**THIS IS A PETITION FOR RECONSIDERATION FOR DENIED WC DOCKET NO. 02-60 WAIVER REQUEST**

**Federal Communications Commission**

**Attn: Letter of Appeal**

**445 12th Street SW**

**Washington, DC 20554**

Service Provider Filing the FCC Waiver: Charter Fiberlink CC VIII, LLC (143033155)

SPIN: 143033155

Service Provider Primary Contact Information:

David Ventimiglia

13545 Barrett Parkway Dr.

Suite 200

Ballwin, MO, 63021

FRN: 15829721, 15837421, 15837511, 15837711, 15837731, 15832131, 15829601, 15829861, & 15826201

Applicant:

                HCP #: Multiple

                Name:  Aspirus Clinic

                Address: Multiple

                Contact Name: Laurie Mancheski

                Telephone: 608-268-2565

                E-mail: Laurie@usfnow.com

FCC Form 463 Invoice Number: 1000024163, 1000024164, 1000024170, 1000024172, 1000024173, 1000024176, 1000024178, 1000024180, & 1000024183

Reason for Petition for Reconsideration:

This is in response to the DA No. 18-1284 released on December 20, 2018 regarding the FCC Waiver filed on May 12, 2018. We strongly urge the FCC to reconsider the denial of this waiver given the facts listed below. Charter Fiberlink CC VIII, LCC , and the applicant did everything it could within its means given the undue hardships encountered and should be able to receive all approved funding for FRNs listed above. In order to do so, we ask that the Commission grant this Petition for Reconsideration to extend the deadline for submitting the invoices for the above FRNs to eliminate the unjust financial impact to the applicant, who was approved for FY2016 funding. The attachments to this letter provide all required supporting documentation for this request. We seek full payment of $46,111.13 on the requested FRNs and an invoice extension so we are able to zero out the balances owed for FY2015. Based on these fact, Charter Fiberlink CC VIII, LCC, urges the Commission to promptly grant the Waiver below to allow the said Form 463 deadline to be extended and direct USAC to approve payment of the funding amounts.

There is a lack of invoice information available in the USAC RHC Portal regarding the Last Date to Invoice. This makes it impossible to prioritize the Form 463s that were filed following the Funding Commitment Letters (FCL) received. In addition, the deadline is not identified on the Action Required email sent by USAC to the service provider point of contact. Thus it is impossible to prioritize the Last Date to Invoice based on the Form 463s. At the time of the FY2015 commitment approvals, the FCL was not made available on the USAC portal, and we were unable to identify the Last Date to Invoice. To date, there is still no Last Date to Invoice readily available on the USAC portal. We must open each individual Form 462 file to see when the invoice deadline is. Due to the lack of transparency in USAC’s portal, Charter Fiberlink CC VIII, LLC, was unable to prioritize all pending Form 463s and approve these Form 463s by the Last Date to Invoice.

This scenario illustrates the need for USAC to clearly identify deadlines for applicants and services providers, as well as the need for reasonable Form 463 deadline extensions, similar to those available in the process for the Schools and Libraries Program (E-Rate). The Commission has sought feedback from stakeholders regarding USAC’s procedures, and in response, Charter Fiberlink CC VIII, LLC has identified this issue several times to the Commission in formal and informal settings, along with other applicants and service providers. This feedback seemed to be favorably considered by the Commission when presented in collaborative group sessions at RHC conferences; however, no progress has transpired since the program’s inception. We ask that the FCC reconsider the denial of our waiver request to allow for an invoice extension for the above FRNs to enable recoupment of these funds from USAC and to eliminate the unjust financial impact to the applicant. In closing, we urge the Commission to consider the strong public interest benefits to rural health care providers, such as the applicant in this case, of granting a waiver of the invoice deadline in these instances.

Please do not hesitate to reach out regarding any questions you have in reference to this request.

Attachment 1: Appeal Invoice Request Email Sent to USAC on 1/10/17 per USAC Guidance



Attachment 2: 12 Months of Email Correspondence Requesting Updates on All Open Appeal Statuses from USAC

**From:** Tori Schwetz [<mailto:Tori.Schwetz@usac.org>]   
**Sent:** Monday, January 08, 2018 3:52 PM  
**To:** Johnston, Darlene N <[Darlene.Johnston@charter.com](mailto:Darlene.Johnston@charter.com)>  
**Cc:** rhc-appeals <[rhc-appeals@usac.org](mailto:rhc-appeals@usac.org)>  
**Subject:** RE: Appeal Invoice 1000024170 Request

Hi Darlene,

I am the Manager of the RHC appeal review team, and I wanted to reach out to you given the concerns you raised below. I have been working with the team to assess the appeal you submitted on January 10, 2017; it is currently in our review queue, and we are working to finalize the appeal as soon as possible.

