

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-2
Public Service Commission, on its)	Progression Order No. 8
own Motion, seeking to establish)	
guidelines for the administration)	ORDER
of the Nebraska Telephone)	
Assistance Program.)	Entered: December 7, 2004

BY THE COMMISSION:

On May 8, 1997, the Federal Communications Commission (FCC) released its Report and Order on Universal Service, FCC Order 97-157, CC Docket No. 96-45¹ restructuring both the Lifeline and Link-Up programs. On October 15, 1997, the Nebraska Public Service Commission (Commission) opened Docket No. C-1645 to establish and revise the Lifeline and Link-Up programs in Nebraska in accordance with the FCC's Order.

On December 2, 1997, in Docket No. C-1645, the Commission entered an order approving the creation of the Nebraska Telephone Assistance Program (NTAP).² Subsequently, the Nebraska Legislature authorized the creation of the Nebraska Universal Service Fund (NUSF) and charged the Commission with maximizing the federal lifeline support for qualified Nebraska telephone subscribers. On March 16, 1999, the Commission opened Docket No. NUSF-2, for the purpose of administering the NTAP.

On April 29, 2004, the FCC released its Report and Order on Lifeline and Link-Up, FCC Order 04-87, WC Docket No. 03-109 (Order),³ modifying its rules to increase the effectiveness of the low-income support mechanism to make telephone service available to more low-income households.

On July 7, 2004 the Commission opened this inquiry to determine whether modifications of its rules for the administration of NTAP were necessary. Comments responsive to the Commission's inquiry were filed by the Nebraska Appleseed Center,

¹ In the Matter of Federal-State Joint Board on Universal Service, 12 F.C.C.R. 8776 (May 8, 1997), Universal Service, 62 Fed. Reg. 32,862 (June 17, 1997) (codified in 47 C.F.R. pts. 36, 54, and 69).

² Pursuant to NUSF-2, Progression Order No. 6 (March 4, 2003), the name Nebraska Lifeline and Link-Up was formally changed to Nebraska Telephone Assistance Program.

³ See Lifeline and Link-Up, 69 Fed. Reg. 34,590 (June 22, 2004) (to be codified in 47 C.F.R. pts. 36 and 54).

ALLTEL, and by the Rural Independent Companies. A legislative hearing was held in the Commission Hearing Room on November 3, 2004 to further investigate the issues. Mr. Pursley, Director of the NUSF Department testified and offered his recommendations. The Commission also received into evidence a letter filed by the NUSF Advisory Board offering its recommendations. No other party offered testimony at the hearing.

O P I N I O N A N D F I N D I N G S

Upon careful consideration of these issues, the Commission finds that the criteria for the NTAP program should be modified to include the child Medicaid programs. For the reasons set forth below, the Commission believes it should not enlarge the NTAP to include straight income-based criteria or a program which uses self-certification. Accordingly, the Commission concludes it should not modify the program criteria to include Temporary Assistance for Needy Families, or the National School Lunch Program. The Commission also adopts new verification and re-certification procedures.

Certification Requirements

The Commission agrees with Mr. Pursley that the Commission should retain the responsibility to certify eligibility rather than passing this responsibility on to the carrier. Since the inception of the NTAP program, the Commission has worked to develop a good working relationship with the Nebraska Department of Health and Human Services (HHS). The Commission offers a one-stop point of communication for HHS and acts as an intermediary between HHS and the carriers. The Commission finds it appropriate to continue in its current role.

With respect to additional certification requirements, the Commission already requires verification by certification unlike some other states. The NUSF Department requires a signature of an appropriate official to verify that the applicant is eligible for one of the qualifying programs, or in the alternative, requires that a copy of the official program documentation be filed. The Commission believes the current certification procedures are adequate to verify eligibility. Accordingly, the Commission agrees with Mr. Pursley's position that it should not require any additional requirements for certification.

