



## **Income Based Eligibility**

At Paragraph 15 of its *Recommended Decision*, the Federal-State Joint Board on Universal Service (Joint Board) recommended the addition of an income-based standard to the current default federal eligibility criteria. Specifically, the Joint Board recommended that a consumer be eligible for Lifeline/Link-Up when the consumer's income is at, or below 135% of the Federal Poverty Guidelines (FPG). *Recommended Decision* at ¶ 15. The Joint Board found that adding an income-based criterion of 135% of the FPG would increase low-income participation in Lifeline/Link-Up programs. *Id.* However, the Joint Board also recognized that the *Public Notice* in this proceeding did not include a specific FPG proposal, and recommended that the Commission seek additional comment on whether 135% of the FPG is appropriate or whether a different FPG level should be used for the federal default eligibility criteria. *Recommended Decision* at ¶ 17.

Commissioner Wilson agrees with those commenters who support expansion of the universal service programs by instituting an income-based stand-alone requirement for subscriber eligibility. National Association of State Utility Consumer Advocates (NASUCA) Comments at pp. 6-14; Public Utilities Commission of Ohio (PUCO) Comments at pp. 4-5; BellSouth Comments at pp.3-4. Commissioner Wilson specifically supports the use of the 150% FPG, instead of the 135% FPG as proposed by the Joint State Board, because the criteria closely follows guidelines already in use in Pennsylvania for LIHEAP and other income support programs. See also, PUCO Comments at p. 6, NASUCA Comments at pp. 8-14; ACORN Comments at pp. 2-3; Texas Office of Public Utility Counsel Comments at pp. 5-6, Public Utility Commission of Ohio Comments at p.9; U.S. Conference of Catholic Bishops *et al.* Comments at pp. 3-4. Commissioner Wilson recognizes that every consumer whose income is at or below the federal poverty level may not want to participate in these income support programs. However, individuals within 150% of poverty that seek to use this income support

programs should be given that opportunity. Any Pennsylvanian who meets the 150% of poverty criteria, and approximately 20% of all Pennsylvanians – mostly residents of rural and urban Pennsylvania, should decide whether to participate. Commissioner Wilson believes that satisfying the FPG income requirement, in and of itself, should be sufficient to be deemed eligible to participate in a Lifeline or Link Up program.

The use of the 150% FPG criteria enables the working poor and the elderly retired<sup>1</sup> to participate in the program, and is, in fact, the identical income requirement for participation in LIHEAP and the Food Stamp program, programs that are already the basis for eligibility to participate in Lifeline programs. Consumer's Coalition Comments at p. 2.

Moreover, Pennsylvania has already adopted a standard of 150% of the federal poverty guidelines for other program.<sup>2</sup> The use of a 135% of Poverty Guideline will be more administratively burdensome and costs for administering Lifeline Service. If, however, the Commission determines that 135% FPG should be adopted as the standard for income-based eligibility, Commissioner Wilson believes that states such as Pennsylvania that already use the 150% FPG should be permitted to use the 150% FPG for eligibility for this income support program.

Commissioner Wilson believes that this accommodation is best accomplished either by conferring grandfather status on existing programs or by permitting the individual states to determine the percentage FPG that will be used to govern income

---

<sup>1</sup>It is worth noting that Pennsylvania has one of the nation's largest elderly and rural populations of any state in the Union. Consequently, the Commission's utilization of the 150% of Poverty guideline will streamline income support to elderly and rural Pennsylvanians as well as urban Pennsylvania.