Once a decision is made, you will be notified. If you have any other questions, please feel free to reach out to me directly.

Thank you,

**Tori Schwetz**

Manager of Program Risk and Reform │ Rural Health Care

USAC

(p) (202) 423-2070

[tori.schwetz@usac.org](mailto:tori.schwetz@usac.org) │ [www.usac.org](http://www.usac.org/)

**From:** Johnston, Darlene N [<mailto:Darlene.Johnston@charter.com>]   
**Sent:** Friday, January 05, 2018 5:37 PM  
**To:** rhc-appeals <[rhc-appeals@usac.org](mailto:rhc-appeals@usac.org)>  
**Subject:** FW: Appeal Invoice 1000024170 Request

Can someone please provide me an update on these appeals?  Our customer is demanding this funding be reimbursed by us and we are unable to complete that request until we have a resolution on these appeals.  These are for funding year 2015 and were submitted for USAC review last year.  A year resolution time is unacceptable customer service.  Can this please be escalated to management immediately in order to get this resolved?

Thank you

Darlene

**From:** rhc-appeals [<mailto:rhc-appeals@usac.org>]   
**Sent:** Wednesday, November 22, 2017 1:58 PM  
**To:** Johnston, Darlene N <[Darlene.Johnston@charter.com](mailto:Darlene.Johnston@charter.com)>  
**Subject:** RE: Appeal Invoice 1000024170 Request

Dear Darlene,

We understand the urgency for us to issue a decision on your appeal, and are working as quickly and precisely as possible to process it. However, the appeal is still in review. We apologize for the delay.

Thank you,

**Sakura Miyazaki**

Rural Health Care

USAC

[www.usac.org](http://www.usac.org/)

**From:** Johnston, Darlene N [<mailto:Darlene.Johnston@charter.com>]   
**Sent:** Tuesday, November 21, 2017 5:23 PM  
**To:** rhc-appeals <[rhc-appeals@usac.org](mailto:rhc-appeals@usac.org)>  
**Subject:** RE: Appeal Invoice 1000024170 Request

Can someone please provide me with a date of when these should be complete?  I submitted these back in Jan and I have yet to receive an update on these appeals.  It is extremely concerning the amount of time that has lapsed and my management is demanding answers.

Thank you

**From:** Johnston, Darlene N   
**Sent:** Friday, September 29, 2017 4:45 PM  
**To:** 'rhc-appeals' <[rhc-appeals@usac.org](mailto:rhc-appeals@usac.org)>  
**Cc:** Sticksel, Michael <[michael.sticksel@charter.com](mailto:michael.sticksel@charter.com)>  
**Subject:** RE: Appeal Invoice 1000024170 Request

I understand that but that is the same thing I’ve been told for months now.  A few months back I received an update stating I should know something in a few weeks and I have not heard anything back.  Is there someone higher in management that would be able to assist get these processed?  These appeals have been submitted almost 10 months ago and that is an unacceptable resolution time.

Thank you

**From:** rhc-appeals [<mailto:rhc-appeals@usac.org>]   
**Sent:** Friday, September 29, 2017 3:53 PM  
**To:** Johnston, Darlene N <[Darlene.Johnston@charter.com](mailto:Darlene.Johnston@charter.com)>; rhc-appeals <[rhc-appeals@usac.org](mailto:rhc-appeals@usac.org)>  
**Subject:** RE: Appeal Invoice 1000024170 Request

Darlene,

Our apologies for the delay; the appeal is still in review. We will notify you once a decision has been made.

Sincerely,

**Lisa Pilgrim**

[lpilgrim@usac.org](mailto:lpilgrim@usac.org) │ [www.usac.org](http://www.usac.org/)

**From:** Johnston, Darlene N [<mailto:Darlene.Johnston@charter.com>]   
**Sent:** Friday, September 29, 2017 2:51 PM  
**To:** rhc-appeals <[rhc-appeals@usac.org](mailto:rhc-appeals@usac.org)>  
**Subject:** FW: Appeal Invoice 1000024170 Request  
**Importance:** High

Can someone please give me an update on all of my appeals they have been submitted since 1/11/17??

