



Administrator's Decision on Rural Health Care Program Appeal

Via Electronic and Certified Mail

May 1, 2014

Mr. Troy Dube
Chippewa Valley Hospital
1220 3rd Ave W
Durand, WI 54736

Re: Appeal of USAC's Decision to Deny Funding for Funding Year 2012
Rural Health Care Program - Funding Request Number (FRN) 1218613

Dear Mr. Dube:

The Universal Service Administrative Company (USAC) has completed its review of the August 28, 2013 letter of appeal that Curt Pawlisch, Esq., counsel for Chippewa Valley Hospital (Chippewa), submitted on behalf of Chippewa for Funding Year (FY) 2012.¹ Your appeal requests that USAC reconsider its denial of funding for FY 2012 because of Chippewa's failure to wait at least 28 days before selecting a service provider, as required pursuant to section 54.603(b)(3) of Federal Communications Commission (FCC or Commission) rules.²

Decision on Appeal and Explanation: Denied.

Chippewa was denied funding on July 1, 2013, for its FY 2012 Rural Health Care (RHC) Program funding request for Ethernet (5 Mbps) service (FRN 1218613) because Chippewa's FY 2012 FCC Form 466 listed a service installation date of July 1, 2012, which was before the allowable contract selection date (ACSD) of July 27, 2012.³ FCC rules require that health care providers (HCPs) requesting RHC Program funding wait at least 28 days from the posting of the

¹ Letter from Curt Pawlisch Esq., counsel for Chippewa, to USAC (Aug. 28, 2013) (*Chippewa Appeal Letter*).

² 47 C.F.R. § 54.603(b)(3) (2011) (providing that "the health care provider shall wait at least 28 days from the date on which its FCC Form 465 is posted on the website before making commitments with the selected telecommunications carrier(s)"). See also FCC Form 465 Instructions (OMB 3060-0804) at 1 (Nov. 2011) (*FCC Form 465 Instructions*) (providing "[r]ural health care providers may enter into agreements to purchase services after 28 days have elapsed since the descriptions set forth in Form 465 were posted on the [USAC] website. Entering into any agreement during the 28-day posting period is prohibited."); FCC Form 466 Instructions (OMB 3060-0804) at 1-2 (Nov. 2011) (*FCC Form 466 Instructions*) ("[T]o satisfy the FCC's competitive bidding requirement, an HCP must wait at least 28 days after the descriptions set forth in the HCP's Form 465 are posted on the RHCD website, before signing a contract or otherwise selecting the telecommunications carrier(s) to provide the services.").

³ Email from USAC to Troy Dube, Chippewa (Jul. 1, 2013) (denying funding for FRN 1218613 because Chippewa violated the requirement that HCPs wait at least 28 days after the posting of the FCC Form 465 on USAC's website before selecting a provider, as required by 47 C.F.R. § 54.603(b)(3) (2011).).

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FCC Form 465 to USAC's website before selecting a service provider.⁴ HCPs are then eligible to start receiving support beginning on the 29th day following the posting of the FCC Form 465 to USAC's website.⁵

On June 28, 2012, Chippewa submitted its FY 2012 FCC Form 465 (No. 43123700) requesting bids for Telecommunications and Internet services for FY 2012. Chippewa's FY 2012 FCC Form 465 was posted to USAC's website on June 29, 2012. USAC's FCC Form 465 notification to Chippewa indicated July 27, 2012 as the ACSD.⁶ On February 25, 2013, Chippewa submitted its FY 2012 FCC Form 466 requesting support for Ethernet (5 Mbps) service (FRN 1218613) for the period from July 1, 2012 through June 30, 2013. On the FCC Form 466, Line 32, Chippewa provided July 1, 2012 as the service installation date. Chippewa also indicated "tariff" on Line 29 and N/A on Line 30 as the date the contract was signed to indicate that there was no contract for the requested service.

