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Submitted via:

Federal Communications Commission
Office of the Secretary

The Honorable Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: WC Docket No. 02-60 – August 9, 2010 Federal Register Notice of Proposed Rulemaking;
Rural Health Care Universal Service Support Mechanism

We are a collaborative group of organizations working together to advance the development, adoption, and use of electronic health records among those providing long term and post acute care (LTPAC). We are pleased to offer comment on the Federal Communications Commission Notice of Proposed Rule Making on Rural Health Care Universal Service Support Mechanism.

We applaud your effort to expand the use of broadband to improve the quality and delivery of health care to those receiving services in skilled nursing facilities. However, we encourage the FCC to do the following:

1. Expand the definition of eligible health care providers to include all long-term and post-acute care providers, including home health care providers;
2. Eliminate the minimum level of broadband capability requirement; and
3. Permit all certified Medicare and/or Medicaid facilities providing skilled nursing services to be eligible health care providers.

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List A B C D E

Expand the Definition of Eligible Health Care Providers to Include All Long Term and Post Acute Care Providers

I. Introduction (3) Eligible Health Care Providers

Long-term and post-acute care (LTPAC) involves care provided in skilled nursing facilities, nursing facilities, assisted living facilities, home health agencies and other settings. LTPAC patients and residents often have multiple chronic conditions and co-morbidities that require the coordination of numerous providers, who prescribe multiple medications and diagnostic tests. This population is also known to transition frequently between different care settings, sometimes moving back and forth between different levels of care and care settings such as nursing homes and hospitals.

LTPAC providers have been early adopters of health information technology, and they employ the use of e-practice management systems, electronic health records, point of care systems, remote monitoring systems and telehealth. They would benefit greatly from increased broadband capacity and universal service support. Almost 100% of nursing homes and home health agencies have electronic billing and electronic reporting of federally-required health and functional status assessments (i.e., the MDS and OASIS). These assessment requirements have enabled more than 20% of nursing facilities and more than 65% of home health agencies to implement electronic information systems functionalities equivalent to an Electronic Health Record (including physician orders, medication orders/drug dispensing, and laboratory procedures/information).

Home health agencies also function as repositories for clinical information collected from remote monitoring devices that are employed into rural communities to collect vital clinical data on home-bound patients that is shared with primary care doctors and chronic disease specialists. Home health agencies also employ the use of telehealth devices to connect with patients in rural areas with primary care doctors and skilled nursing professionals in acute-care hospitals, rural trauma centers and physician offices. All of the examples mentioned above require broadband connectivity.

In many rural areas of the country, the only health care providers that are available to offer medical care are home health care nurses. It is important for all rural health care providers to be able to share clinical data and coordinate care amongst institutional and non-institutional care settings.

To meet nationally stated goals for improving quality and delivery of health care, and achieving meaningful use, ALL long-term and post-acute care providers should have equal access to broadband capabilities. Effective electronic health information exchange with LTPAC providers reduces hospital readmissions and medical errors, improves quality, supports the continuity of care, and reduces costs, resulting in higher quality of care and quality of life.

Furthermore, incentives for building an infrastructure requires a critical mass of potential users. Traditional healthcare providers may be essential or anchor users of the system, but we need expanded scale in order for communications providers to perceive a significant business

opportunity in rural areas. One way of achieving this scale, while advancing community health objectives, may be to incorporate incentives for residential adoption of broadband for health related uses including personal health records, electronic communication with health providers (such as medical home), telehealth and telemonitoring.

Eliminate the Minimum Level of Broadband Capability Requirement

II. Health Infrastructure Program B. Demonstrated Need for Infrastructure Funding **14. Connectivity Speed**

We are concerned that the high levels of minimum connection speeds are not available to much of the country, especially in rural areas where it is needed the most. Additionally, many rural telecommunications providers cannot provide 4 Mbps as suggested in the National Broadband Plan, with some unable to provide services at even 1.54 Mbps speed. For these reasons, we believe that a definition of a minimal level of broadband capability is not necessary at this time and would prove to be counterproductive.

All Certified Medicare and/or Medicaid Facilities Providing Skilled Nursing Services **Should be Eligible Health Care Providers**

III. Eligible Health Care Providers D. Skilled Nursing Facilities

The Commission states that “rural health care support be available only to those facilities with a sufficient volume of skilled nursing patients” (in other words, a sufficient Medicare population.) Rural populations have limited access to care because many small rural hospitals have either closed or are currently in financial trouble. These populations would not have met the Medicare requirement of a hospital stay. According to the Agency for Healthcare Research and Quality (AHRQ) one-fourth of America's population lives in rural areas. Rural residents have higher poverty rates, larger percentage of elderly, tend to be in poorer health, have fewer doctors, hospitals, and other health resources, and face more difficulty getting to health services. (AHRQ, <http://www.ahrq.gov/research/rural.htm>) **All certified Medicare and/or Medicaid facilities providing skilled nursing services in a qualified rural area should be eligible to participate.**

The Commission has set an arbitrary 51% minimum for facilities to be eligible to receive access to broadband. All facilities should have access to broadband services and its benefits, including improved quality and delivery of care. Of the nation's 15,701 facilities, only 714 have a Medicare utilization rate at 50% or above based on the June 2010 OSCAR data. 127 of these 714 facilities were located in rural areas for Medicare payment purposes. This equals .8% of the total facilities nationwide and only 2.6% of the 4,878 rural facilities.

All long term and post acute care facilities should have access to broadband services, no matter how big or small. A facility's patient population can change daily and, it is quite possible, a small or swing bed facility could lose or gain one patient and find themselves under or over the proposed 51 percent threshold. This exclusive percentage limits support only to certain facilities and discriminates against those that need support the most.

Furthermore, it is very likely that a resident in a nursing facility or nursing home has physical or mental limitations that keep them from living on their own. These residents should still receive the same access to quality care as those receiving skilled nursing services. A patient's pay source should not determine their access to quality care.

Attempting to use definitions of skilled nursing services and custodial nursing services to determine eligibility is not consistent with the need to integrate social and healthcare services to improve health outcomes, reduce hospitalization and reduce the cost of care. Accordingly, hospitals and post acute providers must work very closely together to achieve these goals. Offering the same funding along with other incentives will encourage providers to determine the appropriate health care setting to deliver services.

We believe the same level of support and eligibility criteria should exist for not-for-profit skilled nursing facilities as for not-for-profit hospitals. We believe that there should be no differentiation in support as our health care environment continues to focus on the continuum of health services to be provided in all geographical settings, including rural settings.

Additionally, we do not believe that eligibility should be based on a patient's length of stay. The 20 day limitation only applies for Medicare payment for 100% of the allowable rate. The current national average-length of stay for post acute care is around 30 days. To limit benefits to facilities with patients not exceeding 20 consecutive days counteracts their potential to benefit from up to 100 days of lawfully provided coverage.

Conclusion

The effort to expand broadband services to improve the quality and delivery of health care can only be realized if the healthcare system recognizes the vital role long-term and post-acute care play in the full spectrum of care. There should be no differentiation in support as our health care environment continues to focus on the continuum of health services to be provided in all geographical settings, including rural settings. As our recommendations propose, the definition of eligible health care providers should include all long-term and post-acute care settings and home health care providers. Additionally, the minimum level of broadband capability requirement should be eliminated. Implementing these recommendations would ensure meaningful use of health information technology across the total spectrum of care.

Thank you for this opportunity to provide these comments.

Sincerely,

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