

Exhibit 3



Administrator's Decision on Rural Health Care Program Appeal

Via Electronic and Certified Mail

August 18, 2014

Mr. Stephen Lesko
Hope Community Resources, Inc.
540 W. International Airport Road
Anchorage, Alaska 99518

Re: Appeal of USAC's Decision on Site Eligibility for Hope Community Resources Barrow MH, HCP #33986, Rural Health Care Program – Funding Year 2013

Dear Mr. Lesko:

The Universal Service Administrative Company (USAC) has completed its evaluation of the January 17, 2014 letter of appeal you submitted on behalf of Hope Community Resources Barrow MH (Hope Barrow) for Funding Year (FY) 2013.¹ Hope Barrow requests that USAC reconsider its determination that Hope Barrow is not a health care provider (HCP) eligible to receive Rural Health Care (RHC) Program support under sections 54.601(a)(1) and (a)(2) of Federal Communications Commission (FCC or Commission) rules.²

Decision on Appeal and Explanation: Denied.

A health care provider (HCP) must meet four criteria in order to be eligible to participate in the RHC Program:

¹ Letter from Jim Haacke, Hope Community Resources, Inc., to USAC (Jan. 17, 2014) (*Hope Barrow Appeal*).

² 47 C.F.R. §§ 54.601(a)(1) (2011) (“[O]nly an entity that is either a public or non-profit rural health care provider, as defined in this section, shall be eligible to receive supported services under this subpart.”); 54.601(a)(2) (listing the seven categories of eligible HCPs, including, but not limited to, community mental health center). See also FCC Form 465 Instructions (OMB 3060-0804) at 2 (Nov. 2011) (*FCC Form 465 Instructions*) (stating that to receive support from the RHC Program, an HCP “must be a public or non-profit health care provider that falls within one of the following categories....Health care providers that do not fall into one of these categories are not eligible to benefit from the universal service support mechanism.”); *Id.* at 4 (“Line 27 requires checking the box indicating the eligibility category of the HCP. Only public or non-profit health care providers located in rural areas that fall into one of the categories listed in Line 27 are eligible to benefit from this universal service support mechanism.”); Community Mental Health Center Checklist (OMB 3060-0804) (*CMHC Checklist*) (“This form and the HCP’s operating license (and the operating licenses/certification number) must be submitted with the FCC Form 460 or 465. To the extent the Community Mental Health Center includes a long-term care facility, such as a residential substance abuse treatment center, that portion would not be eligible for support.”).

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1. The HCP must be located in a rural area. (A "rural area" is defined in section 54.5 of the Commission's rules. The Commission uses lists published by the Office of Management and Budget (OMB) and the Office of Rural Health Policy of the U.S. Department of Health and Human Services (ORHP/HHS) to identify rural areas).
2. The HCP must be a public or non-profit health care provider.
3. The HCP type must be one of the following seven categories:
 - Post-secondary educational institution offering health care instruction, teaching hospital, or medical school
 - Community health center or health center providing health care to migrants
 - Local health department or agency including dedicated emergency department of rural for-profit hospital
 - Community mental health center
 - Not-for-profit hospital
 - Rural health clinic including mobile clinic
 - Consortium of HCPs consisting of one or more of the above entities
 - Part-time eligible entity located in otherwise ineligible facilityThe seven categories of eligible HCPs do not include nursing homes, hospices or other long-term care facilities.³
4. The HCP has not previously been assigned a Health Care Provider number (HCP number). If the HCP referenced above is denied as a duplicate HCP, this means that the HCP has previously been deemed eligible.

On November 8, 2013, Hope Barrow submitted its FY 2013 FCC Form 465, No. 43138921 to request that USAC determine whether Hope Barrow is an eligible HCP and to seek bids for the requested supported services. On its FCC Form 465, Hope Barrow indicated that it was a community mental health center (Line 27). On its related Community Mental Health Center Checklist form, Hope Barrow checked the boxes to indicate that it provides outpatient mental health treatment and psychosocial rehabilitation services.⁴ During USAC's FCC Form 465 review process, USAC requested that Hope Barrow provide: (1) a copy of its state license or certification; (2) describe the medical services provided at that site; and (3) provide the hours of operation.⁵ Hope Barrow responded "[w]e are not licensed yet at this facility....The facility will operate 24 hours a day/365 days a year" and explained that a licensed nurse "will be providing 8 hours a week of nursing."⁶ On November 19, 2013, USAC informed Hope Barrow that it determined Hope Barrow was an assisted living facility and was not eligible to receive RHC Program support.⁷ On November 19, 2013, USAC issued its determination that Hope Barrow