On July 1, 2013, USAC denied Chippewa's FY 2012 request for RHC Program funding because Chippewa's FY 2012 FCC Form 466, Line 32 indicated a service installation date of July 1, 2012, which was before the July 27, 2012 ACSD, in violation of the Commission's 28-day waiting period requirement.⁷

Curt Pawlisch, Esq., counsel for Chippewa, submitted Chippewa's appeal to USAC on August 28, 2013. Mr. Pawlisch, Esq., explained in the appeal that "[d]ue to a typographical error, [USF Consultants, Inc.] entered the wrong service installation date. Instead of July 27, 2012, [USF Consultants, Inc.] typed July 2, 2012.... The Hospital was not requesting FY 2012 support for the period prior to July 27, 2012, intending that it would pay for AT&T's Ethernet Service at unsupported rates for that portion of FY 2012."⁸ Chippewa provided affidavits of its counsel, Curt Pawlisch, Esq., and Michael O'Connor of USF Consultants, Inc. with its appeal and requested that USAC reconsider its denial of funding for FY 2012 based on this additional information.

As explained above, Chippewa's FY 2012 FCC Form 466, Line 32 originally indicated July 1, 2012 as the service installation date, which was before the July 27, 2012 ACSD.⁹ USAC has determined, based on a review of Chippewa's appeal and supporting documentation, that Chippewa has failed to demonstrate that the original July 1, 2012 service installation date, which was before the ACSD, was a ministerial or clerical error that may be corrected pursuant to FCC rules.¹⁰ Specifically, the affidavit of Mr. Michael O'Connor, the consultant who prepared

⁴ 47 C.F.R. § 54.603(b)(3) (2011); *FCC Form 465 Instructions*, at 1; *FCC Form 466 Instructions*, at 1-2.

⁵ 47 C.F.R. § 54.603(b)(3) (2011).

⁶ Confirmation of Posting-FCC Form 465 from USAC to Chippewa (June 29, 2012).

⁷ 47 C.F.R. § 54.603(b)(3) (2011); *FCC Form 465 Instructions*, at 1; *FCC Form 466 Instructions*, at 1-2.

⁸ The July 2, 2012 service installation date referenced in Chippewa's appeal appears to be a typographical error. As noted above, the underlying FCC Forms 466 indicated July 1, 2012 as the service installation date and not July 2, 2012, as noted in the appeal letter. See *Chippewa Appeal Letter*, at 2.

⁹ 47 C.F.R. § 54.603(b)(3) (2011); *FCC Form 465 Instructions*, at 1; *FCC Form 466 Instructions*, at 1-2.

¹⁰ See e.g., *In the Matter of Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order,

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Chippewa's FCC Form 466, appears to have been created for the purpose of Chippewa's appeal, and therefore, is not reliable evidence that the original July 1, 2012 date was a ministerial or clerical error.¹¹ In addition, USAC notes that Chippewa explains in its appeal that July 2, 2012 was a typographical error and that the correct date should have been July 27, 2012.¹² However, Chippewa's FCC Form 466 indicated July 1, 2012 was the service installation date and did not indicate that July 2, 2012 was the service installation date as explained in Chippewa's appeal letter. Similarly, Mr. Pawlisch, Esq.'s, affidavit is not reliable evidence that the original July 1, 2012 date was a ministerial or clerical error because this affidavit also appears to have been created for the purposes of Chippewa's appeal and describes Mr. Pawlisch, Esq.'s, request that USAC correct the July 1, 2012 service installation date *after* USAC issued the denial letter for FRN 1218613.¹³ In addition, Chippewa has not provided any documentation to substantiate Chippewa's assertion that it paid for AT&T's Ethernet service at unsupported rates for the period July 1, 2012 through July 27, 2012. For these reasons, Chippewa has failed to demonstrate that the original service installation date of July 1, 2012 was a ministerial or clerical error that could be corrected pursuant to FCC rules.¹⁴ Chippewa violated FCC competitive bidding rules by using July 1, 2012 as the service installation date which was before the ACSD of July 27, 2012.¹⁵ USAC does not have the authority to waive FCC rules.¹⁶ Therefore, because Chippewa's

