

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Petition for Waiver of)
Community Hospital)
Corporation)
Rural Health Care Universal Service) WC Docket No. 02-60
Support Mechanism)

ORDER

Adopted: July 29, 2024

Released: July 29, 2024

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) denies Community Hospital Corporation's (CHC) and the Interfacing Company of Texas's (ICTX) requests for waiver of the Rural Health Care (RHC) Program invoice filing deadline for all participants in the Healthcare Connect Fund (HCF) Program for funding year 2022.

II. BACKGROUND

1. The HCF Program provides eligible health care providers with a flat 65% discount on an array of advanced telecommunications and information services.

1 See Petition for Limited Waiver of the Rural Health Care Invoice Filing Deadline, WC Docket No. 02-60 (filed Oct. 6, 2023), https://www.fcc.gov/ecfs/search/search-filings/filing/10060389102944 (CHC Petition for Waiver); Petition for Limited Waiver of the Rural Health Care Invoice Filing Deadline and Letter in Support of Community Hospital Corporation's October 6, 2023 Petition, from Jason Danowsky Counsel for Interfacing Company of Texas LLC, WC Docket No. 02-60 (filed Feb. 23, 2024), https://www.fcc.gov/ecfs/search/search-filings/filing/10223181818899 (ICTX Petition for Waiver).

2 See 47 CFR §§ 54.607-54.618.

3 See USAC, Rural Health Care, Healthcare Connect Fund Program, Step 6: Invoice USAC, https://www.usac.org/rural-health-care/healthcare-connect-fund-program/step-6-invoice-usac/ (last visited June 11, 2024).

4 See USAC, Rural Health Care, June 2022 RHC Monthly Newsletter (June 2, 2022), https://www.usac.org/wp-content/uploads/rural-health-care/documents/monthly-newsletter/2022-newsletters/RHC-Newsletter-June-2022.pdf.

gradually migrated program forms to RHC Connect, including the FCC Form 463, in funding year 2022.⁵ Program procedures require that the health care provider initiate the invoicing process by preparing the FCC Form 463 and sending it via RHC Connect to the service provider for completion.⁶ Section 54.627(a) of the rules requires that the completed FCC Form 463 be submitted to USAC within 120 days of the service delivery deadline, unless a later date applies due to a revised funding commitment or successful appeal of a denied funding request.⁷ The invoicing deadline for funding year 2022 was October 30, 2023.⁸ RHC Program participants may request a one-time 120-day extension of the invoice filing deadline, which USAC is obligated to grant if timely requested.⁹ The extended invoice deadline for funding year 2022 was February 26, 2024.¹⁰

2. CHC is a not-for-profit support organization that owns, manages, and consults with hospitals across the country.¹¹ CHC participates as a consortium leader in the RHC Program on behalf of small community hospitals that it owns or manages.¹² In its Petition, filed October 6, 2023, CHC requests that all invoice deadlines in the HCF Program for funding year 2022 be delayed 120 days.¹³ CHC believes the extension is warranted due to the time needed for some service providers to obtain a Unique Entity Identifier from SAM.gov for the migration of FCC Form 463 from My Portal to RHC Connect and delays in processing FCC Form 463 submissions in RHC Connect due to pending FCC Form 460 revisions.¹⁴

3. In support of its request, CHC states that RHC Connect holds invoicing activity associated with a health care provider when an FCC Form 460 for that health care provider is under review by USAC.¹⁵ CHC asserts this may cause delays in FCC Form 463 submissions to USAC,

⁵ See USAC, *October 2022 RHC Monthly Newsletter* (dated Oct. 5, 2022), <https://www.usac.org/wp-content/uploads/rural-health-care/documents/monthly-newsletter/2022-newsletters/RHC-Newsletter-October-2022.pdf>.

⁶ See USAC, *Rural Health Care, Healthcare Connect Fund Program, Step 6: Invoice USAC*, <https://www.usac.org/rural-health-care/healthcare-connect-fund-program/step-6-invoice-usac/> (last visited June 11, 2024). Both the health care provider and service provider are required to make certifications as to, among other things, the accuracy of the information contained in the FCC Form 463 before USAC may process and pay the invoice. See 47 CFR § 54.627(d)(1).

⁷ 47 CFR § 54.627(a). The service delivery deadline, with limited exceptions, is June 30 of the funding year for which program support was sought. 47 CFR § 54.626(a). RHC Program participants may request a one-time 120-day extension of the invoice filing deadline, which USAC is obligated to grant if timely requested. 47 CFR § 54.626(b).