³ *In the Matter of Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21, 96-45, Sixth Order on Reconsideration in CC Docket No. 97-21 Fifteenth Order on Reconsideration in CC Docket No. 96-45, FCC 99-269, 18 Communications Reg. 481, ¶ 47 (1999) ("Thus, we find that the definition of 'health care provider' does not include nursing homes, hospices, or other long-term care facilities.").

⁴ Hope Barrow Community Mental Health Center Checklist (Nov. 12, 2013).

⁵ Email from USAC to Jim Haacke, Hope Resources Community, Inc. (Nov. 12, 2013).

⁶ Email from Jim Haacke, Hope Resources Community, Inc., to USAC (Nov. 13, 2013).

⁷ Email from USAC to Jim Haacke, Hope Resources Community, Inc. (Nov. 19, 2013).

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was not eligible as a community mental health center for the RHC Program because it did not satisfy the definition of community mental health center under the Public Health Service Act.⁸

On January 17, 2014, Hope Barrow submitted its appeal of USAC's determination that Hope Barrow was not an eligible HCP. In its appeal, Hope Barrow states that "the characterization of Hope Barrow solely as an 'assisted living facility' is erroneous" and that even if Hope Barrow offered short term/long term residential services this "does not bar the facility from eligibility from RHC support for services, to the extent that it also offers, as a primary function, services that meet the statutory eligibility criteria."⁹ Hope Barrow also states that it "offers primarily outpatient mental health treatment" and "Will not be a residential treatment facility."¹⁰ In addition, Hope Barrow explains that it "anticipates that the primary focus of Hope Barrow will be offering outpatient services, but a portion of the building will also provide long term residential services and 'one short term stay bed,' which should not be considered a long-term residential option."¹¹ Hope Barrow further explains that its outpatient services do not constitute long-term care and are "distinct from the ancillary services the facility offers of a residential nature," and that Hope Barrow qualifies for pro-rated RHC Program support for those services.¹² Hope Barrow provided the program description for its services with its appeal and requests that USAC reconsider its eligibility determination based on this additional information.

After Hope Barrow submitted its appeal, USAC requested additional information concerning the services that Hope Barrow provides to non-residents.¹³ Hope Barrow explained that the services "that will be delivered at the site are not solely for the residents of that location" and that "staff members at the site are intended to serve other individuals in the community by providing outreach, training, organizational wellness and educational outpatient services to the community from this location....In the future, Hope looks to develop direct clinical supports to the community."¹⁴

USAC has determined, based on its review of Hope Barrow's appeal and supporting documentation that Hope Barrow failed to demonstrate it qualified as a community mental health center for purposes of the RHC Program. Specifically, Hope Barrow has not demonstrated that it provides community mental health services to non-residents. Although the Program Description states that Hope Barrow "will not be a residential treatment facility," other sections of the Program Description confirm that Hope Barrow has a long-term residential program.¹⁵ In

⁸ Public Health Service Act, Section 330.

⁹ Hope Barrow Appeal at 3.

¹⁰ *Id.*

¹¹ *Id.* at 4.

¹² *Id.* at 4-5.

¹³ Email from USAC to Jim Haacke, Hope Community Resources, Inc. (Mar. 19, 2014).

¹⁴ Email from Jim Haacke, Hope Community Resources, Inc., to USAC (Mar. 28, 2014).

