

Attachments

Attachment A – Appeals to USAC

Attachment B – USAC Denials

Attachment C – Correspondence

Attachment D – Form 465 – St. Andrews

Attachment E – USAC Inquiry

Attachment F – Selection of Form 465 Number

Because the issue for each HCP is identical, copies of USAC filings are provided only for St. Andrews. If necessary, documentation for other FRNs can be provided on request or obtained from USAC. Because USAC determined the contracts qualify as evergreen and the only issue is the support dates, they are not included to protect proprietary information. They can be provided on request or obtained from USAC.

Attachment A – Appeals to USAC

E-COPERNICUS

November 25, 2014

Letter of Appeal

Rural Health Care Division
Universal Service Administrative Company
2000 L Street, NW Suite 200
Washington, DC 20036

To whom it may concern:

This is an appeal of FRN 13485411 for HCP 14311, St. Andrews Health Center. Attached is the contract submitted with the request. Please explain why it was not processed as a contract for support starting 7/1/13 as requested.

Thank you for your prompt attention and resolution of this appeal.

Sincerely,

William England, Ph.D., J.D.
Senior VP for Health Care Networks
E-Copernicus
p301-776-9258
WEngland@E-Copernicus.com

cc: Jodi Atkinson, CEO, St. Andrews Health Center
Greg Rohde, President, E-Copernicus

E-COPERNICUS

December 16, 2014

Letter of Appeal

Rural Health Care Division
Universal Service Administrative Company
2000 L Street, NW Suite 200
Washington, DC 20036

To whom it may concern:

This is an appeal of FRNs:

1348534 HCP 11749, Heart of America Medical Center
1345722 HCP 13203, Nelson County Health System
1348628 HCP 14314, First Care Health Center

These were processed as non-contract service rather than contract service, which reduced support due to not starting July 1, 2013 as submitted. These are all 5M Ethernet connections to Avera Health pursuant to the master agreement and attachments for each HCP. As explained on the RHC website, "both parties to the contract have signed and dated the agreement, [and] the type, terms of service and duration are specified." Please explain the basis for these decisions and why there was not correspondence on these changes to requested support?

Thank you for your prompt attention and resolution of this appeal.

Sincerely,

William England, Ph.D., J.D.
Senior VP for Health Care Networks
E-Copernicus
p301-776-9258
WEngland@E-Copernicus.com

cc: Greg Rohde, President, E-Copernicus

Attachment B – USAC Denials



Administrator's Decision on Rural Health Care Program Appeal

Via Electronic and Certified Mail

May 1, 2015

Ms. Jodi Atkinson
St. Andrew's Health Center
316 Ohmer Street
Bottineau, ND 58313

Re: St. Andrew's Health Center's Appeal of USAC's Funding Decision for Funding Year (FY 2013) Funding Request Number (FRN) 1348541

Dear Ms. Atkinson:

The Universal Service Administrative Company (USAC) has completed its evaluation of the November 25, 2014 letter of appeal submitted by William England on behalf of St. Andrew's Health Center (St. Andrew's). The appeal requests that USAC change the funding start date for FY 2013 FRN 1348541 from July 9, 2013 to July 1, 2013, in order to receive federal Universal Service Rural Health Care Telecommunications Program (RHC Telecom Program) funding for the full funding year.

USAC has reviewed the appeal and the facts related to this matter, and determined that Federal Communications Commission (FCC) rules do not support changing the funding commitment start date from July 9, 2013 to July 1, 2013. Based on St. Andrew's' FY 2013 FCC Form 465, July 9, 2013 is the allowable contract selection date (ACSD) for FRN 1348541 and is the proper funding start date.

St. Andrew's asserts that the funding start date should be July 1, 2013, because it had a pre-existing contract with its service provider, South Dakota Network, LLC (SDN) that was executed on May 10, 2011. St. Andrew's explains that because the contract date was for May 10, 2011, it is entitled to receive RHC Telecom Program funding starting on July 1, 2013. However, St. Andrew's initiated a new competitive bidding process when it submitted its FCC Form 465 on June 11, 2013. FCC rules require applicants to wait 28 days after submitting the FCC Form 465 prior to selecting a service provider.¹ The ACSD date for FY 2013 FRN 1348541 was July 9, 2013. In order to comply with the 28 day waiting period, the earliest date that St. Andrew's could begin to receive services for this FRN was July 9, 2013.²

In addition, St. Andrew's has not provided sufficient documentation for USAC to determine

¹ 47 C.F.R. §§ 54.603(a), (b)(3) (2012).

² See *id.*

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St. Andrew's Health Center
May 1, 2015
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whether this contract qualifies for evergreen status and may have been exempt from the FCC competitive bid requirements. Based on our analysis, as discussed below, we are unable to grant this appeal and are unable to change the funding start date as requested to July 1, 2013.