**From:** rhc-appeals [<mailto:rhc-appeals@usac.org>]   
**Sent:** Wednesday, January 11, 2017 6:35 AM  
**To:** Johnston, Darlene N <[Darlene.Johnston@charter.com](mailto:Darlene.Johnston@charter.com)>; rhc-appeals <[rhc-appeals@usac.org](mailto:rhc-appeals@usac.org)>  
**Subject:** RE: Appeal Invoice 1000024170 Request  
**Importance:** High

Darlene,

USAC has received the appeals below for Charter Fiberlink (SPIN 143033155) for FY2015 in the RHC Healthcare Connect Fund (HCF) Program.

Please review the instructions for filing an appeal (<http://www.usac.org/about/about/program-integrity/appeals.aspx>), and ensure you have provided all the required documentation.   Failure to provide the documentation may result in a delayed response.

When a decision has been made about your appeal, you will be notified by email and US Postal Mail.

You may contact me with any questions.

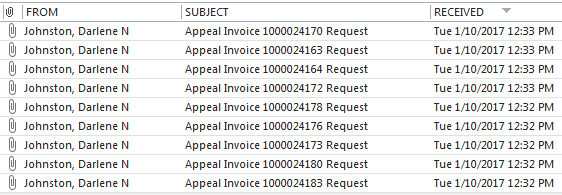
Thank you,

Ed Rovetto

Rural Health Care Program

Universal Service Administrative Company [erovetto@usac.org](mailto:erovetto@usac.org) or 202-772-5212

<http://www.usac.org/about/about/program-integrity/appeals.aspx>



**From:** Johnston, Darlene N [<mailto:Darlene.Johnston@charter.com>]   
**Sent:** Tuesday, January 10, 2017 12:33 PM  
**To:** rhc-appeals <[rhc-appeals@usac.org](mailto:rhc-appeals@usac.org)>  
**Subject:** Appeal Invoice 1000024170 Request

SP Name: Charter Fiberlink CC VIII, LLC

SPIN/498 ID: 143033155

Darlene Johnston

314.858.3562

13545 Barrett Parkway Suite 200 Ballwin, MO 63021

[Darlene.Johnston@charter.com](mailto:Darlene.Johnston@charter.com)

Based on the form 462 the deadline to invoice was on 11/24/2016.  I was unable to approve the invoice #1000024170 by the deadline.  I was told by RHC assist to submit an appeal in order to re-open the invoice so I can approve it and the HCP may receive their funding they were approved for.

SPIN 143033155

Invoice # 1000024170

FRN 15837511

FY 2015

Funding amount $2,075.49

HCP Name Aspirus General Clinic – Rhinelander Clinic

HCP # 17810

4076_Spect_Business_Email_Signature_EntSol_JC

**Darlene Johnston** | Government Subsidized Programs Spec | 314.858.3562

13545 Barrett Parkway Suite 200| Ballwin, MO 63021

Attachment 3: Invoice Deadline Extension Request Denial from USAC on 4/13/18 Despite Following USAC Guidance

700 12th Street NW, Suite 900, Washington, DC 20005 -- Phone: (202) 776-0200 Fax: (202) 776-0080

Rural Health Care Division

***Notice of Dismissal***

*Via Electronic Mail and Certified Mail*

April 13, 2018

Ms. Darlene Johnston

Charter Communications

13545 Barrett Parkway, Suite 200

Ballwin, MO 63021

Re: Charter Communications – Appeals of USAC’s Decision for

Funding Request Numbers Listed on Appendix A

Dear Ms. Johnston:

The Universal Service Administrative Company (USAC) has completed its evaluation of the January 9, 2017 and January 10, 2017 letters of appeal (Appeals) submitted by Charter Communications (Charter) on behalf of the Aspirus clinics listed in Appendix A.1 USAC could not disburse funds for the funding requests for the Aspirus clinics requesting support under the Healthcare Connect Fund Program (HCF Program) for funding year 2015 (FY 2015) because Aspirus failed to file FCC Forms 463 (Invoice and Request Disbursement Forms) by the invoicing deadline under the rules for the HCF Program.2 The funding request numbers (FRNs) that are the subject of the Appeals are listed in Appendix A. The Appeals request that USAC permit Charter to file the FCC Forms 463 after the invoicing deadline, which would require a waiver of the Federal Communications Commission’s (FCC or Commission) rules.3

USAC has reviewed the Appeals and the facts related to these matters and has determined that Charter failed to certify the FY 2015 FCC Forms 463 for the FRNs listed in Appendix A within six months of the end date of the funding commitment, as required by FCC rules. Specifically, FCC rules require that Health Care Provides (HCPs) submit all FCC Forms 463 within six months of the end date of the funding commitment.4 In addition, before USAC can process and pay an

1 Emails from Darlene Johnston, Charter Communications, to Rural Health Care Division, USAC (Jan. 9, 2017 and Jan. 10, 2017) (Charter Appeals).