FCC 06-54, 21 FCC Rcd 5316, 5327 ¶ 23 (2006) (*Bishop Perry Order*) (providing "we require USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors" on the FCC Forms that they submit to USAC); *In the Matter of Schools and Libraries Universal Support Mechanism*, CC Docket No. 02-6, Order, FCC 11-60, 26 FCC Rcd 6487, 6488, ¶ 5 (2011) (providing "USAC may request documentation or explanation from an applicant seeking to amend its forms to ensure that the changes requested are clerical or ministerial."). See also *In the Matter of Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, FCC 12-150, 27 FCC Rcd 16678, 16785, ¶ 243 and n.624 (2012) (allowing health care providers the opportunity to correct clerical or ministerial mistakes in their funding applications and citing to the *Bishop Perry Order*).

¹¹ Mr. O'Connor's affidavit is dated August 3, 2013 which is about five months after Chippewa submitted the FCC Form 466 for FRN 1218613, and about one month after USAC issued the denial letter for this FRN. See *In the Matter of a Request for Review of a Decision of the Universal Service Administrative Company Indiana Intelenet Commission*, CC Docket No. 96-45, Order, DA 02-1783, 17 FCC Rcd 15156, 15159, ¶ 7 (2002) (affirming USAC's rejection of pages of an application for funding from the schools and libraries support program because the applicant failed to demonstrate that those pages were submitted to USAC before the close of the funding window); *Id.* n.30 (citing and quoting from *In re Application of Herbert L. Rippe*, 44 Rcd 91 (rev. Bd. 1973) ("It is well established that the absence of an official record of an event is evidence of the non-occurrence of the event."); *In the Matter of Requests for Review of Decisions of the Universal Service Administrator by Central Islip Free Union School District et al.*, CC Docket No. 02-6, Order, DA 11-1087, 26 FCC Rcd 8630, 8638-39, ¶¶ 18-19 (2011) (affirming USAC's denial of funding based on a violation of FCC competitive bidding rules where the applicant submitted an affidavit attesting to its compliance with FCC competitive bidding rules but was unable to locate the scoring matrix used during its bid evaluation process and failed to provide other documentation concerning the scoring for each bid).

¹² *Chippewa Appeal Letter*, at 2.

¹³ Affidavit of Curt F. Pawlisch, Esq., counsel to Chippewa, at ¶ 3 (Aug. 28, 2013) (*Pawlisch Affidavit*).

¹⁴ See e.g., *Bishop Perry Order*, 21 FCC Rcd at 5327 ¶ 23; *In the Matter of Schools and Libraries Universal Support Mechanism*, 26 FCC Rcd at 6488, ¶ 5.

¹⁵ 47 C.F.R. § 54.603(b)(3) (2011); *FCC Form 465 Instructions*, at 1; *FCC Form 466 Instructions*, at 1-2.

¹⁶ 47 C.F.R. § 54.702(c) (2011) (providing that USAC "may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress."). See also 47 C.F.R. § 1.3 (2011) (providing "[t]he 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.").

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original July 1, 2012 service installation date violated FCC competitive bidding rules, USAC hereby denies Chippewa's appeal.

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

www.usac.org/rhc/about/program-integrity/appeals.aspx

Sincerely,

/s/ USAC

cc: Curt F. Pawlisch, Esq., Cullen Weston Pines & Bach LLP

UNIVERSAL SERVICE ADMINISTRATIVE CORPORATION
RURAL HEALTH CARE DIVISION

In the Matter of the Denial of Federal Universal Service Fund
Support for Funding Year 2012 for Chippewa Valley Hospital

APPEAL

HCP NAME: Chippewa Valley Hospital
HCP NUMBER: 12647
FUNDING REQUEST NO.: 1218614³

1. Introduction.

By email dated July 1, 2013, the Universal Service Administrative Corporation ("USAC") Rural Health Care Division ("RHCD") denied Universal Service Fund ("USF") support for Chippewa Valley Hospital ("Hospital") for Funding Year ("FY") 2012. Under the procedures set forth under 47 C.F.R. §§ 54.719-54.725, the Hospital hereby appeals.