USAC Appeal Decision and Explanation

FCC rules require health care providers (HCPs) to conduct a competitive bidding process for eligible services by submitting an FCC Form 465, and waiting 28 days before selecting or signing a contract for eligible services.³ An HCP may consider an existing contract as a bid, but is still required to wait 28 days after the posting of its FCC Form 465 to USAC's website before selecting a new services provider or continuing to receive services through an existing contract.⁴ USAC notifies HCPs of the allowable contract selection date (e.g., the end of the 28-day waiting period) for their respective FCC Forms 465 when the form is submitted to USAC. USAC is not authorized to waive the FCC's required 28-day waiting period for the competitive bid process.⁵

On June 11, 2013, St. Andrew's submitted its FCC Form 465 requesting bids for services for FY 2013. USAC notified St. Andrew's that July 9, 2013 was the ACSD for this form. On June 26, 2014, St. Andrew's submitted its FCC Form 466 for FRN 1348541 seeking services from SDN. On the FCC Form 465, St. Andrew's also indicated its June 11, 2013 FCC Form 465 as being the form that supports this FRN and that it was using its pre-existing contract with SDN to receive the requested services. On November 24, 2014, USAC approved funding for this FRN and noted that the funding start date was July 9, 2013, as this was the ACSD for this FRN.

On November 25, 2014, St. Andrew's appealed the funding commitment letter (FCL). In its appeal, St. Andrew's asserts that the funding start date for FRN 1348541 should be July 1, 2013 because the SDN contract was based on St. Andrew's' March 7, 2011 FCC Form 465, which had an April 4, 2011 ACSD.⁶ In addition, St. Andrew's asserts that the SDN contract was endorsed as an evergreen contract and that St. Andrew's is exempt from the FCC competitive bid requirements. However, as discussed above, St. Andrew's initiated a new competitive bid process on June 11, 2013 when it submitted its FY 2013 FCC Form 465 requesting bids. Although St. Andrew's may consider an existing contract as a bid, it is still

³ *See id.*

⁴ *See In the Matter of Request for Review Franciscan Skemp Waukon Clinic*, WC Docket No. 02-60, Order, DA 14-1435, 2014 WL 4964624 at *3, ¶ 8 (Oct. 2, 2014).

⁵ *See generally*, 47 C.F.R. §§ 54.702(c) (2012) (“[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 (2012) (“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.”).

⁶ *See* FCC Form 465 No. 34173 (Mar. 7, 2011). Although the underlying SDN contract states it was executed on May 10, 2011, St. Andrew's did not request RHC Telecom Program support for the requested services from SDN for FYs 2011 and 2012. Therefore, St. Andrew's did not submit the SDN contract or the other bid related documentation to USAC so that an evergreen determination could be made for this contract.

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May 1, 2015
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required to wait 28 days or until the ACSD before selecting a service provider for the requested services. In this case, the ACSD was July 9, 2013, and therefore, the funding start date must also be July 9, 2013, and cannot be changed to July 1, 2013, as requested by St. Andrew's.

For the RHC Telecom Program, HCPs may request that USAC designate a multiple-year contract for eligible services as evergreen (i.e., exempt from competitive bidding for the duration of the contract).⁷ To qualify for evergreen status, the contract must have been awarded in compliance with FCC rules, including the FCC's requirements that HCPs conduct a competitive bidding process for eligible services, consider all bids received, wait 28 days before selecting a provider, select the most cost-effective service, and provide USAC with copies of all bids received to allow USAC to endorse a contract as evergreen.⁸

Although St. Andrew's explains that the contract with SDN was executed on May 10, 2011 and that it submitted a FCC Form 465 on March 7, 2011, St. Andrew's did not indicate whether it received bids in response to its March 2011 FCC Form 465 and did not provide copies of any bids it received for that FCC Form 465. In FY 2011, St. Andrew's did not request that the May 10, 2011 SDN contract be endorsed as evergreen. St. Andrew's did not provide USAC with a copy of the May 10, 2011 SDN contract until it submitted its appeal on November 25, 2014. Further, St. Andrew's received services from a different provider in FY 2011 and FY 2012 and did not request funding for the services it was receiving from SDN until FY 2013. In this case, because the contract was not previously endorsed as evergreen prior to FY 2013, St. Andrew's was required conduct a competitive bid process by submitting the FCC Form 465 and was also required to wait at least 28 days prior to selecting a provider to receive services.

The ACSD for FRN 1348541 is July 9, 2013, and this must also be the funding start date for this FRN. As explained above, USAC may not waive the FCC rules requiring the HCP to wait 28 days before selecting a service provider. Therefore, based on the information and documents provided by St. Andrew's, USAC has determined that July 9, 2013 was the correct funding start date for St. Andrew's' FY 2013 FRN 1348541 and USAC may not grant the appeal to change this date to July 1, 2013.⁹

⁷ See USAC Website at <http://www.usac.org/rhc/telecommunications/health-care-providers/evergreen-contracts.aspx>.

