

Administrator's Decision on Rural Health Care Program Appeal

Via Electronic and Certified Mail

March 30, 2018

Mr. Ramon V. Reyes
South Peninsula Hospital
4300 Bartlett St.
Homer, AK 99603

Re: South Peninsula Hospital – Appeal of USAC's Decision for
Funding Request Number 17236291

Dear Mr. Ramon Reyes:

The Universal Service Administrative Company (USAC) has completed its evaluation of the July 31, 2017 letter of appeal (Appeal) submitted by South Peninsula Hospital (South Peninsula), health care provider number 11386.¹ On July 28, 2017, USAC denied South Peninsula's funding request for support under the federal Universal Service Rural Health Care (RHC) Healthcare Connect Fund Program (HCF Program) for funding year 2017 (FY 2017).² The Appeal requests that USAC reverse the denial of funding and permit South Peninsula to respond to its information request for FY 2017 funding request number (FRN) 17236291.³

USAC has reviewed the Appeal and the facts related to this matter and determined that Federal Communications Commission (FCC or Commission) requirements support the denial of FRN 17236291 because South Peninsula did not respond to an information request from USAC for this FRN within 14 calendar days.⁴ Therefore, USAC is denying the Appeal.

The HCF Program requires eligible health care providers (HCPs) applying for discounts for eligible services in the HCF Program to submit requests for discounts to USAC by filing an FCC

¹ See Email from Ramon V. Reyes, Senior Systems Administrator, South Peninsula Hospital to Rural Health Care Division, USAC (July 31, 2017) (Appeal).

² See Email from Rural Health Care Division, USAC to South Peninsula Hospital (July 28, 2017) (Administrator's Denial of FRN 17236291).

³ See Appeal. Although South Peninsula did not explicitly request that USAC reverse its denial of FRN 17236291, USAC considers South Peninsula's request to allow it to respond to USAC's information request after the deadline as a request to reverse the denial.

⁴ See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, 16803, para. 300 (2012) (*Healthcare Connect Fund Order*); FCC Form 462 Instructions, Rural Health Care Universal Service, Healthcare Connect Fund, Funding Request Form, OMB 3060-0804, at 2-3 (July 2014) (*FCC Form 462 Instructions*).

Form 462.⁵ The HCP uses the FCC Form 462 to provide information about the services selected and to certify that those services are the most cost-effective option of the offers received.⁶ As explained in the *Healthcare Connect Fund Order*, the FCC allows applicants to cure errors on their submissions after initial USAC review; however, “the responsibility to submit complete and accurate information remains at all times the sole responsibility of the applicant.”⁷ The *Healthcare Connect Fund Order* further states that USAC will inform applicants in writing of: “(1) any and all ministerial or clerical errors that it identifies in the funding commitment request, along with a clear and specific explanation of how the selected participants can remedy those errors; (2) any missing, incomplete, or deficient certifications; and (3) any other deficiencies that USAC finds, including any ineligible network components or ineligible network components that are mislabeled in the funding request.”⁸ If an applicant receives a notice that its funding request includes deficiencies, “it will have 14 calendar days from the date of receipt of the USAC written notice to amend or re-file its funding request for the sole purpose of correcting the errors identified by USAC.”⁹ After reviewing the funding request, USAC issues a funding commitment letter or denial.¹⁰ USAC is not authorized to waive the FCC’s requirements for the HCF Program.¹¹

On June 7, 2017, South Peninsula submitted a FY 2017 FCC Form 462 requesting support for FRN 17236291.¹² On June 16, 2017, USAC sent an information request to South Peninsula requesting clarification or additional information to address certain issues or deficiencies USAC had identified in South Peninsula’s funding request.¹³ Consistent with the FCC’s requirements, USAC gave South Peninsula 14 calendar days from the receipt of the notice (*i.e.* until June 30, 2017) to respond to the information request.¹⁴ Because South Peninsula did not respond to USAC within the 14 calendar days provided, as required by the FCC, USAC denied FRN 17236291 on July 28, 2017.¹⁵

⁵ See Rural Health Care (RHC) Universal Service, Healthcare Connect Fund, Funding Request Form, OMB 3060-0804 (July 2014) (*FCC Form 462*); *FCC Form 462 Instructions* at 2-3.

⁶ See USAC, Healthcare Connect Fund Program: Step 6 Submit Funding Requests, USAC.ORG available at <http://www.usac.org/rhc/healthcare-connect/individual/step06/default.aspx> (last visited March, 13 2018) (*Step 6*).

⁷ See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16803, para. 300.

⁸ *Id.*

⁹ *Id.*; see also *FCC Form 462 Instructions* at 2-3.

¹⁰ *Healthcare Connect Fund Order*, 27 FCC Rcd at 16803, para. 302.

¹¹ See generally, 47 C.F.R. § 54.702(c) (2014) (“[USAC] may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress.”); 47 C.F.R. § 1.3 (2014) (“The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedures Act and the provisions of this chapter.”).

¹² See FY 2017 FCC Form 462 for FRN 17236291 (June 7, 2017).

¹³ Email from Rural Health Care Division, USAC to South Peninsula Hospital (June 16, 2017).

¹⁴ *Id.*

¹⁵ Administrator’s Denial of FRN 17236291.

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On July 31, 2017, South Peninsula appealed USAC's denial of FRN 17236291.¹⁶ In the Appeal, South Peninsula requests that USAC reverse the denial of funding and allow it to respond to USAC's information request for FRN 17236291.¹⁷

USAC is unable to grant the Appeal because South Peninsula did not respond to its information request for FRN 17236291 within 14 calendar days of USAC's notice, as required by the FCC.¹⁸ As previously stated, USAC is not authorized to waive the FCC's requirements for the HCF Program.¹⁹ Therefore, USAC denies the Appeal.

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

¹⁶ See Appeal.

¹⁷ See *id.* Although South Peninsula previously indicated that it did not receive USAC's information request for FRN 17236291, it acknowledged receipt of the request in its Appeal. See *id.*

¹⁸ See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16803, para. 300; *FCC Form 462 Instructions*, at 2-3.

¹⁹ See *supra* note 11.