



PUBLIC NOTICE

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WIRELINER COMPETITION BUREAU CLARIFIES RURAL HEALTH CARE PROGRAM CERTIFICATION REQUIREMENT

WC Docket No. 17-310

In this Public Notice, the Wireline Competition Bureau (Bureau) clarifies that the new certification regarding third party sales commissions, adopted by the Commission in the *RHC Promoting Telehealth Report and Order*,¹ applies only to invoices for services competitively bid for funding year 2020 and future funding years.

The *RHC Promoting Telehealth Report and Order* prohibits Rural Health Care (RHC) Program (Program) applicants and service providers from hiring consultants or other third parties that “have an ownership interest, sales commission arrangement, or other financial stake in the vendor chosen to provide the requested services”² Pursuant to this prohibition, every service provider must certify on invoices submitted to the Universal Service Administrative Company (USAC) that “[t]he consultants or third parties it has hired do not have an ownership interest, sales commission arrangement, or other financial stake in the service provider chosen to provide the requested services, and that they have otherwise complied with Rural Health Care Program rules, including the Commission’s rules requiring fair and open competitive bidding.”³ The *RHC Promoting Telehealth Report and Order* states that the new rule will become effective “for funding year 2020.”⁴ USTelecom requests clarification that this new prohibition regarding third-party commission arrangements does not apply to competitive bidding processes completed prior to funding year 2020.⁵

The *RHC Promoting Telehealth Report and Order* neither states nor suggests that the new rule would apply retroactively. We confirm that the prohibition on third-party commission arrangements applies only to competitive bidding processes for funding year 2020 and after. Accordingly, a service provider who had a sales commission arrangement with a third-party consultant for a competitive bidding

¹ *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, 34 FCC Rcd 7335 (2019) (*RHC Promoting Telehealth Report and Order*).

² *Id.*, 34 FCC Rcd at 7414, para. 170.

³ 47 CFR §54.627(d)(1)(ii)(G). All RHC Program participants must conduct a fair and open competitive bidding process pursuant to existing RHC Program rules. See 47 CFR § 54.622. RHC Program applicants must also certify on the Request for Funding that consultants or third parties hired by the applicant “do not have an ownership interest, sales commission arrangement, or other financial stake in the service provider chosen to provide the requested services, and that they have otherwise complied with the Rural Health Care Program rules, including the Commission’s rules requiring fair and open competitive bidding.” 47 CFR § 54.623(a)(1)(x).

⁴ *RHC Promoting Telehealth Report and Order*, 34 FCC Rcd at 7414, para. 170.

⁵ USTelecom – The Broadband Association Petition for Reconsideration and Clarification, WC Docket No. 17-310, at 18-19 (Nov. 12, 2019) (USTelecom Petition).

process completed in funding year 2019 or earlier can make this certification on invoices submitted after July 1, 2020 for funding requests made pursuant to that competitive bidding process.

For further information, please contact Charles Eberle of the Wireline Competition Bureau's Telecommunications Access Policy Division at (202) 418-2248 or Charles.Eberle@fcc.gov.

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