⁸ 47 C.F.R. §§ 54.603(b)(3)-(4), 54.615(a) (2012). See also USAC Website at <http://www.usac.org/rhc/telecommunications/health-care-providers/step03/>.

⁹ 47 C.F.R. § 54.603(b)(3) (2012).

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May 1, 2015
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If you wish to appeal this decision, you may file an appeal pursuant to the requirements of 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing appeals are available at:

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

Sincerely,

/s/ Universal Service Administrative Company

cc: William England, e-Copernicus



Administrator's Decision on Rural Health Care Program Appeal

Via Electronic and Certified Mail

May 12, 2015

Mr. William England
e-Copernicus
317 Massachusetts Ave NE # 300
Washington, DC 20002

Re: Appeal of USAC's Funding Decisions for Heart of America Medical Center (FRN 1348534); Nelson County Health System (FRN 1345722); and First Care Health Center (FRN 1348628) for Funding Year 2013

Dear Mr. England:

The Universal Service Administrative Company (USAC) has completed its evaluation of the December 16, 2014 letter of appeal submitted on behalf of Heart of America Medical Center, Nelson County Health System, and First Care Health Center, three members of the North Dakota Healthcare Association consortium. Your appeal requests that USAC change the funding start date for FY 2013 FRNs 1348534, 1345722, and 1348628 from July 9, 2013 to July 1, 2013, in order to receive federal Universal Service Rural Health Care Telecommunications Program (RHC Telecom Program) funding for the full funding year.

USAC has reviewed the appeal and the facts related to this matter, and determined that Federal Communications Commission (FCC) rules do not support changing the funding commitment start date from July 9, 2013 to July 1, 2013 for the FRNs listed above. Based on each health care provider's (HCP's) FY 2013 FCC Form 465, July 9, 2013 is the allowable contract selection date (ACSD) for FRNs 1348534, 1345722, and 1348628 and is the proper funding start date.

Your appeal asserts that the funding start date should be July 1, 2013 because each HCP had a pre-existing contract with its service provider that was executed in 2011 or 2012.¹ The appeal explains that because the contracts were signed in 2011 and 2012, the HCPs are entitled to receive RHC Telecom Program funding starting on July 1, 2013. However, each HCP initiated a new competitive bidding process when it submitted its respective FY 2013 FCC Form 465 on June 11, 2013. FCC rules require applicants to wait 28 days after

¹ The appeal included copies of the following contracts: Contract between Heart of America and South Dakota Network, LLC (Oct. 31, 2011); Contract between Nelson County Health System and Midcontinent Communications (Jun. 27, 2011); Contract between First Care Health Center and Midcontinent Communications (Feb. 8, 2012).

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submitting the FCC Form 465 prior to selecting a service provider.² The ACSD date for FY 2013 FRNs 1348534, 1345722, and 1348628 was July 9, 2013. In order to comply with the 28-day waiting period, the earliest date that each HCP could begin to receive services for its respective FRN was July 9, 2013.³

In addition, the HCPs have not provided sufficient documentation for USAC to determine whether the contracts qualify for evergreen status and may have been exempt from the FCC competitive bid requirements for FY 2013. Based on our analysis, as discussed below, we are unable to grant this appeal and unable to change the funding start dates as requested to July 1, 2013.

USAC Appeal Decision and Explanation

FCC rules require HCPs to conduct a competitive bidding process for eligible services by submitting an FCC Form 465, and waiting 28 days before selecting or signing a contract for eligible services.⁴ An HCP may consider an existing contract as a bid, but is still required to wait 28 days after the posting of its FCC Form 465 to USAC's website before selecting a new service provider or continuing to receive services through an existing contract.⁵ USAC notifies HCPs of the allowable contract selection date (*e.g.*, the end of the 28-day waiting period) for their respective FCC Forms 465 when the form is submitted to USAC. USAC is not authorized to waive the FCC's required 28-day waiting period for the competitive bid process.⁶

On June 11, 2013, each HCP identified above submitted its FCC Form 465 requesting bids for services for FY 2013. USAC notified each HCP that July 9, 2013 was the ACSD for the HCP's respective FCC Form 465. In June 2014, each HCP submitted its FCC Form 466 seeking services and indicated its respective pre-existing contract with the service provider.⁷ On the FCC Form 466, each HCP also indicated its June 11, 2013 FCC Form 465 as being the form that supports its FRN and that the HCP was using its pre-existing contract to receive the requested services. On December 10, 2014, USAC approved funding for FRNs 1348534, 1345722, and 1348628 and noted that the funding start date was July 9, 2013, as this was the ACSD for these FRNs.

² 47 C.F.R. §§ 54.603(a), (b)(3) (2012).

³ *See id.*

⁴ *See id.*

⁵ *See In the Matter of Request for Review Franciscan Skemp Waukon Clinic*, WC Docket No. 02-60, Order, DA 14-1435, 2014 WL 4964624 at *3, ¶ 8 (Oct. 2, 2014).