2. Grounds for Appeal and Requested Relief.

A typographical error should not be cause for USAC to deny a rural health care provider's request for USF support. That common sense principle is being tested here.¹

In its July 1 email, RHCD stated that it denied funding because the service installation date as shown on the Hospital's Form 466 preceded the Allowable Contract Signature Date ("ACSD") contrary to the requirements of 47 C.F.R. § 54.603(b)(3). As explained below, the Hospital's service installation date with the relevant carrier actually complied with this regulation; it was a typographical error that created the appearance of non-compliance.

Therefore, the Hospital requests that the USAC Administrator order the following actions as may be applicable:

¹ Subsequent to the denial, the Hospital's attorney emailed RHCD staff to inquire if an informal administrative mechanism could be found whereby the Hospital's FY 2012 USF support request could be granted. In reply, RHCD staff did not offer grounds for optimism. (See Pawlisch Aff. Ex. D.) RHCD staff noted that applicants must certify as to accuracy of their Form 466 submissions, but the law recognizes that an honest mistake is not grounds for penalizing the person who made the certification. See e.g., *U.S. v. Montelone*, 257 F.3d 210, 219 (2d Cir. 2001).

- Reverse RHCD's denial of support for FY 2012 and direct it to grant the Hospital's request by taking one or more of the following steps: (1) deem the Hospital's original Form 466 as timely and correctly filed with a service installation date of July 27, 2012, the ACSD; (2) direct RHCD to change the service installation date to July 27, 2012 on the originally filed Form 466 or permit the Hospital to do so; or (3) take such other administrative steps that the Administrator may identify that would permit USAC to grant the Hospital USF support for FY 2012.
- Refer this appeal to the FCC in the event the Administrator would grant this appeal but for USAC's lack of authority to waive relevant FCC regulations, and communicate that position to the FCC.²

3. Background.

For the past 11 years, USF Consultants, Inc. ("USFC") has served as a consultant to rural health care providers to assist them with their telecommunications and data needs and with their applications for federal USF support. (O'Connor Aff. ¶ 3.) USFC has been part of the collective effort that recently led to Wisconsin's ranking as second only to Alaska in the amount of federal USF support for our state's rural health care providers, and that has resulted in improved health care for citizens in rural Wisconsin.³

The Hospital sought federal USF support for 5 Mbps Ethernet Service ("Ethernet Service") for FY 2012, just as it had received such support in FY 2011. (O'Connor Aff. ¶ 2.) On behalf of the Hospital, USFC submitted the required Form 465 on June 28, 2012 to initiate bidding, but no carrier bid to provide the Ethernet Service. (O'Connor Aff. ¶ 5.) In FY 2011, AT&T had provided the Hospital with Ethernet Service on a month-to-month basis without benefit of a written agreement. (O'Connor Aff. ¶ 4.) AT&T did not request an alternative arrangement for FY 2012. The Hospital therefore requested USF support in FY 2012 for the Ethernet Service provided by AT&T under the same terms and conditions that were in place for FY 2011. (O'Connor Aff. ¶ 6.)

Accordingly, on February 25, 2013, months after the expiration of the 28-day waiting period, USFC submitted the Hospital's Form 466 for FY 2012. (O'Connor Aff. Ex. A.) Due to a typographical error, USFC entered the wrong service installation date. Instead of July 27, 2012, USFC typed July 2, 2012. (O'Connor Aff. ¶ 7.) The Hospital was not requesting FY 2012 support for the period prior to July 27, 2012, intending that it would pay for AT&T's Ethernet Service at *unsupported* rates for that portion of FY 2012. Had USFC entered the correct service installation date, it would have been immediately

² See *Request for Review of Portland Area Indian Health Service*, CC Docket No. 02-60, Order at ¶ 4, n. 17, File No. RHCP-11715, 25 FCC Rcd. 13050, 25 FCC Rcd. 13050 (Sept. 13, 2010).