⁸ See USAC, *Rural Health Care, Additional Program Guidance, Funding Year Overview*, <https://www.usac.org/rural-health-care/additional-program-guidance/funding-year-overview/> (last visited June 11, 2024); see also 47 CFR § 1.4(d), (e), (j) (“if . . . the filing date falls on a holiday [defined to include Saturday or Sunday], the document shall be filed on the next business day.”).

⁹ See 47 CFR § 54.627(b) (“Invoice deadline extension. Service providers or billed entities may request a one-time extension of the invoicing deadline by no later than the deadline calculated pursuant to paragraph (a) in this section. The Administrator shall grant a 120-day extension of the invoice filing deadline, if it is timely requested.”).

¹⁰ See *id.*; see also 47 CFR § 1.4(d), (e), (j).

¹¹ See CHC Petition for Waiver at 2.

¹² *Id.*

¹³ CHC Petition for Waiver at 2. The request includes the standard invoice deadline and the extended deadline automatically granted upon request under section 54.627(b).

¹⁴ The FCC Form 460 is used to determine a site’s eligibility and register a site for the HCF Program. See USAC, *Step 1: Determine Eligibility of Your Site*, <https://www.usac.org/rural-health-care/healthcare-connect-fund-program/step-1-determine-eligibility-of-your-site/#> (last visited June 11, 2024). See also CHC Petition for Waiver at 4-6.

especially in situations where the service provider must resubmit an FCC Form 463 with a revision due to a line-item denial.¹⁶ CHC also believes that when the transition to RHC Connect occurred, only the primary account holder was initially able to access the new RHC Connect system and secondary account holders were unable to access RHC Connect until the primary account holder reauthorized the accounts in RHC Connect.¹⁷ CHC argues that the inability for secondary account holders to access RHC Connect, in addition to the time needed to reestablish the accounts, would be a barrier to timely invoice submission, since these secondary account holders are often the individuals that actually work the accounts.¹⁸

4. ICTX is a service provider that interfaces with CHC on administrative matters in the HCF Program.¹⁹ ICTX's Petition for Waiver supports and reiterates CHC's arguments in favor of a blanket 120-day invoice filing deadline extension.²⁰ Particularly, ICTX emphasizes that delays in obtaining a Unique Entity Identifier from SAM.gov impact the RHC invoicing process because a service provider cannot approve the FCC Form 463 if its banking information or contact information is outdated and a Unique Entity Identifier is required to update the information on the FCC Form 498.²¹ Both ICTX and CHC assert that the process to obtain a Unique Entity Identifier may take several weeks, which could cause service providers to miss the invoice filing deadline because the service provider will be unable to access RHC Connect and approve invoices.²²

III. DISCUSSION

5. The Commission's rules may be waived for good cause shown.²³ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.²⁴ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²⁵ Waiver of the Commission's rules is appropriate if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.²⁶

6. We deny the Petitions for Waiver seeking a blanket extension of the invoicing deadline for all HCF Program funding requests for funding year 2022. CHC and ICTX have not demonstrated special circumstances warranting a blanket waiver of the invoice deadline for all funding year 2022 HCF Program funding requests. While the Bureau may issue a blanket waiver on occasion where good cause exists, it is inappropriate to grant a widespread waiver when an individualized approach to addressing

(Continued from previous page) _____

¹⁵ CHC Petition for Waiver at 3-4.

¹⁶ *Id.*

¹⁷ *Id.* at 5.

¹⁸ *Id.* at 4.

¹⁹ ICTX Petition for Waiver at 2-3.

²⁰ ICTX Petition for Waiver at 1.

²¹ See ICTX Petition for Waiver at 2; see also *Federal Government Transition From the Data Universal Numbering System Number to a New Unique Entity Identifier for Sam.Gov as of April 4, 2022*, Public Notice, 37 FCC Rcd 4697 (2022). As of November 2022, an active Unique Identifier is required to modify the FCC Form 498, the form is used for remittance collection, payment, and service provider contact information. See USAC, *FCC Form 498*, <https://www.usac.org/rural-health-care/service-providers/fcc-form-498/> (last visited June 11, 2024).

²² ICTX Petition for Waiver at 2; CHC Petition for Waiver at 6. See SAM, *Get Started with Registration and the Unique Entity ID*, <https://sam.gov/content/entity-registration> (last visited June 11, 2024).

²³ 47 CFR § 1.3.