2 When the applicant or service provider attempts to submit the FCC Form 463 after the invoicing deadline, My Portal will not permit the applicant or service provider to submit the form. Instead, the system notifies the applicant or service provider that the commitment is past the invoice deadline.

3 *See* Charter Appeals.

4 *See* 47 C.F.R. § 54.645(b) (“All invoices must be received by the Administrator within six months of the end date of the funding commitment.”); *see also In the Matter of Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16778, 16804, para. 305 (2012) (*HCF Order*) (stating the same); FCC Form 463 Instructions, Rural Health Care Universal Service, Healthcare Connect Fund, Invoice and Request for Disbursement Form, OMB 3060-0804, at 3 (Aug. 2013) (*FCC Form 463 Instructions*).

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invoice, both the HCP and the service provider must certify that they have reviewed the invoice and that it is accurate.5 FCC rules also require parties seeking waivers of the Commission’s rules to seek relief directly from the Commission.6

Between June 15, 2016 and June 21, 2016, Aspirus submitted FY 2015 FCC Forms 462 (Funding Request Forms), requesting eligible services from Charter for the HCPs listed in Appendix A.7 The funding start date on the Funding Request Forms was listed as July 1, 2015, and the funding end dates appear to be based on the circuit disconnect dates for each request.8 Subsequently, USAC issued funding commitment letters (FCLs) for the FRNs listed in Appendix A and specified the invoicing deadlines for each FRN in the FCLs.9

On August 12, 2016, Aspirus initiated the FCC Form 463 process by submitting the forms in the My Portal system. On that same day, USAC sent a notice to Charter indicating that the forms were ready for review and approval. However, Charter did not review and certify the FCC Forms 463 for the FRNs listed in Appendix A before the specified invoicing deadlines.10 On January 9, 2017 and January 10, 2017, Charter submitted appeals on behalf of Aspirus that sought a waiver of the invoicing deadline.11

In the Appeals, Charter states that it was unable to approve the invoices by the deadlines.12 Charter requests that USAC “re-open the invoices” so that Charter may review and approve the invoices.13 As noted above, USAC cannot remit payment until both the HCP and the service provider have reviewed and attested to the accuracy of the invoice, and the invoice must be submitted within six months of the end date of the funding commitment.14 Charter failed to review and certify the FCC Forms 463 for the FRNs listed in Appendix A before the invoicing deadlines, and, as a result, the invoices were not submitted by the invoicing deadlines. Because the relief Charter requests requires a waiver of the FCC’s rules, Charter must seek relief directly from the Commission, not USAC.15 Therefore, USAC hereby dismisses the Appeals.

5 47 C.F.R. § 54.645(b).

6 47 C.F.R. § 54.719(c) (“Parties seeking waivers of the Commission’s rules shall seek relief directly from the Commission.”).

7 FY 2015 FCC Forms 462 for FRNs 15829721, 15829601, 15829861, 15826201 (June 15, 2016), 15832131 (June 16, 2016), 15837421, 15837511, 15837711, 15837731 (June 21, 2016).

8 *Id.*

9 FY 2015 FCLs for FRNs 15829721 (June 29, 2016), 15837421 (July 19, 2016), 15837511 (July 19, 2016), 15837711 (July 19, 2016), 15837731 (July 19, 2016), 15832131 (June 29, 2016), 15829601 (July 6, 2016), 15829861 (July 13, 3016), and 15826201 (June 29, 2016) (noting that the Aspirus HCPs are eligible for funding for the periods listed in Appendix A).

10 FY 2015 FCC Forms 463 for FRNs 15829721, 15837421, 15837511, 15837711, 15837731, 15832131, 15829601, 15829861, and 15826201 (August 12, 2016).

11 Charter Appeals at 1*.*

12 *Id.*

13 *Id.*

14 47 C.F.R. § 54.645(b).

15 47 C.F.R. § 54.719(c).

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If you wish to appeal this decision or request a waiver, you can follow the instructions pursuant to 47 C.F.R. Part 54, Subpart I (47 C.F.R. §§ 54.719 to 725). Further instructions for filing appeals or requesting waivers are also available at:

http://www.usac.org/about/about/program-integrity/appeals.aspx

Sincerely,

/s/ Universal Service Administrative Company

cc: Jackey Ott, Aspirus

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