⁶ *See generally*, 47 C.F.R. §§ 54.702(c) (2012) (“[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 (2012) (“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.”).

⁷ Heart of America FY 2013 FCC Form 466 (Jun. 25, 2014); Nelson County Health System FY 2013 FCC Form 466 (Jun. 18, 2014); First Care Health Center FY 2013 FCC Form 466 (Jun. 26, 2014).

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On December 16, 2014, you appealed the funding commitment letters (FCLs) for FRNs 1348534, 1345722, and 1348628. In the appeal, you assert that the funding start date for these FRNs should be July 1, 2013 because the contracts were based on each HCP's respective May 27, 2011 FCC Form 465, which had a June 24, 2011 ACSD.⁸ In addition, you assert that the contracts were endorsed as evergreen contracts and that each HCP is exempt from the FCC competitive bid requirements. However, as discussed above, each HCP identified above initiated a new competitive bid process on June 11, 2013 when they submitted their respective FY 2013 FCC Form 465 requesting bids. Although HCPs may consider an existing contract as a bid, HCPs are still required to wait 28 days or until the ACSD before selecting a service provider for the requested services. In this case, the ACSD was July 9, 2013, and therefore, the funding start date must also be July 9, 2013, and cannot be changed to July 1, 2013, as requested in your appeal.

For the RHC Telecom Program, HCPs may request that USAC designate a multiple-year contract for eligible services as evergreen (*i.e.*, exempt from competitive bidding for the duration of the contract).⁹ To qualify for evergreen status, the contract must have been awarded in compliance with FCC rules, including the FCC's requirements that HCPs conduct a competitive bidding process for eligible services, consider all bids received, wait 28 days before selecting a provider, select the most cost-effective service, and provide USAC with copies of all bids received to allow USAC to endorse a contract as evergreen.¹⁰

Although your appeal explains that each HCP had a pre-existing contract that was executed in 2011 or 2012 and that each HCP submitted a FCC Form 465 on May 27, 2011, the HCPs did not indicate whether they received bids in response to their FY 2011 FCC Form 465 and did not provide copies of any bids received for that FCC Form 465. In FY 2011, none of the HCPs requested that the 2011 and 2012 contracts be endorsed as evergreen. The HCPs identified above did not provide USAC with a copy of the contracts until June 2014 when they submitted their FY 2013 FCC Forms 466 to request funding for services through their respective contracts. In this case, because the contracts were not previously endorsed as evergreen prior to FY 2013, each HCP was required to conduct a

⁸ See Heart of America FY 2011 FCC Form 465 No. 48590 (May 27, 2011); Nelson County Health System FY 2011 FCC Form 465 No. 48581 (May 27, 2011); First Care Health Center FY 2011 FCC Form 465 No. 48589 (May 27, 2011). Although the underlying contracts were executed in 2011 or 2012, the HCPs identified above did not request RHC Telecom Program support for the requested services in FYs 2011 and 2012. Therefore, the HCPs did not submit the contracts or the other bid related documentation to USAC so that an evergreen determination could be made for these contracts prior to the issuance of the FCLs for FY 2013. During the appeal process, the HCPs provided documentation regarding their competitive bid process and the underlying contracts were endorsed as evergreen for FY 2014 forward until the end of each contract's term.

⁹ See USAC Website at <http://www.usac.org/rhc/telecommunications/health-care-providers/evergreen-contracts.aspx>.

¹⁰ 47 C.F.R. §§ 54.603(b)(3)-(4), 54.615(a) (2012). See also USAC Website at <http://www.usac.org/rhc/telecommunications/health-care-providers/step03/>.

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competitive bid process by submitting the FCC Form 465 and was also required to wait at least 28 days prior to selecting a provider for the requested services.

The ACSD for FRNs 1348534, 1345722, and 1348628 is July 9, 2013, and this must also be the funding start date for these FRNs. As explained above, USAC may not waive the FCC rules requiring the HCP to wait 28 days before selecting a service provider. Therefore, based on the information and documents provided with this appeal, USAC has determined that July 9, 2013 was the correct funding start date for FY 2013 FRNs 1348534, 1345722, and 1348628 and USAC may not grant the appeal to change this date to July 1, 2013.¹¹

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

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

Sincerely,

/s/ Universal Service Administrative Company

cc: Rich Fiest, Heart of America Medical Center
Carla Anderson, Nelson County Health System
Louise Dryburgh, First Care Health Center

¹¹ 47 C.F.R. § 54.603(b)(3) (2012).