²⁴ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

²⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

²⁶ *Northeast Cellular*, 897 F.2d at 1166.

requests for waivers is available and more suitable for the circumstances.²⁷ The Commission takes a case-by-case approach analyzing the particular circumstances and factors presented by a petitioner in its waiver analysis. CHC's Petition requested a waiver for all HCF Program participants for funding year 2022 on the basis of technical issues causing delays with filing invoices and argued that a blanket waiver was necessary because of the amount of undisbursed commitments issued for funding year 2022.²⁸ Notwithstanding these claims, aside from CHC and ICTX's petitions, the Bureau does not have any pending requests for a waiver of the invoice deadline from individual health care providers.

7. Based on the record, we find that the Commission's case-by-case approach for resolving waiver requests of the invoice deadline, rather than a blanket waiver, is appropriate here. The Bureau has already granted individual invoice deadline extensions for funding year 2022 HCF Program funding requests to the limited number of petitioners that have experienced the issues described in CHC's and ICTX's Petitions, including an individual waiver for a CHC funding request for services provided by ICTX.²⁹ CHC and ICTX have not demonstrated special circumstances meriting a waiver on an HCF Program-wide basis or that such a waiver would be in the public interest. As noted above, impacted parties sought and received individualized waivers extending their invoice deadlines. There have not been any technical issues with FCC Form 463 submissions, and USAC conducted outreach to advise HCF Program participants of the need to obtain a Unique Entity Identifier.³⁰ Further, the mere fact that some health care providers have not yet submitted an FCC Form 463 for a funding request does not demonstrate that delays with the invoicing process prevented the filing of the form. There are other reasons that participating health care providers may not have submitted an invoice for committed services, most notably, the health care provider is not actually using the required services.³¹ For the foregoing reasons, we deny CHC's and ICTX's Petitions. However, we make clear that to the extent an individual health care provider needs an extension of the invoice deadline, it has the ability to file a request for waiver of the invoice deadline based on its individual circumstances.

²⁷ *Federal-State Joint Board On Universal Service; CTIA— The Wireless Association Petition for Reconsideration*, Order on Reconsideration, 23 FCC Rcd 7333, 7335, para. 9 (2008) (stating that the Commission's waiver analysis is a case-by-case approach for analyzing the particular circumstances and factors presented by a petitioner seeking waiver relief, and the Commission's "longstanding determination that continuing to follow an individualized approach to addressing requests for waiver best serves the public interest."). See *Joint Petition of CTIA and The Rural Cellular Association for Suspension or Waiver of the Location-Capable Handset Penetration Deadline*, WT Docket No. 05-288, Order, 22 FCC Rcd 303 (2007) (*2007 E-911 Blanket Waiver Denial Order*) (denying a blanket waiver of the Commission's rules when an individualized approach best serves the public interest).

²⁸ CHC Petition for Waiver at 6-7.

²⁹ See *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 21-93, 06-122, 02-60, Public Notice, DA 24-176 (WCB Mar. 1, 2024) (granting waivers of the invoice filing deadline in the Healthcare Connect Funding Program for funding year 2022); *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket No. 02-60, Public Notice, DA 24-296 (WCB Apr. 1, 2024) (granting waivers of the invoice filing deadline in the Healthcare Connect Funding Program for funding year 2022, including a waiver for a CHC funding request for services provided by ICTX).

³⁰ See USAC, *UEI Now Required on FCC Form 498* (dated Nov. 16, 2022) <https://www.usac.org/wp-content/uploads/rural-health-care/documents/monthly-newsletter/2022-newsletters/RHC-Newsletter-November-2022.pdf>; USAC, *January 2023 RHC Monthly Newsletter* (dated Jan. 5, 2023), <https://www.usac.org/wp-content/uploads/rural-health-care/documents/monthly-newsletter/2023-newsletter/RHC-Newsletter-January-2023.pdf>. See also USAC, *FCC Form 498*, <https://www.usac.org/rural-health-care/service-providers/fcc-form-498/> (last visited June 11, 2024).

³¹ See *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Order on Reconsideration, Second Report and Order, Order, and Second Further Notice of Proposed Rulemaking, 2023 WL 1420076, at *19 (Jan. 27, 2023) (amending the invoicing process for the Telecom Program to ensure that invoices are only submitted after services have been provided to health care providers).

IV. ORDERING CLAUSES

8. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 54.722(a) of the Commission’s rules, 47 CFR §§ 0.91, 0.291, and 54.722(a) that the Petitions for Waiver filed by the Community Hospital Corporation on October 6, 2023 and Interfacing Company of Texas on February 23, 2024 ARE DENIED.

9. IT IS FURTHER ORDERED, pursuant to section 1.103(a) of the Commission’s rules, 47 CFR. § 1.103(a), that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau