

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Rural Health Care Support Mechanism) WC Docket No. 02-60

ORDER

Adopted: February 6, 2015

Released: February 6, 2015

By the Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this Order, we grant a limited waiver of the invoice filing deadline for all applicants under the Healthcare Connect Fund (HCF) program for funding year 2013¹ by providing a single one-time 60-day extension of the relevant invoice filing deadline.² We find that a single one-time 60-day extension of the invoice filing deadline for funding year 2013 will provide applicants and service providers with sufficient flexibility to complete and submit their invoicing forms to the Universal Service Administrative Company (USAC) with the necessary supporting documentation, and will account for any system deficiencies with the electronic filing process during the first year of the HCF program. Consistent with this Order, we also grant the petition for waiver and extension of time submitted by The United States Telecom Association to the extent provided herein.³

2. *Background.* Under the HCF program, eligible health care providers or a consortium of eligible health care providers may apply for funding for eligible advanced telecommunications and information services, network equipment, and/or facilities necessary for the provision of health care.⁴ After an applicant has completed its competitive bidding process, it must file an FCC Form 462 to request a funding commitment for the selected eligible services, network equipment, and/or facilities.⁵ Once the applicant has received a funding commitment from USAC, the service provider has installed or commenced the requested eligible services, equipment, and/or facilities, and the applicant has received a bill from the service provider, the applicant and service provider must jointly submit an FCC Form 463 to USAC for disbursement of funding from the HCF for the services, equipment, and/or facilities in the applicant's funding commitment letter.⁶ All completed invoices must be received by USAC within six

¹ Funding year 2013 started on July 1, 2013 and ended on June 30, 2014.

² See 47 C.F.R. § 54.645(b) (requiring all invoices to be received by USAC within six months (180 days) of the end date of the funding commitment). For example, for funding year 2013 funding commitments ending on June 30, 2014, the FCC Form 463 (Invoice and Request for Disbursement Form) must be submitted by the applicant to USAC, after approval by the service provider, by December 31, 2014. A 60-day extension will provide those applicants whose FCC Forms 463 were due on December 31, 2014 an extension until March 2, 2015 to file their FCC Forms 463 and any necessary supporting documentation.

³ See The United States Telecom Association Petition for Waiver and Extension of Time, WC Docket No. 02-60 (filed Dec. 23, 2014).

⁴ See 47 C.F.R §§ 54.630, 54.634, 54.635, 54.636.

⁵ See 47 C.F.R § 54.643(a)(1); FCC Form 462, Rural Health Care Universal Service, Healthcare Connect Fund, Funding Request Form, OMB 3060-0804 (August 2013), https://apps.fcc.gov/edocs_public/attachmatch/DOC-328679A1.pdf (last visited Feb. 6, 2015); FCC Form 462 Instructions, Rural Health Care Universal Service, Funding Request Form, OMB 3060-0804 (August 2013), https://apps.fcc.gov/edocs_public/attachmatch/DOC-331756A1.pdf (last visited Feb. 6, 2015).

⁶ See 47 C.F.R § 54.645; FCC Form 463, Rural Health Care Universal Service, Healthcare Connect Fund, Invoice and Request for Disbursement Form, OMB 3060-0804 (September 2014),

months (180 days) of the end date of the funding commitment.⁷ Thus, for funding year 2013 funding commitments ending on June 30, 2014, the FCC Form 463 must be submitted by the applicant to USAC, after approval by the service provider, by December 31, 2014.

3. The filing of the FCC Form 463 is a joint process between the applicant and the service provider.⁸ Prior to electronic submission of the FCC Form 463, the applicant must certify that the form is accurate and that it has paid its 35 percent contribution as required under the HCF program.⁹ Upon receipt of a completed FCC Form 463 from the applicant, USAC then notifies the service provider that the invoice is ready for review.¹⁰ The service provider must then review and certify to the form's accuracy.¹¹ After the service provider has made its certifications, it must re-submit the form to USAC.¹² If the service provider makes any revisions to the FCC Form 463 (including the attachment of any supporting documentation), the applicant must review and re-certify the form before USAC will begin processing it.¹³ Once the FCC Form 463 has been reviewed and approved by USAC, the service provider will receive payment either directly or as an offset to its universal service contribution obligation.¹⁴

4. *Discussion.* We grant a limited waiver of the relevant invoicing deadline for all applicants under the HCF program for funding year 2013 by providing a single one-time 60-day extension of the invoice filing deadline.¹⁵ For funding year 2013 funding commitments ending on June 30, 2014, the FCC Form 463 must be submitted by the applicant to USAC, after approval by the service provider, by December 31, 2014. This one-time 60-day extension will provide those applicants whose FCC Forms 463 were due on December 31, 2014 with an extension until March 2, 2015 to file their FCC Forms 463 and any necessary supporting documentation. For those applicants whose funding commitments ended prior to June 30, 2014, the 60-day extension will begin six months after the end date of their funding commitment. Thus, all applicants under the HCF program for funding year 2013 will be provided up to eight months (240 days) after the end date of their funding commitment to complete and submit their invoice forms and any supporting documentation to USAC.