Attachment C – Correspondence

From: Bill England
Sent: Friday, February 27, 2015 5:35 PM
To: 'rhc-appeals'
Cc: 'jodia@stahc.net'; Gregory Rohde
Subject: RE: Funding Commitment Letter (FCL) for HCP 14311, FRN 13485411

Dear Ed,

I think you are confusing this with the concept created by the FCC in Cochrane (DA 00-1045, rel. May 17, 2000) and Kalamazoo (DA 02-2975, rel. Nov. 4, 2002), that a contract signed before posting must be "ratified", in which case the 7/9/13 ACSD would be relevant. But for this contract, the 465 posting was 3/7/11, the ACSD was 4/4/11 and the contract signed 5/23/11 met FCC requirements for an evergreen contract, as verified by USAC. For such a contract, the FCC provided exemption from rebidding for the life of the contract. Thus, the HCP had only to submit a Form 466 and a copy of the contract for verification by USAC to receive funding for services under the contract. I submitted a Form 466 and a copy of the contract for USAC review. USAC verified the contract met FCC contract requirements but determined the life of the contract based on the date of USAC's review. I don't know what FCC rule or policy that is based on. It was necessary to post a Form 465 to select services after the contract ended during the fund year, but I don't know why that would create a new ACSD for services under the contract.

If USAC counsel and leadership have determined this must be denied, please reference the FCC Order or policy that caused USAC to change its longstanding policy for contracts in the RHC telecommunications program and redefine the life of a contract based on the date of USAC review and to require reselection of service (a new allowable contract select date) under a contract that met FCC requirements when signed except USAC had not yet reviewed it. If there is ambiguity in the FCC Orders, then I can seek clarification from the Commission.

Bill

From: Bill England
Sent: Wednesday, February 25, 2015 6:11 PM
To: 'rhc-appeals'
Cc: Gregory Rohde
Subject: RE: Appeal HCP 11749, 13203, 14314

Ed,

This is the same issue as HCP 14311, FRN 13485411. If these are denials, please link the policies to the relevant FCC rules so I can understand how and why the change from how contracts were reviewed and ACSD was determined based on FCC rules earlier in the program.

From: Bill England
Sent: Wednesday, February 25, 2015 10:03 AM
To: 'rhc-appeals'

Cc: jodia@stahc.net; Gregory Rohde

Subject: RE: Funding Commitment Letter (FCL) for HCP 14311, FRN 13485411

Ed,

I'm sorry, but that explanation does not seem logical or consistent with FCC rules, and is not how contracts were reviewed when I reviewed all RHC contracts, in compliance with FCC rules and policies. The issue seems to be what is "life of the contract". Although USAC must verify that a contract meets FCC requirements, the date of USAC review does not establish the date it met FCC requirements or determine the life of the contract. In this case, USAC has recognized the contract start date as 5/23/11 after the 2010 allowable contract date of 4/4/11, but is then saying the "life of the contract" started at USAC review. Because USAC is not a party to the contract, how can USAC review determine life of the contract? Why does USAC compare signature dates to 465 posting dates or even care if there are signature dates if the contract starts at USAC review? If a contract meets FCC requirements to qualify as evergreen to exempt an HCP from competitive bidding, it does not fail to meet those requirements because USAC has not yet reviewed it. Conversely, if a contract creates a bidding violation because it was signed during the 28 day Form 465 posting, the contracted service is not exempt from being considered to fail FCC bidding rules until the date of USAC's review.

At the start of the RHC program, there was an issue of how to handle preexisting contracts. In §54.604, the FCC clarified that "a contract...signed on or before July 10, 1997 will be considered...exempt from the competitive bid requirement for the life of the contract." If "life of the contract" meant after USAC reviewed it, no one would have been exempt the first year because RHC did not start to review those pre-existing contracts until 1999. A similar situation occurs if an HCP posts a 465 and then signs a contract that meets FCC requirements, but does not immediately send it for USAC review. USAC's review does not determine when the competitive bidding requirements were met for services under that contract. Even for non-contract services...USAC must review and determine the service met competitive bidding requirements...but the date of USAC review does not establish when the requirements were met, or else all HCPs would lose support waiting until the date of USAC review as the date they met requirements and could start support. Why are contracted services treated differently?

I appealed USAC's support decision because it seems inconsistent with FCC rules. If the appeal team has determined this should be denied, please provide a reasoned explanation of the denial with reference to the FCC rules on which denial is based.

Bill

From: rhc-appeals [<mailto:rhc-appeals@usac.org>]

Sent: Tuesday, February 24, 2015 1:34 PM

To: Bill England; rhc-appeals

Cc: Gregory Rohde

Subject: RE: Appeal HCP 11749, 13203, 14314

Importance: High

Bill,

A service/contract cannot be designated evergreen until you submit a Form 466/466-A for it and therefore the ACSD (28-day waiting period) would apply. However, the contract could be designated evergreen going forward. For the FRNs below, the Form 465s were posted June 11, 2013 making the ACSDs July 9, 2013 which would be the funding start date as indicated on the Funding Commitment Letters. If the Form 465 was submitted by June 2, 2013, the HCP would have received funding from July 1.

1348534	HCP 11749,	Heart of America Medical Center
1345722	HCP 13203,	Nelson County Health System
1348628	HCP 14314,	First Care Health Center

I will let the contract reviewer know that these contracts should have evergreen going forward and they should appear in the My Contracts tab as evergreen and can be used for FY14 and through end of contract date. However, we wouldn't issue a new FCL when the contract endorsement changes.

