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Robert Haga
Secretary & Treasurer
rhaga@universalservice.org

May 14, 1999

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, D.C. 20554

RE: Filing of the Rural Health Care Evaluation Report in Response the Public Notice (**CC Docket Nos. 96-45 and 97-21**)

Dear Ms. Salas:

The Universal Service Administrative Company (USAC), submitted revised administrative expenses for the rural health care support mechanism and an evaluation of the program on March 5 of this year (Report).[1] The Report focused on the opportunities for improvement in the administration of the Rural Health Care program, including proposals for reducing administrative costs, and forecasts anticipated demand for the program, consistent with the Commission's December 4, 1998 Public Notice and November 20, 1998 Order.[2] In compliance with the requirements in the Commission Public Notice, the report provided: 1) Recommendations for reducing the administrative expense associated with the rural health care support mechanism to an amount that is commensurate with the size of the support mechanism; 2) An evaluation of ways to improve opportunities for eligible rural health care providers to take advantage of the support mechanism; and 3) An evaluation of anticipated demand for 1998 and 1999.

We write to update you on several administrative and operational issues mentioned in the Report as being issues that were in the process of resolution when the Report was submitted. In addition, we hope to highlight the concept of extending the funding for current applicants past June 30, 1999, and the increased administrative cost associated with delaying a decision on that issue past May 31, 1999. These issues, that we have now resolved, are critical to completing the review of those applications and to issuing funding commitment letters. We have resolved these issues consistent with the rules as they exist today. If the Commission makes changes to the rules, we will have to adjust our

[1] Proposed First Quarter 1999 Universal Service Contribution Factors and Proposed Actions, *Public Notice* (Dec. 4, 1998).

[2] Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service, *Third Report and Order and Fourth Order on Reconsideration and Eighth Order on Reconsideration*, CC Docket Nos. 97-21 and 96-45, FCC 98-306, released on November 20, 1998 at ¶ 61 ("FCC Order").

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systems to recalculate and adjust commitments. The time and money necessary to revise the commitments would affect the budget numbers filed in the Report and adjusted in the Third Quarter 1999 Filing on April 28, 1999.

Based on the guidance provided herein our Forms Processing Team expects to issue the first wave of funding commitments around June 1 of this year, assuming the FCC is confident that appropriate internal controls are in place.

Extension of Funding Cycle

Included in the Report was the concept of continuing the current application and funding cycle for six to twelve months to allow time to implement any changes to the program. We hope the Commission can consider this issue quickly as it has significant operational impact in both time and money. As we expect to complete the pre-commitment audit work shortly, we have an opportunity to save significant system redesign and implementation time if we know the length of the commitment period before issuing commitment letters.

As agreed by the FCC and RHCC in December 1998, the second application period began March 1, 1999, and we have received 162 Form 465s through April 30, 1999, for this cycle. Forms come in at a rate of about 20 per week. We hope the Commission will provide guidance on how to process these applications in any decision on the funding term.

All estimates show that this program will not exceed its $100 million funding authorization for year one, whether or not the year is extended. Accordingly we have requested that most of the funds be returned to carriers through lower contribution factors. We believe that any extension would not harm health care providers that have already applied to the program, and we recommend that we continue to process new Form 465s until three months remain in the funding period. We understand the Commission's processes take time, however, we hope that the Commission can provide certainty on the funding term to lessen the administrative workload for USAC, carriers, and rural health care providers.

Third Party Billing

As noted on page 21 of the report, RHCD and Commission staff have been discussing how to deal with eligible health care providers who receive telecommunications services at one site and have the bill sent to another site or another entity for payment. We believe current processes permit and are capable of ensuring that the universal service support provides a benefit to the eligible rural health care provider.

Federal agency officials involved in telehealth grants have sought to explain how third party arrangements are a common and administratively efficient arrangement for Federal telehealth

grantees. Recently they reviewed for Commission staff, the references to consortia arrangements in the Universal Service Order and other Commission publications.

While it has been suggested that the Universal Service Order precluded third party billing arrangements, that is clearly not the case. The primary consideration of the Commission concerning consortium arrangements is to prevent ineligible parties from benefiting from universal service support. The Telecommunications Act and the Commission's Order clearly provide for consortia applications and base eligibility on being rural, non-profit, and one of the listed health care provider types. The issue of whether an eligible RHCP can get another entity or grant to pay for its telecommunications costs is not a consideration.

RHCPs will receive the full benefit of any services supported by this program, either by having a direct point-to-point connection to a third party health care provider that provides consultations, or by having a dialable service to connect to the consultant of their choice. If the consulting health care provider pays for the service, we will only credit that bill upon attestation on Form 467 by the eligible rural health care provider. In addition, the telecommunications carrier must certify on Form 468 that it will maintain complete records on the allocation of shared facilities of consortia. Finally, we will conduct a random examination of applicants post-commitment to ensure support was used for the benefit of the eligible health care provider.