<sup>1</sup> The Lifeline 150 program adopted by the PaPUC in September 1999, expanded eligibility for support to all subscribers with incomes at, or below 150% of the federal poverty level. This program does not include state-mandated support. Eligible customers must have incomes at, or below 150% of the FPG and participate in one of the following programs : General Assistance, Supplementary Security Income, Temporary Assistance for Needy Families, Food Stamps, Low Income Home Energy Assistance Program, Medicaid, Federal Public Housing Assistance or State Blind Pension.

based-eligibility for Lifeline/Link-up Programs so long as the percentage is not less than the federal FPG.<sup>3</sup>

### **Expansion of Program-Based Eligibility**

The Joint Board recommended adding two additional assistance programs to the current list of default federal eligibility criteria. *Recommended Decision* at ¶ 20. Specifically, the Joint Board recommended that the Commission add the Temporary Assistance to Needy Families program (TANF)<sup>4</sup> and the National School Lunch free lunch program (NSL). The Joint Board believed that these programs would help to capture more low-income individuals and would increase telephone subscription among low-income households. *Id.*

Commissioner Wilson supports the comments advocating the inclusion of the National School Lunch Program (NSLP) as a program in which participation would be deemed sufficient to meet the eligibility for subscription to universal service programs.<sup>5</sup> It is noted that commenters have raised concerns that a child's eligibility for the NSLP may be used to qualify more than one household for Lifeline Service.

Commissioner Wilson does not view this as a concern sufficient to justify exclusion of this criterion. This inclusive criterion will enhance participation in this income support program and, by promoting communications among households with children meeting the 150% FPG, thereby increase family interaction and communication

---

<sup>3</sup> A suggestion to leave determination of percentage of FPG for program eligibility to the states was proposed by the Oklahoma Corporation Commission in its comments at p. 2. Bell South also asserted this position in its comments at p. 3.

<sup>4</sup> TANF replaced the Aid to Families with Dependent Children program (AFDC). TANF is codified at 42 U.S.C. §§ 600 *et seq.*

<sup>5</sup> Those commenters supporting the addition of these programs as program -based eligibility criteria include the Oklahoma Corporation Commission Comments at p. 3; Consumer's Coalition Comments at pp. 2; National Consumer Law Center Comments at pp. 3-5; Tribal Telecom Outreach Comments at p. 1; and the U.S. Conference of Catholic Bishops, *et al.* Comments at pp. 8-9.

for educational purposes.<sup>6</sup> whose shared interest would presumably be promoting the welfare of the child.

Participation in TANF is currently used as a basis for eligibility in Pennsylvania's Lifeline programs. Accordingly, Commissioner Wilson supports the continued use of TANF as an eligibility criterion for Lifeline service as well.

### **Dispute/Appeal Process**

At Paragraph 29 of its *Recommended Decision*, the Joint Board recommended that the Commission adopt a federal rule that requires carriers to notify consumers of their impending termination of Lifeline benefits and to implement an appeals process. The Joint Board suggested a period of 60 days notice.

Commissioner Wilson believes that a 60-day notice of termination is sufficient under Pennsylvania law to allow the customer to begin the process to dispute the termination of Lifeline service, based on change in eligibility, or for other reasons. Under our regulations, a carrier is required to provide at least 7 days notice before the date of proposed suspension of telephone service. *See* 52 Pa. Code § 64.71.

At Paragraphs 29 and 30 of the *Recommended Decision*, the Joint Board recommended that the Commission obtain more information about how an appeal process might work and the appropriate time period for the appeal process. The Joint Board states that it wishes to balance the needs of Lifeline recipients with the administrative burden that an appeals process may impose on carriers. The Joint Board recommended an appeals process be used only in circumstances where the carrier has initiated termination of benefits, and that an appeal process is not necessary where the recipient himself has notified the carrier that he is no longer eligible.

Commissioner Wilson does not see the need for an appeals process to be established specifically for Lifeline/Link-up programs in states that already have extensive dispute and appeal processes. Pennsylvania carriers would treat an appeal

---

<sup>6</sup>Commissioner Wilson's ~~My~~ experience in thirty or more years of education reinforces the view that family communication and interaction with educators is critical to a child's educational success. Income support programs

regarding termination of Lifeline service as a "dispute"<sup>7</sup> and would follow the PaPUC procedural rules regarding the resolution of disputes at 52 Pa. Code §§ 64.131 - 64.134; and §§ 64.141 - 142. Termination of service is stayed pending resolution of the dispute. 52 Pa. Code § 64.133.