https://apps.fcc.gov/edocs_public/attachmatch/DOC-328682A1.pdf (last visited Feb. 6, 2015); FCC Form 463 Instructions, Rural Health Care Universal Service, Invoice and Request for Disbursement Form, OMB 3060-0804 (September 2014), https://apps.fcc.gov/edocs_public/attachmatch/DOC-328681A1.pdf (last visited Feb. 6, 2015) (FCC Form 463 Instructions).

⁷ See 47 C.F.R. § 54.645(b). The deadline will generally be six months after the end of the relevant funding year, unless the funding commitment is a multi-year commitment.

⁸ See FCC Form 463 Instructions at 2.

⁹ See 47 C.F.R. § 54.645(a); FCC Form 463 Instructions at 2.

¹⁰ FCC Form 463 Instructions at 2.

¹¹ See 47 C.F.R. § 54.645(b); FCC Form 463 Instructions at 2.

¹² FCC Form 463 Instructions at 2.

¹³ See 47 C.F.R. § 54.645(b); FCC Form 463 Instructions at 2.

¹⁴ See FCC Form 463 Instructions at 3.

¹⁵ See 47 C.F.R. § 54.645(b). Generally, the Commission's rules may be waived if good cause is shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

5. The Commission adopted the HCF program in December 2012¹⁶ and support under HCF became available to healthcare provider applicants on a staggered basis as early as July 1, 2013.¹⁷ Since that time, there have been a variety of applicant concerns regarding the filing system during the first year of the HCF program that were recently addressed by USAC, including a number of system enhancements, the addition of staff, and an ongoing plan for future system enhancements.¹⁸ We thus recognize that there may have been circumstances beyond some applicants' or service providers' control that prevented them from meeting the invoice filing deadline. Additionally, this is the first time applicants and service providers are filing under the new HCF rules and procedures. Thus, in order to provide applicants and service providers sufficient flexibility during the first funding year of the HCF program in meeting the invoice filing deadline, we find that providing a single one-time 60-day extension of the invoice filing deadline for funding year 2013 provides the right balance between the need for efficient administration of the HCF program and the need to ensure that applicants and service providers have adequate time to finish their own invoicing processes. By providing an extension of the invoice filing deadline, we also ensure that otherwise eligible health care providers receive the funding that they need to obtain the advanced telecommunications and information services, network equipment, and/or facilities necessary for the provision of health care. Moreover, an extension will not reduce or eliminate any invoice review procedures or program requirements that applicants must comply with to receive funding from the HCF program.

6. Although we grant a single one-time 60-day extension for applicants to complete and submit their invoices and supporting documentation under the HCF program for funding year 2013, we remind applicants that adherence to the filing deadlines and program rules are necessary for the efficient administration of the HCF program. Therefore, applicants and service providers must make every attempt to adhere to the program filing deadlines. Thus, this limited waiver does not reduce or eliminate any HCF program procedures or lessen the program requirements with which participants must comply to receive funding under the HCF program. All existing HCF program rules and requirements will continue to apply. Further, as health care providers and service providers continue to participate in the HCF program, participants should become more experienced with the invoice requirements of the program. Applicants are encouraged to start the invoicing process as soon as services have started and a bill has been received from the service provider. Therefore, we expect that, in subsequent funding years, participants will timely submit and complete their invoice forms and any necessary supporting documentation by the relevant invoice filing deadline.

7. ACCORDINGLY, IT IS ORDERED, that pursuant to the authority contained in sections 1-4, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 254, and 403, and sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that this Order IS ADOPTED.

8. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that section 54.645(b) of the Commission's rules, 47 C.F.R. § 54.645(b), IS WAIVED to the limited extent provided herein.

9. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-54, 254, and pursuant to sections

¹⁶ See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678 (2012).

¹⁷ Existing Pilot Program participants could seek support on July 1, 2013, while new applicants could not seek funding under HCF until January 1, 2014. *Id.* at 16818-19, paras. 353-354.

¹⁸ See FCC-USAC Webinar, Healthcare Connect Fund Program at 18-27 (Oct. 28, 2014), http://www.usac.org/_res/documents/rhc/training/2014/FCC-USAC-HCF-Program-Webinar.pdf.

0.91, 0.291, 1.3, and 54.722(a), of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Petition for Waiver and Extension of Time filed by The United States Telecom Association on December 23, 2014 IS GRANTED to the extent provided in this Order.

10. IT IS FURTHER ORDERED, pursuant to section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Ryan B. Palmer
Chief
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Wireline Competition Bureau