: February 6, 2014

---

## CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR EXPEDITED DECLARATORY RULING FROM UNITED HEALTHCARE SERVICES, INC.

CG Docket No. 02-278

**Comment Date: March 10, 2014**

**Reply Comment Date: March 24, 2014**

With this Public Notice, we seek comment on a Petition for Expedited Declaratory Ruling filed by United Healthcare Services, Inc. (United)<sup>1</sup> asking the Commission to clarify the applicability of the Telephone Consumer Protection Act (TCPA)<sup>2</sup> and the Commission's rules<sup>3</sup> to "informational, non-telemarketing autodialed and prerecorded calls to wireless numbers for which valid prior express consent has been obtained but which, unbeknownst to the calling party, have subsequently been reassigned from one wireless subscriber to another."<sup>4</sup> The TCPA and the Commission's rules require prior express consent to place non-telemarketing autodialed or prerecorded calls to wireless numbers.<sup>5</sup>

United indicates that it obtains prior express consent from individuals before placing healthcare-related informational calls to wireless telephone numbers using an automatic telephone dialing system or an artificial or prerecorded voice.<sup>6</sup> "Unbeknownst to United," however, "the wireless telephone numbers for which it obtained 'prior express consent' are sometimes reassigned from one subscriber to another."<sup>7</sup> United states that "organizations cannot always know whether a telephone number has been reassigned."<sup>8</sup> United, therefore, asks the Commission to clarify that parties are not liable under the TCPA for "informational, non-telemarketing calls, especially healthcare-related calls, to telephone numbers that

---

<sup>1</sup> See *United Healthcare Services, Inc.*, Petition for Expedited Declaratory Ruling, CG Docket No. 02-278 (filed Jan. 16, 2014) (*Petition*). United provides an "array of health and well-being products and services." *Petition* at 1.

<sup>2</sup> Codified as 47 U.S.C. § 227.

<sup>3</sup> 47 C.F.R. § 64.1200.

<sup>4</sup> *Petition* at 1. "Autodialed" calls are calls placed using an automatic telephone dialing system.

<sup>5</sup> 47 U.S.C. § 227(b)(1)(A); 47 C.F.R. § 64.1200(a)(1), (2).

<sup>6</sup> *Petition* at 2.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 5.

have been reassigned without the caller's knowledge—as long as the caller previously obtained 'prior express consent' to place calls to that specific telephone number."<sup>9</sup>

Pursuant to sections 1.415 and 1.419 of the Commission's rules,<sup>10</sup> interested parties may file comments and reply comments on or before the respective dates indicated on the first page of this Notice. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>11</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments

---

<sup>9</sup> *Id.* at 8.

<sup>10</sup> 47 C.F.R. §§ 1.415, 1.419.

<sup>11</sup> 47 C.F.R. §§ 1.1200 *et seq.*

already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

**FOR FURTHER INFORMATION CONTACT:** Kristi Lemoine, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 202-418-2467, and [kristi.lemoine@fcc.gov](mailto:kristi.lemoine@fcc.gov).

-FCC-