If the customer is dissatisfied with the carrier's resolution of the dispute, the customer can file an informal complaint,<sup>8</sup> or formal complaint<sup>9</sup> with the PAPUC and pursue that complaint to hearing before the Office of Administrative Law Judge (OALJ), and appeal to the PAPUC through exceptions filed to the OALJ's decision. *See* 52 Pa. Code § 3.111 - 3.113; §§ 5.1, *et seq.*; §§ 64.131 - 1.71.

These established administrative procedures ensure procedural due process for Pennsylvania Lifeline subscribers and the carriers, and expeditious resolution of any disputes or complaints. Therefore, Commissioner Wilson believes that the imposition of a special process for appeal of adverse eligibility decisions regarding Lifeline service is not only unnecessary, but also would result customer confusion, and undoubtedly, additional expense for the carrier.<sup>10</sup> Accordingly, Commissioner Wilson believes that the establishment of appeal process for the termination of Lifeline benefits should be left to the states.

## **Verification of Eligibility for Enrollment**

The Joint Board did not recommend modifying the current certification procedures for enrollment using program-based eligibility. The Joint Board believed that the

---

that seek to foster this interaction by including children falling within 150% FPG should be supported.

<sup>7</sup> A "dispute" is defined at 52 Pa. Code § 64.1 as "a grievance of an applicant, customer or customer's designee about a utility's application of one or more provisions covered by this chapter, including credit determinations, deposit requirements, the accuracy of amounts billed or the proper party to be charged, which remains unresolved after the initial contact or utility follow-up response when the applicant, customer or customer's designee consents to the utility reviewing pertinent records or other information and calling back.

<sup>8</sup> The timely filing of an informal complaint acts as a limited stay and the LEC may not suspend or terminate service until the complaint, including one involving universal service eligibility, is resolved. *See* 52 Pa. Code § 64.153(a).

<sup>9</sup> The timely filing of a formal complaint acts as a limited stay and the LEC may not suspend or terminate service until a complaint, including one involving universal service eligibility, is resolved. 52 Pa. Code § 64.161(b).

<sup>10</sup> In its comments at pp. 5-6, Dobson Communications Corporation expressed concern with the costs involved in a carrier appeal process.

Commission should continue to require self-certification, under penalty of perjury, as the federal default rule, while allowing states the necessary flexibility to require more strict measures for certification as they deem appropriate. The Joint Board did recommend, however, that consumers eligible for federal or state Lifeline/Link-Up support under an income-based criterion should be required to present documentation of income eligibility prior to being enrolled in the program. *Recommended Decision* at ¶¶32, 33. The Joint Board was concerned that there may be a greater potential for fraud and abuse when an individual self-certifies his/her income eligibility than there appears to be when an individual is enrolled in a qualifying program because program enrollment is more easily verified. Accordingly, the Joint Board recommended that the Commission require all states, including states that use the federal default criteria, to adopt certification procedures to document income-based eligibility for Lifeline/Link-Up enrollment in order for the carriers in that state to continue to receive federal Lifeline/Link-Up support. *Recommended Decision* at ¶ 34.

Commissioner Wilson does not believe that additional verification criteria are needed for this income support program. That is because, in Pennsylvania, most companies already use the Pennsylvania Department of Public Welfare's data base to verify eligibility for program-based enrollment. *See Verizon Petition for Waiver of § 54.409(b) for Lifeline 150*, Dec. 26, 2002, FCC 96-45. Verizon North and Verizon Pennsylvania (Verizon PA) also utilize available data bases from the Pennsylvania Department of Revenue (DOR) to verify income tax forms for their income-based universal service subscribers.<sup>11</sup> Consequently, the administrative burden of producing additional documentation for a small class of eligible persons not otherwise listed on Public Welfare or Revenue department databases will increase costs when the problem of

---

<sup>11</sup> Prior to 1999, Pennsylvania's Lifeline program targeted those customers who had incomes at or below 100% of the federal poverty guidelines, who received Supplemental Security Income or who participated in certain Pennsylvania Department of Welfare programs. All companies except Verizon PA f/k/a Bell Atlantic PA were directed to discontinue the former Lifeline program and implement the Lifeline 150 program. As a result of the Commission's order addressing the merger of Bell Atlantic PA and GTE North, Verizon North f/k/a GTE North is also required to offer Lifeline Service under the same terms and conditions as Verizon PA.

verification for that smaller group can be more effectively addressed by audits and random verification.