Given that we would deny the appeals on this basis, would you like to withdraw these appeals?

Let me know.

Thanks,
Ed

From: rhc-appeals [<mailto:rhc-appeals@usac.org>]

Sent: Tuesday, February 24, 2015 11:37 AM

To: Bill England; rhc-appeals

Cc: jodia@stahc.net; Gregory Rohde

Subject: RE: Funding Commitment Letter (FCL) for HCP 14311, FRN 13485411

Bill,

A service/contract cannot be designated evergreen until you submit a Form 466/466-A for it and therefore the ACSD (28-day waiting period) would apply. However, the contract could be designated evergreen going forward. For this FRN, the Form 465 was posted June 11, 2013 making the ACSD July 9, 2013 which would be the funding start date as indicated on the Funding Commitment Letter. If the Form 465 was submitted by June 2, 2013, the HCP would have received funding from July 1. Given that we would deny the appeal on this basis, would you like to withdraw the appeal?

Let me know.

Thanks,
Ed

From: rhc-assist@usac.org [mailto:rhc-assist@usac.org]
Sent: Monday, November 24, 2014 3:12 PM
To: Gregory Rohde; Bill England; jodia@standrewshealth.com
Subject: Funding Commitment Letter (FCL) for HCP 14311, FRN 13485411

Date: 24-Nov-2014

Funding Year: 2013
Health Care Provider (HCP) Name: St. Andrews Health Center
HCP Number: 14311
FCC Form 465 Application Number: 43136541
Funding Request Number: 13485411

The Rural Health Care (RHC) division of the Universal Service Administrative Company (USAC) has completed the review of the *Funding Request and Certification Form (FCC Form 466)* submitted on behalf of the Health Care Provider (HCP) named above. Based on the information provided, RHC has determined that the HCP is eligible for the estimated support listed below. Additionally, if the HCP submitted a contract or service agreement with the form, the outcome of the contract review is included in this letter.

HCP Physical Location: 316 Ohmer Street, Bottineau, ND, 58318
Service Type: Ethernet
Bandwidth: 5 Mbps
Service Provider Name: South Dakota Network, LLC
Service Provider Identification Number (SPIN): 143002997
Billing Account Number: 001201

Funding Start Date	Funding End Date	Months of Support	Non-Recurring Support Amount	Monthly Recurring Support Amount	Total Support Amount	Contract Expiration Date
09-Jul-2013	09-May-2014	10.03226	\$0.00	\$1,085.83	\$10,893.33	22-May-2014

Note that the funding end date will coincide with the contract expiration date. Therefore, if the contract ends during this funding year, the HCP must participate in competitive bidding before selecting a new service provider (or continuing formerly contracted services on a month-to-month basis, or purchasing a term extension) to be eligible for funding for the entirety of the funding year.

It is the HCP's responsibility to review and verify that all information on this Funding Commitment Letter (FCL) is accurate. All account holders and the service provider listed on the form have received this FCL, and it is saved in the *My Documents* section of *My Portal*.

Contract/Service Agreement Endorsement Determination: Non-Evergreen/MTM
Non-evergreen (or month-to-month) service offering: If an HCP submits a service agreement that is not signed and dated, or if the type of service, the term, or location of service(s) are not specified, the service agreement will be designated as Non-evergreen, (month-to-month, tariffed service). The HCP must participate in competitive bidding (submit an FCC Form 465 and select the most cost-effective service and service provider) each funding year.

If, at any time, the funded services are not provided to the HCP, or the HCP is not otherwise receiving the approved funding, the HCP must notify RHC immediately.

The Billing Account Number, certifications, and all other information provided on FCC Forms 465, 466, 466-A, and 467 may be subject to audit by RHC and the FCC.¹ HCPs are subject to audits and other reviews that the RHC and/or the FCC may undertake to ensure that the universal service support is used in compliance with FCC program rules. If the funded service(s) are not used in compliance with program rules, program participants will be subject to enforcement activities and other means of recourse by RHC and other appropriate federal, state, and local authorities.

Next Steps:

Submit an FCC Form 467 (*Connection Certification*), which confirms receipt of the services for which funding has been approved, and the date on which the service provider began providing those services. Funding cannot be issued until this form is processed. To submit the FCC Form 467, go to the *My Forms* tab of *My Portal* and find the applicable Form 466 or Form 466-A and click on the "Create 467" button. Once the Form 467 is approved, the HCP and the service provider will receive a copy of the HCP Support Schedule (HSS). Receipt of the HSS means that the service provider must begin crediting the HCP for the funding amount (if it has not yet done so) and may begin to invoice USAC.