³ Government Accountability Office, *FCC's Performance Management Weaknesses Could Jeopardize Proposed Reforms of the Rural Health Care Program* at 17 (Nov. 2010).

apparent to RHCD staff that the Hospital planned to use its FY 2012 grant to pay for AT&T's Ethernet Service *only subsequent to* the 28-day waiting period. (O'Connor Aff, ¶¶ 7-8.)

Unfortunately, both RHCD staff and USFC missed a subsequent opportunity to fix the error. During its review of the Hospital's submitted Form 466, RHCD staff asked USFC an unrelated question concerning the Hospital's request for support. (O'Connor Aff. ¶ 9, Ex. B.) Neither RHCD staff nor USFC caught the wrongly entered service installation date. Had they done so, the Hospital could have easily fixed the Form 466 prior to the expiration of FY 2012.

4. Argument.

Obviously, the Hospital is ultimately responsible for the consequences of the erroneously entered service installation date. Under these facts and circumstances, however, denial of USF support for FY 2012 is a particularly harsh result. In short, the single typographical error of a consultant—missed even by RHCD staff in its review of a rural health care provider's request for support—should not cause the provider to lose its USF funding for an entire year.

In light of this appeal and the accompanying affidavits, the Administrator should overturn RHCD's denial of support and direct it instead to deem that the Hospital's Form 466 as filed on February 23, 2013 reflects the ACSD as the service installation date. Alternatively, the Administrator should direct RHCD staff to retroactively correct Form 466 or permit the Hospital to do so, or to identify some other administrative mechanism to accomplish this result in compliance with applicable FCC regulations.

In the event the Administrator determines that waiver of certain FCC regulations is required to grant this appeal, the Hospital requests the Administrator to refer this matter to the FCC with a favorable recommendation that the FCC grant the appeal and necessary waivers.

In numerous decisions, the FCC has articulated its standards for waiving its regulations as it relates to USAC denials of USF support. The Administrator may wish to be guided by those standards in determining whether to adopt the administrative corrective actions offered above or to make the requested referral to the FCC for action favorable to the Hospital. In a 2006 order, the FCC summarized its standard for granting such waivers as follows:

The Commission may waive any provision of its rules on its own motion and for good cause shown. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of

hardship, equity, or more effective implementation of overall policy on an individual basis.⁴

Likewise, the FCC takes into account whether a rule violation is procedural or substantive and further requires that there be “no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements.”⁵

As to the Hospital’s FY 2012 request for USF support, there is no evidence of waste, or of fraud, or of abuse, or of misuse of funds or failure to adhere to core program requirements. As noted earlier, the Hospital did seek the most cost-effective provider in that it filed the required Form 465 to initiate bidding, and it did comply with the 28-day waiting period for purposes of receiving USF support.

Under these facts and circumstances, USFC’s typographical error was not a substantive violation but a procedural one.⁶ The error occurred well after the 28-day waiting period. Moreover, no carrier bid to provide the Ethernet Service, meaning that granting this appeal will not harm other carriers who theoretically could have bid on the service, nor will it result in a violation of the requirement that the Hospital choose the most cost-effective service provider given that there were no other providers.⁷

Regrettably, in its own review of the Hospital’s Form 466 prior to the expiration of FY 2012, RHCD staff did not raise the issue of the erroneous service installation date as reflected in staff’s communications with the Hospital’s consultant about a different aspect of the Hospital’s request for USF support. Had it done so, the Hospital’s error could have been readily corrected. Under analogous circumstances, the FCC has granted a rural health care provider’s appeal and requested waiver.⁸ To be sure, the Hospital recognizes the importance of USAC’s need for administrative efficiency. But the FCC has recognized that factors such as whether a decision advances the public interest may be given greater weight.⁹ Denial for a typographical error—while administratively easy—should not be given preference over implementing the policy goal of providing rural health care providers, such as the Hospital, with needed support for their telecommunications and broadband needs for the benefit of their patients.