### **Verification of Continued Eligibility**

For verification of customer eligibility to continue participation in universal service programs, the Joint Board suggested that states could access the documentation via an online database, if available in that state, or could require consumers to provide one or more forms of documentation from the following list: a tax return from the prior year, a current income statement from an employer or a paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an Unemployment/Workmen's Compensation statement of benefits, a divorce decree or child support document, or other official governmental agency documents. *Recommended Decision* at ¶35.

The Joint Board also suggested that states that choose to include these types of documentation as acceptable forms of proof of income-eligibility should additionally require consumers to certify, under penalty of perjury, that the income identified for eligibility purposes includes all income currently being received by all members of the consumer's household. *Id.*

Finally, the Joint Board also recommended that all states, including states that use the federal default criteria, require Lifeline/Link-Up consumers that are qualifying under the income criteria to self-certify, under penalty of perjury, the number of individuals in their household. *Recommended Decision* at ¶ 37. The Joint Board also indicates that, in addition to documentation, random auditing can also be used as an effective method of certifying income eligibility. *Id.*

Commissioner Wilson believes that a requirement to provide paper documentation to prove continuing customer income eligibility may be burdensome for both the customer and the carrier, whether the documentation is requested on a periodic basis or a random basis. Accordingly, Commissioner Wilson believes that the use of existing databases, such as the Public Welfare and Revenue databases currently used by carriers,

is sufficient and that any problem with verification of those not otherwise listed in these databases is more effectively resolved by self-certification subject to audit and random verification. Comments of Dobson Communications Corporation's Comments at pp. 3-4; National Law Center Comments at p. 7; and NASUCA Comments at pp. 20-21.

Commissioner Wilson also agrees with the comments of the Oklahoma Corporations Commission at p. 3 that if the income-based criterion for eligibility is met, then the number of household members is immaterial. Moreover, Commissioner Wilson would add that the combined income of the household is likewise immaterial on the eligibility of the applicant precisely because the income of ineligible household members may or may not automatically be available to the person in the household who is actually applying and needs Lifeline Service.

Commissioner Wilson also has concerns about customer privacy in regard to the Joint Board's recommendation for the random auditing of social program for continued universal service eligibility. With the passage of the Health Insurance Portability and Accountability Act of 1996,<sup>12</sup> carriers may need to obtain individual waivers from customers in order to access information about customer participation in certain welfare programs that are used as criteria for universal service eligibility. Furthermore, carriers will be liable for misuse of that information, and most likely would not want to take on that responsibility. *See also* 45 CFR Parts 160 and 164 (relating to standards for privacy of individually identifiable health information).

Commissioner Wilson believes that random audits and verification can be used if the applicant is provided advance notice of the potential for audit and verification and if the consumer is then empowered to make a personal decision about the use of this income support option.

### **Automatic Enrollment**

The Joint Board recommended that the Commission encourage all states, including states that use the federal default criteria, to adopt automatic enrollment as a

---

<sup>12</sup> P.L. 104-191, August 21, 1996, 110 Stat. 1936.

means of certifying that consumers are eligible for Lifeline/Link-Up and also to encourage enrollment in Lifeline/Link-Up. *Recommended Decision* at ¶ 38. According to the Recommended Decision, automatic enrollment is an electronic interface between a state agency and the carrier that allows low-income individuals to automatically enroll in Lifeline/Link-Up following enrollment in a qualifying public assistance program. *Id.*

