## Steven Chernoff

**From:** Steven Chernoff
**Sent:** Monday, July 16, 2012 5:35 PM
**To:** 'Kimberly Scardino'
**Subject:** Non-reimbursement approach to Lifeline

Kim,

You may recall that, during the Lifeline training event last month, I asked a question about the possibility of avoiding the application of the FCC's Lifeline certification rules by forgoing any reimbursements from the program. After a brief exchange, you invited me to follow up with you to discuss this subject in some more depth. Below is my attempt to put the question more clearly and succinctly than I perhaps did at the event.

Some companies have only a small number of Lifeline customers, whether due to market saturation or demographic characteristics. They offer and advertise Lifeline as required, and apply the legally mandated discount to their Lifeline customers' rate plans. Because of their small size and limited staff, these companies may find it difficult to implement the detailed certifications required under the FCC's new rules at the outset and annually. Such companies may wonder whether they would still be subject to the Lifeline certification rules if they forgo reimbursements altogether, while still advertising and providing the required Lifeline discounts.

The idea in favor of this approach would be that in the absence of payments from USAC, neither the company nor its customers could receive any improper payments from the government; rather, the money is all coming out of the company's own pocket. As long as the company is properly conducting outreach, and is providing Lifeline to all who qualify under the FCC/state rules, the company may be considered in compliance. No certifications from the customer or the carrier should be necessary because no reimbursements are being requested from the government. See, e.g., Sections 54.410(b)(1)(i) and 54.410(c)(1)(i)), which provide that an ETC "[m]ust not seek reimbursement for providing Lifeline to a subscriber, unless the carrier has received a certification of eligibility from the prospective subscriber that complies with the requirements set forth in paragraph (d) of this section and has confirmed the subscriber's [income/program]-based eligibility[.]"

Also, the definition of "Lifeline" does not appear to require a reimbursement to take place; rather, Lifeline is defined, in pertinent part, as a "non-transferable retail service offering…[f]or which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in § 54.403…" If an ETC provides qualifying customers with a discount in the appropriate "amount", the offering would appear to meet the definition of Lifeline.

On the other hand, there are, arguably, some carrier obligations to make the disclosures and certifications to consumers. See, e.g., Sec. 54.410(d)("Eligible telecommunications carriers and state Lifeline administrators or other state agencies that are responsible for the initial determination of a subscriber's eligibility for Lifeline must provide prospective subscribers Lifeline certification forms that in clear, easily understood language: …")

Can an ETC be considered a Lifeline provider if it doesn't claim any reimbursements? Does the absence of reimbursements mean not having to comply with certain certification or other Lifeline requirements?

Thank you for your consideration of this question.

Steve

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