

***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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

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 Providers (HCPs) submit all FCC Forms 463 within six months of the end date of the funding commitment.<sup>4</sup> In addition, before USAC can process and pay an

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

<sup>2</sup> 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.

<sup>3</sup> See Charter Appeals.

<sup>4</sup> 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*).

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

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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup> On January 9, 2017 and January 10, 2017, Charter submitted appeals on behalf of Aspirus that sought a waiver of the invoicing deadline.<sup>11</sup>

In the Appeals, Charter states that it was unable to approve the invoices by the deadlines.<sup>12</sup> Charter requests that USAC "re-open the invoices" so that Charter may review and approve the invoices.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> Therefore, USAC hereby dismisses the Appeals.

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<sup>5</sup> 47 C.F.R. § 54.645(b).

<sup>6</sup> 47 C.F.R. § 54.719(c) ("Parties seeking waivers of the Commission's rules shall seek relief directly from the Commission.").

<sup>7</sup> 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).

<sup>8</sup> *Id.*

<sup>9</sup> 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, 2016), and 15826201 (June 29, 2016) (noting that the Aspirus HCPs are eligible for funding for the periods listed in Appendix A).

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

<sup>11</sup> Charter Appeals at 1.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> 47 C.F.R. § 54.645(b).

<sup>15</sup> 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

**Appendix A**  
**List of Appealed HCPs and FRNs**

<b>FRN</b>	<b>HCP Number</b>	<b>HCP Name</b>	<b>Funding Start Date</b>	<b>Funding End Date</b>	<b>Invoicing Deadline</b>
15829721	14616	Aspirus General Clinic - Birnamwood	7/1/2015	5/23/2016	11/23/2016
15837421	14617	Aspirus General Clinic - Elcho	7/1/2015	5/23/2016	11/23/2016
15837511	17810	Aspirus Clinic - Rhinelander Clinic	7/1/2015	5/24/2016	11/24/2016
15837711	17811	Aspirus Clinic - Woodruff Clinic	7/1/2015	5/24/2016	11/24/2016
15837731	17812	Aspirus Clinic - Wittenberg Clinic	7/1/2015	5/24/2016	11/24/2016
15832131	17815	Aspirus Clinic - Marathon Clinic	7/1/2015	5/5/2016	11/5/2016
15829601	17817	Aspirus Clinic - Edgar Clinic	7/1/2015	5/24/2016	11/24/2016
15829861	17824	Aspirus Wausau Hospital - Merrill Clinic	7/1/2015	5/24/2016	11/24/2016
15826201	26109	Aspirus - Langlade Memorial Hospital	7/1/2015	5/23/2016	11/23/2016