The Joint Board believed that states who wish to implement automatic enrollment procedures should follow the lead of other states with similar procedures in place. *Recommended Decision* at ¶39. The Joint Board stated that public assistance enrollment data should be treated in a confidential manner to alleviate any privacy concerns. *Id.* In addition, the Joint Board stated that consumers should have the opportunity to decline enrollment in Lifeline/Link-Up if they choose. *Id.*

Commissioner Wilson notes that Joint Board has recommended only that the Commission encourage, and not mandate states to adopt automatic enrollment. The Commissioner Wilson agrees with that approach. However, in its comments, NASUCA advocates that the Commission adopt automatic enrollment as a requirement for the federally funded Lifeline program, subject to waiver upon request of individual state commissions. NASUCA Comments at pp. 14-18. Other commenters supporting automatic enrollment include ACORN Comments at pp. 2-3, and Texas Office of Public Counsel Comments at p. 6, and the U. S. Conference of Catholic Bishops *et al.* Comments at p. 3.

Automatic enrollment may be a problem under Pennsylvania law because, in Pennsylvania, adding or a changing a consumer's telecommunications service(s), without the customer's permission would constitute cramming, i.e., the inclusion of unauthorized services . 52 Pa. Code § §64.2.

Commissioner Wilson does not believe that the ability of the customer to opt out of the service at a later date cures the potential illegality of changing a customer's service without his/her authorization. The unauthorized change in service, even if it is to enroll a customer in a universal service program, might constitute cramming under Pennsylvania law.

Consequently, advance notice of the possibility of audit and a consumer's affirmative decision to choose this income support option will alleviate any disclosure or privacy concerns.

## **OUTREACH**

The Joint Board recommended that the Commission provide outreach guidelines to states and carriers to improve Lifeline/Link-Up subscribership. *Recommended Decision* at ¶ 50. The Joint Board also believed the Commission should not require specific outreach procedures, but should instead provide guidelines for states and carriers so that they can adopt their own specific standards and engage in outreach themselves. *Id.* The guidelines would provide states and carriers with examples of how to reach those likely to qualify, but would still allow states and carriers to retain authority to determine the most appropriate outreach mechanisms for their consumers. *Id.* Specifically, the Joint Board recommended that:

- (1) states and carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service;
- (2) states and carriers should develop outreach advertising that can be read or accessed by any sizeable non-English speaking populations within the carrier's service area; and
- (3) states and carriers should coordinate their outreach efforts with governmental agencies/tribes that administer any of the relevant government assistance programs. These guidelines are described in detail in the paragraphs below. An appendix compiling state practices is also included in this document. State practices include establishing marketing boards to devise outreach materials, providing multi-lingual customer support, and implementing innovative tribal outreach practices.

*Recommended Decision* at ¶ 51(appendix omitted).

The Joint Board also recommended that the Commission encourage states to establish partnerships with other state agencies and telephone companies in order to maximize public awareness and participation in the Lifeline/Link-Up program. *Recommended Decision* at ¶ 50.

Commissioner Wilson believes that outreach using media and institutions is very necessary to provide the benefits of universal service to the maximum number of eligible customers possible. Commissioner Wilson also believes that the Commission could consider requiring any carrier to inform a prospective customer of the availability of this income support program as an integral part of their customer service interaction with a prospective customer *provided* the customer is advised that it is the customer's decision, that the participant may be subject to random auditing or verification, and that the decision and information will be kept confidential in the absence of fraud.

Pennsylvania is a state where telephone subscribership already is very high. Consequently, it is extremely important to reach those individuals who are unaware of the availability of financial assistance to access telecommunications services. Accordingly, Commissioner Wilson supports the Joint Board for providing leadership in this important area and agrees with the Joint Board's comments in regard to outreach.

Respectfully submitted,  
Pennsylvania Public Utility Commission

---

Joseph K. Witmer, Esq.  
Counsel to Commissioner Wilson

Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 787-3464

Dated: September 2, 2003