Appeals:

If you wish to appeal this decision, you may file an appeal with USAC. The appeal must be submitted to USAC within 60 days of the date of this letter. Detailed instructions for filing appeals are available at: <http://www.usac.org/rhc/about/program-integrity/appeals.aspx>. Parties seeking waivers of FCC rules can appeal directly to the FCC. See 47 CFR Sections 54.719 and 720.

Details about and definitions of all terms used in this FCL are provided on the RHC website (www.usac.org/rhc).

For questions assistance, contact the RHC Help Desk at 1-800-453-1546, or rhc-assist@usac.org.

¹ 47 C.F.R. 54.619(c).

Attachment D – Form 465 - St. Andrews

Note that in 2011, USAC did not have a way for multiple Form 465s to be posted from one HCP. So St. Andrews deposited its original Form 465, added a new section on 3/7/11, then waited another 28 days before selecting a vendor to the Avera e-care network. That was USAC's recommended procedure if HCPs wanted bids for service that might exceed what was originally posted.

FCC Form

Health Care Providers Universal Service

465

Description of Services Requested & Certification Form

OMB Approval
3060-0804

To be completed by Health Care Provider

Estimated Average Burden Hours Per Response: 1 hour

Read all instructions thoroughly before completing form. Failure to comply may cause delayed or denied funding

Form 465 Application Number (assigned by RHCD): 34173	
Block 1: HCP Location Information	
Information required in this block applies to the physical location of the HCP. Do not enter a "PO Box" or "Rural Route" address.	
1 HCP Number: 14311	2 Consortium Name: North Dakota Healthcare Association
3 HCP Name: St. Andrews Health Center	4 HCP FCC Registration Number (FCC RN): 0002478204
5 Contact Name: Jodi Atkinson	
6 Address Line 1: 316 Ohmer Street	
7 Address Line 2:	8 County: ND-Bottineau
9 City: Bottineau	10 State: ND 11 Zip Code: 58318
12 Phone #: 701-228-9300 13 Fax #: 701-228-9384 Ext.	14 E-mail: jodia@standrewshealth.com
MAD: 221	
Block 2: HCP Mailing Contact Information	
15 Is the HCP's mailing address (where correspondence should be sent) different from its physical location as described in Block 1? Yes, complete Block 2.	
16 Contact Name: Carla A Anderson	17 Organization: e-Copernicus
18 Address Line 1: 317 Massachusetts Avenue NE	
19 Address Line 2: Suite 300	
20 City: Washington	21 State: DC 22 Zip Code: 20002
23 Phone #: 202-498-6936 24 Fax #: 701-425-0455 Ext.	25 E-mail: carla@e-copernicus.com
Block 3: Funding Year Information	
26 Funding Year <input checked="" type="checkbox"/> Year 2010 (7/1/2010-6/30/2011) Year 2011 (7/1/2011-6/30/2012) Year 2012 (7/1/2012-6/30/2013)	
Block 4: Eligibility	
27 Only the following types of HCPs are eligible. Indicate which category describes the applicant (check only one). 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 Community mental health center <input checked="" type="checkbox"/> Not-for-profit hospital Rural health clinic	

Consortium of the above
 Dedicated emergency department of rural, for-profit hospital
 Part-time eligible entity

28 If Consortium, Dedicated emergency department, or Part-time eligible entity was selected in Line 27, please describe the entity.

Not Applicable

29 Please describe the eligible health care provider's telecommunications and/or Internet service needs, so that service providers may bid to provide the services. The description should describe whether video or store and forward consultations will be used, whether large image files or X-rays will be transmitted, the quality of connection needed, or other relevant considerations.

NEW POSTING: (3/7/2011) Telecommunications and Internet services for medical purposes. Point to point to remote locations, point to point to Avera's ECARE network, Ethernet connection to Avera's MLS network, transfer images to remote locations, medical billing, private connect with QOS, bandwidth for general Internet connectivity, data circuits for sending and receiving medical billing info, files and/or images to and from remote locations, medical administration & telemedicine. Redundant circuit. Email all bid information requests to Jodi Atkinson at jodia@standrewshealth.com. OLD POSTING: (Web Post on 4/27/2010 HCP-E) ATM Service - QOS Required - Telemedicine Services

Block 5: Request for Services

30 Is the HCP requesting reduced rates for:
Both Telecommunications & Internet Services

Block 6: Certification

31 I certify that I am authorized to submit this request on behalf of the above-named entity or entities, that I have examined this request, and that to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

32 I certify that the health care provider has followed any applicable State or local procurement rules.

33 I certify that the telecommunications services that the HCP receives at reduced rates as a result of the HCP's participation in this program, pursuant to 47 U.S.C. Sec. 254 as implemented by the Federal Communications Commission, will be used solely for purposes reasonably related to the provision of health care service or instruction that the HCP is legally authorized to provide under the law of the state in which the services are provided and will not be sold, resold, or transferred in consideration for money or any other thing of value.

34 I certify that the health care provider is a non-profit or public entity.

35 I certify that the health care provider is located in a rural area. Visit the RHCD web site (www.rhc.universalservice.org/eligibility/ruralareas.asp) or contact RHCD at 1-800-229-5476 for a listing of the rural areas.