⁴ *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al.* CC Docket No. 02-6, Order at ¶ 6, File Nos. SLD-487170, *et al.*, 21 FCC Rcd 5316 (May 19, 2006) (internal citations omitted).

⁵ *Id.* at ¶ 14.

⁶ *Id.* at ¶¶ 8-9 (granting waivers for failure to comply with minimum processing standards where applicants had committed clerical, ministerial or procedural errors).

⁷ See 47 C.F.R. § 54.603.

⁸ See *Request for Review, Bradford Regional Medical Center, Rural Health Care Universal Service Support Mechanism*, WC Docket No. 02-6, Order at ¶¶ 3-4, File No. RHCP 14491, 25 FCC Rcd 7221 (Jun. 4, 2010).

⁹ *Id.* at ¶ 4, n. 16.

5. Conclusion.

For the reasons stated above, the Hospital requests the Administrator to grant its appeal through the mechanism it deems appropriate, or, in the alternative, to refer this appeal to the FCC with a request that it provide the needed waivers to permit the Hospital to receive FY 2012 USF support.

Dated this 28th day of August, 2013.

Respectfully submitted,

CULLEN WESTON PINES & BACH LLP

By: 

Curt F. Pawlisch
Attorneys for Chippewa Valley Hospital

122 West Washington Avenue, Suite 900
Madison, WI 53703
(608) 251-0101 phone
(608) 251-2883 fax
E-mail: pawlisch@cwpb.com

3. I am a registered professional engineer licensed in the State of Wisconsin with decades of experience in the field of telecommunications engineering. For the past eleven years, I have consulted with rural health care facilities to assist them with their telecommunications and data needs and with their applications for FUSF support.

4. During and prior to the 2012 Funding Year, the Hospital received month-to-month Ethernet Service from AT&T ("AT&T's Ethernet Service") without benefit of any written agreement.

5. On June 28, 2012, I submitted to RHCD a completed Form 465 requesting bids for the Ethernet Service for FY 2012. The Allowable Contract Date was therefore July 27, 2012. No bids were received and the AT&T service was continued on a month to month basis.

6. AT&T's service rate reflects the same rates, terms and conditions by which it provided Ethernet Service to the Hospital in prior years.

7. On February 25, 2013, I submitted the Hospital's Form 466 on USAC's website for FUSF support for AT&T's Ethernet Service for Funding Year 2012. Regrettably, I entered a typo that indicated the service installation date was July 1, 2012. I had intended to type July 27, 2012 consistent with the allowable contract date. Attached as Exhibit A is a true and accurate copy of the Form 466 as I submitted it to USAC.

8. Until the expiration of the 28-day waiting period, the Hospital continued to receive AT&T's Ethernet Service outside of any specific binding agreement with

AT&T. It was understood that the Hospital would receive AT&T's Ethernet Service during this period without benefit of FUSF support.

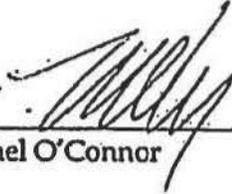
9. On June 11, 2013, RHCD staff posted a question to me concerning the AT&T contract with the Hospital for the Ethernet Service. Attached as Exhibit B to this affidavit are a true and accurate copy of the email alerting me to the posted question and my response. RHCD did not raise the issue of the indicated service installation date appearing in conflict with the 28-day waiting period.

10. By email dated July 1, 2013, RHCD denied the Hospital FUSF support for FY 2012 for AT&T's Ethernet Service because the erroneously reported service installation date of July 2, 2012 appeared to violate the 28-day waiting period requirement. Attached as Exhibit C to this affidavit is a true and accurate copy of that email.

