



UNITED STATES GOVERNMENT
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF INSPECTOR GENERAL

MEMORANDUM

March 11, 2022

Advisory Regarding Provider Efforts to Deceive Lifeline Consumers to Enroll for Unwanted Government-Subsidized ACP Services

Introduction

FCC OIG's statutory mandate is to protect the integrity of the Commission's programs and operations by combating fraud, waste and abuse. From time to time, our office issues advisories to alert stakeholders to ongoing fraud schemes and other threats to program integrity.

OIG issues this Advisory to alert consumers and providers to improper and abusive enrollment practices by some providers of Lifeline, Emergency Broadband Benefit (EBB) and Affordable Connectivity Program (ACP) services. These providers impermissibly tie enrollment in these programs by coercing and deceiving applicants for Lifeline service into enrolling in unwanted ACP/EBB service or into transferring their ACP/EBB service away from their preferred provider. Deceptive enrollment practices violate program rules including informed consent requirements and threaten program integrity by causing wasteful government outlays for undesired services. Such practices may also violate federal fraud statutes.

Since 1985, the Lifeline program has provided a discount on telecommunications services for low-income consumers. Currently, the FCC's Lifeline subsidy supports voice and data services. In the Consolidated Appropriations Act of 2021, Congress appropriated \$3.2 billion for the EBB program to provide government-subsidized broadband service and devices to low-income consumers. The 2021 Infrastructure Investment and Jobs Act modified and extended the EBB program into a longer-term program, ACP. Congress appropriated \$14.2 billion to the ACP (hereinafter the EBB program and ACP are collectively referred to as ACP). While some providers offer Lifeline or ACP service, a number of providers offer both Lifeline and ACP service to low-income consumers.

Deceptive Conduct

OIG has learned several providers who offer both Lifeline and ACP service are misleading Lifeline consumers into enrolling for undesired service when consumers apply for Lifeline service using the providers' online application process. Specifically, consumers who apply for Lifeline service using these providers' online applications must agree either to apply for new unwanted ACP service or to transfer their existing ACP service to successfully complete the Lifeline application. At least one provider requires consumers to agree to transfer their existing ACP service even after the consumer indicates they only seek Lifeline service. Customers who do not carefully review the online process may find themselves enrolled in ACP or have their ACP service transferred away from their preferred provider when they seek Lifeline service from one of the providers employing these tactics. Figure 1 below is a screenshot of part of an application shared by customer who sought only Lifeline service from a provider who offers Lifeline and ACP/EBB service.

Figure 1

The screenshot shows a mobile application interface for a Lifeline service. At the top, it asks: "Do you want to enroll in or transfer any existing ACP/EBB benefits to [redacted] to get FREE Unlimited Data, Talk, and Text?". Below this question are two radio buttons: "No" (selected) and "Yes". A yellow arrow points to the "No" option. Below the radio buttons, it states: "Your Lifeline Plan includes: 4.5 Gigs of Data | 1000 Minutes | UNLIMITED Texts".

The next section is titled "Tell Us About your Household". It asks: "Do you live with another adult?" with "No" (selected) and "Yes" radio buttons. A yellow arrow points to the "No" option.

Below this, it says: "Your initials are below, press continue to agree". There are two lines of text, each preceded by a black square representing a redacted initial:

- "I understand that the one-per-household limit is a Federal Communications Commission (FCC) rule and I will lose my Lifeline benefit if I break this rule." A yellow arrow points to this line.
- "I consent to apply and/or transfer my ACP/EBB benefits to [redacted]. I understand I am under no obligation to purchase the unlimited service and will receive the free Lifeline service, if I qualify." A yellow arrow points to this line.

At the bottom of the form is a blue "Continue" button.

This provider's online application for Lifeline service takes the prospective consumer through a series of webpages to collect the consumer's PII (including name, DOB, SSN and address information). Next, the provider's Lifeline application asks the consumer whether they wish to enroll in or transfer their ACP/EBB service. However, even if the consumer declines ACP/EBB service at the top of Figure 1, the consumer is forced to

agree to apply for or transfer their ACP/EBB service when they reach the bottom of Figure 1 to complete the application. The provider's application pre-populates the consumer's initials next to the statement, "I consent to apply and/or transfer my ACP/EBB benefits to [the providers]..." A consumer cannot remove their pre-populated initials and proceed to complete their Lifeline application. To complete the Lifeline application, an applicant is required by the provider's online program to consent to enrollment in the provider's ACP/EBB service. Only with the initials indicating consent to enroll in or transfer to the provider's ACP/EBB service are present may the consumer select "Continue" and proceed to the next screens and complete the Lifeline application.

While this describes the most egregious behavior we have seen, we note there may be other iterations of this tying that are being utilized toward the same goal of impeding customer choice.

Conduct Violates Program Rules & Threatens Program Integrity

On the day before the EBB program launched, the Commission warned providers against deceptive marketing practices that would undermine program integrity and threaten Lifeline service including "suggesting or implying that signing up for [ACP] services is required for obtaining or continuing services, including Lifeline services" and that "not clearly distinguishing the process of signing up for EBB services from the process of signing up for, renewing, upgrading or modifying other telecom services, including Lifeline services." May 11, 2021 Enforcement Advisory, DA 21-551. Moreover, the Commission later codified these consumer protection requirements in the ACP rules. 47 CFR §54.1810(a)(3).

Such deceptive practices by unscrupulous providers clearly violate program rules and Commission policies, eliminate consumer choice and threaten ACP program integrity by encouraging costly government payments to providers for unwanted broadband service. Congress's appropriations are finite and therefore, at a minimum, it is wasteful to allocate ACP funds to individuals who do not want ACP service from their Lifeline provider, at what ultimately could be to the detriment of those who do. Moreover, providers who seek reimbursement for providing unwanted ACP service to consumers enrolled using deceptive practices likely make false certifications when they seek reimbursement from USAC and thereby incur potential liability for violating federal fraud statutes, including the False Claims Act.

We strongly encourage consumers who encounter attempts to strongarm or mislead them into unwanted Lifeline, EBB or ACP service to contact our hotline (information below) to assist our ongoing review and add to our collection of evidence against these problem providers.

Fraud, waste, and abuse remains a serious problem for Commission programs. OIG is committed to our mandate and will continue to use a full range of tools to expose and combat fraud, waste and abuse in FCC programs. OIG encourages anyone with

information regarding fraud, waste or abuse in any FCC program, to report such allegations via the OIG hotline.

FCC OIG Hotline

Report Waste, Fraud & Abuse

Telephone: (202) 418-0473

Toll Free: (888) 863-2244

FAX: (202) 418-2811

E-Mail: hotline@fcc.gov