¹⁵ *See, e.g.*, The Barrow Herman Street Location Program Description at 2 (Feb. 2012) ("The individuals residing in the facility will be empowered to be responsible for their own recovery and provided the services and supports needed to make the recovery process a reality for them."); *Id.* at 6 ("Individuals with significant ties to the North Slope Borough who experience serious mental illness may apply for residency in the location."); *Id.* at 8 ("To ensure the safety and well[being] of the individuals who reside permanently in the location, this [short-term stay]

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addition, both Hope Community Resources' website and North Slope Borough's website describe the Hope Barrow site as a residential facility.¹⁶ Because residential facilities are not eligible for RHC Program support, the services Hope Barrow provides to long-term residents are not eligible for RHC Program support.¹⁷ Although Hope Barrow asserts that it provides mental health services to non-residents, the Program Description, Hope Barrow's appeal, and Hope Barrow's response to USAC's requests for information all use the future tense to describe Hope Barrow's services for non-residents.¹⁸ Therefore, the information and documentation provided to USAC do not demonstrate that Hope Barrow currently provides community mental health services to non-residents or community clinical services.¹⁹ In addition, in November 2013, Hope Barrow indicated that it was not licensed to provide community mental health services and has not indicated that it has been licensed to provide these services to non-residents.²⁰

For these reasons, USAC is unable to conclude that Hope Barrow qualifies as a community mental health center and is eligible to receive RHC Program support, therefore, USAC hereby denies Hope Barrow's appeal.

bed will not be available for individuals in crisis without the approval from the Hope Community Resources Director of Mental Health Services."); *Id.* at 9 ("The general code of conduct for the individuals residing in this location is a separate document and will be included in the admission packet and in the location's licensing book.").

¹⁶ Hope Barrow's Website, https://www.hopealaska.org/barrow_region.asp (last visited June 10, 2014) ("The Barrow/North Slope Borough services are very different from the rest of Hope's programs. It is the only program at Hope that offers assisted living to elders who do not experience a developmental disability and it is the only area that it offers Personal Care Attendant (PCA) services."); North Slope Borough's Website, <http://www.co.north-slope.ak.us/departments/health-social-services/behavioral-health-services> (last visited June 10, 2014) ("The Behavioral Health Division also collaborates with Hope Community Resources Inc. with the Mental Health Group Home in Barrow to provide services for the severely mentally ill adult population.").

¹⁷ *CMHC Checklist* ("To the extent the Community Mental Health Center includes a long-term care facility, such as a residential substance abuse treatment center, that portion would not be eligible for support.").

¹⁸ *See, e.g.*, Program Description at 2 (Feb. 2012) ("The formalized services that *will be* provided include Professional Behavioral Health Assessment, Comprehensive Community Support Services, Therapeutic Behavioral Health Services, Recipient Support Services, Case Management Services and Nursing Services.") (emphasis added); Hope Barrow Appeal at 4 ("Hope *anticipates* that the primary focus of Hope Barrow *will be* offering outpatient services, but a portion of the building will also provide long term residential services and 'one short term stay bed, . . .'" (emphasis added); Email from Jim Haacke, Hope Community Resources, Inc., to USAC (Mar. 28, 2014) ("[T]he services that *will be* delivered at the site are not solely for the residents of that location . . . the staff members at the site are intended to serve other individuals in the community by providing outreach, training, organizational wellness and educational outpatient services to the community from this location. These services *will* include training, advocacy, and collaboration with the North Slope Borough. *In the future*, Hope looks to develop direct clinical supports to the community. . .") (emphasis added).

¹⁹ Program Description at 9 (stating that Hope Barrow would not provide community based clinical services "unless the community action plan for the Borough is amended and a contract is developed that defines Hope Community Resources as the clinical services provider beyond the clinical oversight required for the provision of the rehabilitative services that will be provided" at the Hope Barrow site.); Email from Jim Haacke, Hope Community Resources, Inc., to USAC (Mar. 28, 2014) ("In the future, Hope looks to develop direct clinical supports to the community.").

²⁰ Email from Jim Haacke, Hope Resources Community, Inc., to USAC (Nov. 13, 2013) ("[w]e are not licensed yet at this facility.").

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If you wish to appeal this decision, you may file an appeal pursuant to 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing an appeal are available at:

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

Sincerely,

//s// USAC

cc: Jim Haacke, Hope Community Resources, Inc.

For the foregoing reasons, Hope Community Resources hereby requests that the RHC Division reverse its previous finding, and rule that Hope Barrow is in fact eligible for support from the RHC universal service support mechanism.

Respectfully Submitted,

**HOPE COMMUNITY
RESOURCES, INC.**

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