Because we cannot know based on the information currently collected on the forms, whether we are issuing funding commitment letters to consortia applicants who do not pay their own bill, we do not plan to mention the third party billing issue when we issue letters. We plan to include guidance in the commitment letter that Form 467 must be signed by the eligible RHCP, and that we will reject Form 467s not signed by the eligible RHCP. We expect to begin issuing letters shortly after the Chairman reviews and accepts the USAC/RHCD pre-disbursement audit.. We would appreciate receiving any additional guidance on third party billing before the Chairman's acceptance of the audit.

Existing Contract / Tariff

We have reviewed with Commission staff, the criteria to use to distinguish existing RHCP telecommunications contracts, from services received under tariff. Our criteria are identical to those used by the Schools and Libraries Division. The requirements include a written document signed by both parties with a valid contract award date, and with sufficient terms of service. Agreements that do not meet these standards for an existing contract must comply with the competitive bidding requirements established by the Commission. Service received through the competitive bidding requirements need not be through a written contract.

Using these criteria, we estimate that only fifteen percent instead of eighty-five percent of the applicants will receive support for service before the application posting date. We will award approximately $100,000 in incremental support for 1998, rather than the $1,000,000 estimated in the March 5 Report.

Per-Location-Funding-Limit (PLFL)

As discussed on page 21 of the report, calculation of the PLFL for each applicant to this program has taken a significant amount of effort by carriers and RHCD staff. Recently we examined whether we could dispense with calculation of the PLFL for single service applicants. However, we believe we cannot as the Commission's Order states, "...a rural health care provider could request one or more (emphasis added) ISDN connections to an urban health care provider in the nearest large city, so long as the total amount of support for all the requested services does not exceed the amount that would have been necessary to support the most cost-effective service with a bandwidth capacity of 1.544 Mbps connecting the rural health care provider to the farthest point on the jurisdictional boundary of the nearest large city." Use of the term "one or more" indicates we must calculate the PLFL for a single service.

Unfortunately, carriers filling out Form 468 typically calculate the PLFL using the actual circuit distance rather than the maximum allowable distance (MAD), as specified in the Form 468 instructions. If the circuit distance is very short or zero (for some services, the metered circuit distance may be zero or only to the carrier's nearest office), the PLFL may appear very small. To recalculate the PLFL using the MAD, we must contact carriers to determine what a hypothetical T-1 to the MAD would cost. This may be complicated as the carrier may not offer a T-1 circuit and/or does not know the rate beyond their territory. We must then go to additional carriers in the state to complete the calculation. We had hoped to not need to calculate the PLFL for single service applicants (about 90% of the completed packets), since we have never found an instance where a single service exceeds the PLFL.

To make sure health care providers and carriers comply with program requirements we will continue to calculate the PLFL for all applicants. However, to simplify the process we will use the circuit distance rather than the MAD, if the circuit distance is less than the MAD and if rate elements for such a calculation are readily available. For applicants for whom the service applied for fails the PLFL based on circuit distance, we will then recalculate the PLFL using the MAD to be sure the applicant gets the full benefit to which they are entitled.

The Alaska Reimbursement Timing Problem

As explained on page 20 of the report, LECs in Alaska have reservations about participating in the "Alaska Solution" by which the LEC resells services from a non-ETC. (The Alaska solution is the plan recommended by the Alaska PUC in December 1997 and endorsed by the FCC in September 1998, to meet Alaska's problem that LECs do not have facilities to offer advanced telecommunications services as supported by this program.) Their reservation is that the LEC must pay the non-ETC for the service each month, but USAC would not settle with LECs who issued credits that exceeded their contribution to the Universal Service Fund, until after the fourth quarter contributions were known, since until then the carrier's annual contribution may change. For small LECs, this could result in $100,000+ cash flow shortfalls during the year.

The USAC Board at its recent meeting revised our internal procedures, consistent with the rules, to address this concern. The revised calculation of carriers' annual contribution obligation should allow USAC to pay support to carriers earlier in the calendar year. For each carrier requesting such remittance, USAC will calculate its annual contribution obligation based on the current FCC quarterly contribution rate annualized for the remaining quarters of the current fund year. Once the projected USF contribution obligation for the remainder of the year has been collected, USAC will process all program support in excess of the projected annual contribution obligation as a direct reimbursement to the respective ETC. As ETCs may net for both the rural health care and schools and libraries fund, we believe that this will minimize any cash flow problems for the carriers. We believe this is the maximum we can do under the statute and the rules with respect to this issue.

We appreciate this opportunity to update you on progress made on issues presented in our March 5 Report. As outlined in the resolutions documented here, we will begin issuing funding commitment letters shortly after the Chairman accepts the pre-disbursement audit later this month.

In accordance with Commission rules I am submitting two copies of this notice to the Office of the Secretary in each docket. Please acknowledge receipt hereof by affixing a notation on a duplicate copy of this letter furnished herewith for such purposes and remitting same to the bearer.

Sincerely,

Robert Haga

cc: Irene Flannery
Linda Armstrong
Tom Power
Linda Kinney
Kevin Martin
Kyle Dixon
Sarah Whitesell