36 Pursuant to 47 C.F.R. Secs. 54.601 and 54.603, I certify that the HCP or consortium that I am representing satisfies all of the requirements herein and will abide by all of the relevant requirements, including all applicable FCC rules, with respect to funding provided under 47 U.S.C. Sec. 254.

37 Signature	38 Date
39 Printed name of authorized person (First name, MI, Last name) Carla A Anderson	40 Title or position of authorized person SVP/COO
41 Employer of authorized person e-Copernicus	42 Employer's FCC RN 0014236301

Attachment E – USAC Inquiry

-----Original Message-----

From: rhc-donotreply@usac.org [mailto:rhc-donotreply@usac.org]

Sent: Tuesday, December 02, 2014 2:40 PM

To: Gregory Rohde; Bill England; Carla; jodia@standrewshealth.com

Subject: RHC FCC Form 466 for HCP 14311 - immediate ACTION REQUIRED to process

Health Care Provider (HCP) Name: St. Andrews Health Center

HCP Number: 14311

FCC Form 465 Application Number: 43136541

Funding Request Number: 1348695

Service Type: Ethernet

Funding Year: 2013

The Rural Health Care (RHC) division of the Universal Service Administrative Company (USAC) has received the FCC Form 466 submitted by the HCP referenced above. However, RHC cannot process the form without information for FRN 1348695. To view and respond to the request for information, log into My Portal (<https://rhc.usac.org/rhc/>), go to Information Requested on the My Documents tab, and click on the "Request Type" hyperlink. Click on "Submit Response" to submit the information requested. Any account holder will be able to respond to an Information Request; once it has been completed, the request is removed from the Information Requests section and the information provided will be saved to your My Documents folder.

The information requested is required to process the above referenced form, and must be submitted to RHC within two weeks of the date of this notification or the HCP will risk losing funding.

Explanation

Request Type

Other Change

Deadline 12/12/2014

Requested information. FRN 1348695 Is this the MTM FRN for the circuit for after the contract in FRN 1348541 expires? Please confirm. If it is then we need to modify the funding start date to coincide with the contract expiration date.

FRN 1348695 is post contract. There was no break in service and should be no break in support. What date modification is needed?

Because inquiry emails do not explain the issue or allow reply, HCPs must log into USAC within 14 days and reply within 10 minutes or the window closes, even while typing. All replies now require an attachment, even if not relevant. This is a substantial burden for an unnecessary question caused by the dual filing requirement. In this case, the dates were thought to be correct as filed (the change was not explained), but it is easy to omit or overlap a day in sequential requests.

Attachment F – Selection of Form 465

MY CONTRACTS HCP Name: First Care Health Center HCP Number: 14314

MY CONTRACTS

Evergreen Contracts

Contract ID	Contract Name	Contract Number	Contract Type	Contract Start Date	Contract End Date	Select Circuits
14314 Midco 5M Feb12-Feb15	Midcontinent Communications	143001179	734871	Feb 8, 2012	Feb 7, 2015	Select Circuits

Non-evergreen Contracts (month-to-month)

There are no Non-evergreen contracts available.

Failed Contracts

There are no Failed contracts available.

Archived Contracts

There are no Archived contracts available.

Contract selection menu shows evergreen contract, now expired.

MY CONTRACTS HCP Name: First Care Health Center HCP Number: 14314

Year	Form 465 Number	Form 466 Number	Contract Name	Contract Number	Contract Type	Contract Speed	Create 2014 466	Create 2015 466
2014	14610331	466	Midcontinent Communications	143001179	Ethernet	5 Mbps	Create 2014 466	Create 2015 466

The non-editable Form 465 number on a Form 466 can only be populated from a pre-reviewed contract, while the 2013 Form 465 for a contract that expired in FY14 is allowed for 2015 forms, which seems inconsistent with Commission policy.

FCC Form 466 (Funding Request and Certification Form) Approved by OMB
3060-0804

The deadline to submit this form for Funding Year 2015 is June 30, 2016. [Preview form](#) [Instructions](#)

Read [instructions](#) thoroughly before completing this form. Failure to comply may cause delayed or denied funding.

Click on the instructions button on each screen for line-by-line instructions.

466 Funding Request Information

466 Funding Request Number (FRN) (The FRN is generated by RHC)

466 Friendly Name

Block 1: HCP Information

Line 1: HCP Name Line 2: HCP Number

Line 3: FCC Form 465 Application Number Line 4: Consortium Name (if any)

Block 2: Bill Payer Information

RHC Note: If you have another Form 466/466A for this Funding Year, and the info in Block 2 is the same for both Forms, you can populate Lines 5 - 15 below by selecting 'Yes' here, then selecting the applicable Form's Friendly Name/FRN from the drop down list.

Copy Block 2 From Other 466/466A No Yes

Line 5: Billed Entity Name