A Request for Review by Northland Healthcare Alliance Regarding Payment of Services Fees on Several FRN’s for Year 2017 . The docket number is listed under the Rural Health Care Program 2-60

## #1. Parties Interest - Northland Healthcare Alliance is a Program Coordinator for many facilities in North Dakota, Minnesota and South Dakota. We represent these facilities and have helped them to receive Rural Connect Funding for the past years. Each of our applications have indicated that we would like to have three years of funding with an addition one year extension. We represent those sites and specifically four entities did not receive the third year of funding and did not know that the extension filing was needed, because we thought a third year was in process. We represent those four entities in this request and appeal. The following is the sections that indicates the rights that we have to a three year commitment.

## **54.644   Multi-year commitments.**

(a) Participants in the Healthcare Connect Fund are permitted to enter into multi-year contracts for eligible expenses and may receive funding commitments from the Administrator for a period that covers up to three funding years.

(d) *Annual filing requirement.* Health care providers shall file new funding requests for each funding year, except for health care providers who have received a multi-year funding commitment under §54.644.

#2. Statement of Material Facts - For the past three years, Northland Healthcare Alliance has represented members of the consortium in processing the Health Connect forms and documents. We have tried to follow standardized process for the filings and have requested in our Form 461 that agreement be for three years with an additional year as an extension year. As you review each of our forms, you will find that this is usually what we have done. This year was an unusual year and it took Health Connect nine months to process the 463’s. We waited for these to be funded and then found that the following four FRN’s were not funded. So we would like to appeal in one of two ways. Either that these FRN’s be funded for the year 2017 based on the three year of our agreement or that we be allowed to use the extension provision on our contract and then have the fees covered based on that part of our 462 documents. We realized that this is past the period of time to make a request, but would like to have an exception based on the extremely long period of time to process 463’s which made it difficult to know that we did not have funding in place or time to appeal.

As soon as we determined that the funding was not in place I made contact with Seth Toplin at USAC. I sent him copies of the FRN’s that were not funded and he explained that we could have made an appeal but the timing was not according to the rules. I have copied those emails and responses. I also did file and appeal with USAC, and received the responses listed below:

*Seth*

*So here are five that I have that are 36 months but only were funded for 24.   14615001, 14613841, 15703081, 14573121,15764641*

*Thanks*

*Tim*

***From:*** *Seth Toplin <*[*Seth.Toplin@usac.org*](mailto:Seth.Toplin@usac.org)*>****Sent:*** *Monday, March 26, 2018 3:25 PM****To:*** *Timothy Cox <*[*TCox@northlandhealth.com*](mailto:TCox@northlandhealth.com)*>****Subject:*** *Questions*

*Hi Tim,*

*Thanks for reaching out! If you have questions about specific FCLs/contracts, please let me know so I can look into them.*

*Thanks,*

***Seth Toplin***

*Rural Health Care Program*

*USAC*

*1(800) 453-1546 Prompt 3, then 2*

[*rhc-hcp@usac.org*](mailto:rhc-hcp@usac.org) *|Health Care Connect Fund*

***From:*** *Tori Schwetz <*[*Tori.Schwetz@usac.org*](mailto:Tori.Schwetz@usac.org)*>****Sent:*** *Friday, April 13, 2018 8:49 AM****To:*** *Timothy Cox <*[*TCox@northlandhealth.com*](mailto:TCox@northlandhealth.com)*>****Subject:*** *RE: Regarding the Appeal*

*Hi Tim,*

*If you had disagreed with the original dates on the FCLs, you needed to file your appeal within 60 days of the issuance of each FCL. Since that time has lapsed, you would need to get a waiver of the 60 day rule from the FCC for USAC to revisit the funding dates of the commitments for for FY2014 and FY2015 FRNs.*

*Based on the information you provided, you submitted an appeal on 4/9/2018 for FCLs issued in calendar years 2015 and 2016. Per 47 C.F.R. § 54.720(a), “An affected party requesting review or waiver of an Administrator decision by the Commission pursuant to § 54.719, shall file such a request within sixty (60) days from the date the Administrator issues a decision.” Additionally, as detailed on* [*USAC's Appeal webpage*](https://urldefense.proofpoint.com/v2/url?u=https-3A__datainsight_Reports_Pages_Report.aspx-3FItemPath-3D-252fRural-2BHealth-2BCare-252fHCF-252fForm-2B462-252fApproved-5FF462https-3A__www.usac.org_about_about_program-2Dintegrity_appeals.aspx&d=DwMFJg&c=OiLvY2co1M-RscITtV9DJw&r=sOWtA9e8yg4Zh491XKxu51jJbxhLjkjmg323e-f1WB8&m=Qe4C9FECycaWLXA0xuUBdTWFI-idzfSX0NpL07MEE4E&s=rbLfSnorYPEIR-EBrb3RQQ4Ym38ka_IAnGkumNo5tVM&e=)*, “Any party (including, but not limited to entities filing an FCC Form 499, federal universal service program applicants, and service providers) that wishes to appeal a USAC decision must first file an appeal with USAC to seek review of the USAC decision before filing an appeal with the FCC. Once USAC has made a decision on an appeal, the party may appeal USAC's decision to the FCC. Parties seeking a waiver of FCC rules (i.e. late payment fees, waiver of form deadlines, etc.) should file an appeal directly with the FCC because USAC cannot waive FCC rules.”*

*If you would like to discuss this in more detail or if I am not appropriately addressing your question, please let me know if there are any good times next week to set up a call.*

*Thanks,*

*T****ori Schwetz***

*(p) (202) 423-2070*

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

As you can see, we have followed up on the information quickly based on our findings. We would like you to understand that this problem will create significant harm to each of the facilities that did not receive the funding assistance. We would like to know if you need any additional information.

#3. The question presented for review - The question is can we have the third year of a three year contract reinstated or if not please be able to use the extension component and receive funding for the FRN’s listed for the Year 2017. In order for this to happen, the FCC will need to waive the 60 day appeal rule, but based on the extraordinary length of time it took USAC to process information for claims last year that was not the pattern in previous years, we ask that the FCC waive this and allow the appeal to be considered. We handle many sites and it was not apparent that we did not have funding coming to the sites listed above. Certainly we would have requested assistance if we had known in a timely manner. Last years Health Connect processes were completely different and made it difficult to respond. Also, we made many attempts to contact staff at Health Connect and did not receive call backs.

#4. Relief sought – the purpose of the appeal would be to have USAC reinstate funding for the FRN’s listed in the appeal for the 2017 funding cycle. If that is not possible we would request relief of these past payments be allocated in the 2018 funding cycle.