11. I make this affidavit in support of:

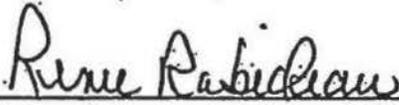
- a. The Hospital's request that USAC staff correct my typographical error to reflect that, for purposes of receiving of FUSF support in Funding Year 2012, the Hospital's contract with AT&T for Ethernet Service was effective July 27, 2012.
- b. The Hospital's appeal to the Administrator of the denial of FUSF support for the Hospital's contract with AT&T for Funding Year 2012, effective July 27, 2012.

Dated this 3rd day of August 2013.



Michael O'Connor

Subscribed and sworn before me
this 3rd day of August 2013.



State of Wisconsin, Notary Public
My Commission ends: 12-08-13

IF YOU ARE REQUESTING SUPPORT FOR MILEAGE-BASED CHARGES, COMPLETE BLOCK 5 ONLY AND SKIP BLOCK 6. (PLEASE SEE INSTRUCTIONS). IF YOU ARE REQUESTING SUPPORT BASED ON URBAN/RURAL RATE COMPARISON, SKIP BLOCK 5 AND COMPLETE ONLY BLOCK 6. YOUR APPLICATION CANNOT BE PROCESSED IF BOTH BLOCKS ARE COMPLETED.

Block 5: Mileage-based Charge Discount Request

Complete this block if you are seeking support for mileage (distance-based) charges only. Do not enter any other charges in this block. You may need to ask your service provider representative to provide this information.

36 Billed Circuit Miles				
37 Monthly Mileage Charges (Exclude Channel Termination chgs, etc.)				
38 Cost per Mile per Month				

If Line 33 equals Line 37, please ensure that ONLY mileage-related charges are included in Line 37. (See Instructions.)

Block 6: Comprehensive Rate Comparison Request

Complete Block 6 if you have not completed Block 5 and are requesting support for all elements of your telecommunications service necessary for the provision of health care. The information in this block will establish the difference between the urban and rural rates for your requested service. Please call RHCD at 1-800-229-5476 if you need assistance.

39 One-time Urban Rate Charge (In selected large city)	0			
40 One-time Rural Rate Charge (in city where HCP is located)	0	0		
41 Monthly Urban Rate (In selected large city). From RHCD web site: <input type="checkbox"/> or Other rate documentation attached: <input checked="" type="checkbox"/>	169.43			

If your circuit includes charges for mileage over the Maximum Allowable Dist., (Line 19), please complete Lines 42 to 44. Otherwise, skip to Block 7.

42 Billed Circuit Miles				
43 Monthly Mileage Based Charges				
44 Cost per Mile per Month				

Block 7: Bid Documentation

45 Did you receive any bids in response to the Form 465 Request for Services posted on the RHCD website? Yes No
If you checked yes, copies of the bids MUST be mailed to RHCD.

Block 8: Certification

46 I certify that the above named entity has considered all bids received and selected the most cost-effective method of providing the requested service or services. The "most cost-effective service" is defined in the Universal Service Order as the service available at the lowest cost after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems necessary for the service to adequately transmit the health care services required by the health care provider.

47 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 universal service benefits provided under 47 U.S.C. Sec. 254. I understand that any letter from RHCD that erroneously states that funds will be made available for the benefit of the applicant may be subject to rescission.

48 I hereby certify that the billed entity will maintain complete billing records for the service for five years.

49 I certify that I am authorized to submit this request on behalf of the above-named Billed Entity and HCP, and that I have examined this form and attachments and that to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

50 Signature Electronically signed	51 Date 25-Feb-2013
52 Printed name of authorized person Michael O'Connor	53 Title or position of authorized person Engineer
54 Employer of authorized person USF Consultants	55 Employer's FCC RN 0011633955

From: Carolyn McCormac <cmccornac@usac.org>
Subject: RE: Chippewa Valley Hospital, Error correction, USF Funding Year 2012 request
Date: August 9, 2013 9:43:51 AM CDT
To: Curt Pawlisch <pawlisch@cwpb.com>

2 Attachments, 88 KB

Mr. Pawlisch,

My July 10 email to you (attached) said the following, in part, "...funding was denied because the service installation date or contract signature/execution date preceded the Allowable Contract Signature Date (ACSD). An HCP must wait 28 days after posting the Form 465 before signing a contract for service. The ACSD = the 465 Posting Date + 28 days. RHC cannot fund services that were purchased in advance of the ACSD. See 47 CFR §54.603 (b)(3)."

The funding decision was made using the information provided by the HCP on the form. Upon submitting the form, the HCP agrees that, "I certify that I am authorized to submit this request on behalf of the above-named Billed Entity and HCP, and that I have examined this form and attachments and that to the best of my knowledge, information, and belief, all statements of fact contained herein are true." See the FCC Form 466 (2012) at 2.

Because, as you state, the error on the form was made by the HCP, the funding denial was, and remains, appropriate.

Any decision made by USAC or RHC regarding eligibility, funding, or payment recovery, can be appealed. Appeals can be made to USAC or the FCC. Appeals must be received within 60 days of the issuance of the USAC decision; e.g., an FCL or denial must be appealed within 60 days of the date of the FCL/denial. See 47 C.F.R. Section 54.719-54.725 for the FCC's rules on filing an appeal.

You may contact me with any questions.

Thank you,

Carolyn McCormac
RHC Program Manager
Universal Service Administrative Company
202-263-1607
www.usac.org/rhc/about/program-integrity/appeals.aspx

From: Curt Pawlisch [mailto:pawlisch@cwpb.com]
Sent: Thursday, August 08, 2013 4:30 PM
To: Carolyn McCormac
Subject: Chippewa Valley Hospital, Error correction, USF Funding Year 2012 request

Dear Ms. McCormac:

In your July 10th reply to my earlier email, you advised that it might be possible for staff to correct my client's typographical error, an error that had appeared to make a rural health care provider (HCP) in violation of the 28-day waiting rule and therefore ineligible for funding support for Funding Year 2012. You asked for documentation such as a signed contract that indicated the date of service installation was indeed after the 28-day waiting period.

My client's representative, Mr. Michael O'Connor, has sworn to the facts provided in the attached affidavit ("Affidavit"). He was the one who made the error that led to the denial. (Affidavit, ¶ 7.) No signed contracts exist for the service that AT&T provides the Chippewa Valley Hospital ("the Hospital"), the rural HCP, an arrangement that had been in place for the prior Funding Year. (Affidavit, ¶ 4.) No entities bid on the service during the 28-day period. (Affidavit, ¶ 5.)

Had Mr. O'Connor entered on Form 466 the correct service installation date, AT&T's service to the Hospital during the 28-day waiting period would have been at *unsupported* rates. (Affidavit, ¶ 8.) AT&T's service at *supported* rates would have begun subsequent to the end of the 28-day waiting requirement. (Affidavit, ¶ 7.)

Unfortunately, a subsequent opportunity to fix the error was overlooked by all involved. While no one disputes that the applicant bears responsibility for the typo, I would note that USAC staff itself apparently overlooked the error when it reached out to Mr. O'Connor—prior to USAC's later denial—with an unrelated question concerning the Hospital's request for Funding Year 2012 support. (Affidavit, ¶ 9.)

Would it be possible for USAC staff to correct this typographical error rather than require Chippewa Valley Hospital to use the formal appeal process? Doing so would be consistent with the goal of the USF rural health care program to support telecommunications and broadband services for the benefit of the patients at rural health care facilities. Moreover, no other carriers can be harmed or treated unfairly by our requested error correction since no other carrier bid on the service.

Thank you.

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