Eligibility Criteria

In its Order Seeking Comments, the Commission questioned whether the current list of eligible programs should be expanded. There were three areas recommended by the FCC Joint Board including Income-based Standards, Temporary Assistance for Needy Families (TANF) and the National School Lunch Program. Mr. Pursley testified that the staff has reviewed all of the FCC suggested areas. The staff concluded that it should make the recommendation to add the children Medicaid programs to the eligibility criteria. The NUSF Advisory Board agreed. Currently, Medicaid is one of the qualifying standards; however, the person that is actually enrolled has to be the telephone account holder limiting the eligibility to adults that are enrolled in Medicaid. There are four separate programs Mr. Pursley recommended that the Commission add to its current criteria, SAM, MAC, E-MAC and Kids Connection. The SAM program is at 100 percent of federal poverty guidelines and covers children ages six to eighteen. The MAC program is for children from one to five and is at 133 percent of federal poverty guidelines. And the EMAC program is for children ages zero to one and qualify at 150 percent of federal poverty guidelines. Kids Connection also qualifies families with children from birth to 18 years of age at 185 percent of federal poverty guidelines. If these programs were included, Mr. Pursley recommended the NTAP form be changed to show that the person applying for the program would still have to be a person listed on the telephone account. However, a section would be added so the person could list a child enrolled in one of the programs. He further recommended the Commission require HHS to verify that the child was enrolled in the program and that the adult applying for NTAP is listed as the Financially Responsible Party on the application, and his/her income was examined to determine eligibility of the child to be in one of these programs.

Mr. Pursley and the NUSF Advisory Board recommended against adding a straight income-based standard. Mr. Pursley testified that such a standard would be very difficult to administer and test. In each of the HHS programs, food stamps, Medicaid, there are different income tests that they use and verify. HHS has a separate income test for each one. Adopting a straight income-based standard would put the Commission in a place of trying to develop its own income test and then verifying the accuracy of the information received by the applicant. Although the Commission could try to work this through HHS, Mr. Pursley

believes based upon staff research, the Commission would only capture those who are already eligible for HHS programs.

Mr. Pursley further testified that he did not recommend adding the TANF program. According to staff's conversations with HHS, persons on TANF, which is a temporary program, automatically qualify for Medicaid. Therefore, adding TANF would not make any additional persons eligible for the NTAP program. The Commission agrees with Mr. Pursley's recommendation and declines to add TANF to the list of eligible programs.

Also, Mr. Pursley testified that the Commission should not add the National School Lunch Program. He stated that in discussions with the various people that work with this program, it appears this is basically a self-certification program. The form used for this program is completed by the parent, turned into the school, and then the school administrator or administrative assistant simply compares what's recorded on the form to a chart to determine if a child is eligible for the free or reduced school lunch program. It is the Commission staff's understanding that there is not an independent verification made of the reported income on that form. Furthermore, as Mr. Pursley testified, not all schools participate in the free and reduced lunch program. The Commission agrees and declines to add the School Lunch Program to the NTAP eligibility criteria.

Verification Procedures

Mr. Pursley further testified that the NUSF Department currently does not require telephone companies to notify the Commission when a telephone subscriber that is enrolled in the NTAP removes service or, there is a change of address. Mr. Pursley recommended that the Commission start requiring such a step to ensure that the Commission's records are kept up to date. To that end, Mr. Pursley recommended a process where telephone companies would notify the Commission on a monthly basis of any changes, additions or deletions which did not come from the Commission. Further, Mr. Pursley testified that annually the Department would generate a list of numbers to send to the carriers so that they may directly verify for the Commission that its records are current. Upon consideration of this testimony, the Commission finds it appropriate to adopt Mr. Pursley's recommendation to require telephone companies to notify the Commission, on a monthly basis, of any changes, additions or deletions which did not originate with the

Commission. Further the Commission finds companies will be required to verify the NTAP information originating from the Commission on an annual or as needed basis.

Re-certification Procedures

With respect to re-certification, Mr. Pursley testified that the NUSF Department will begin re-certifying everyone every two years. Mr. Pursley stated that the Commission needs to adopt some form of re-certification in accordance with FCC rules or the state jeopardizes federal support. Using his proposal, on a two-year basis, the Commission would re-certify that all persons on the program are still eligible for the program. Mr. Pursley further proposed that we rely on the HHS N-FOCUS system, which is its database, for the Medicaid programs, including all of the kids Medicaid programs, and food stamps. The Commission would send electronic files to HHS and they could verify that the persons listed remain eligible. The HHS Department would notify the Commission of all persons who are no longer eligible. The Commission would then send a letter with an application and a stamped return envelope to those persons. Those persons would then have 60 days in which they could reapply to ensure no loss or gap in NTAP benefits.

With respect to LIHEAP, federal public housing, and SSI, Mr. Pursley again recommended that the Commission send an application out to qualifying persons. Every two years they would have to reapply and once again show that they're eligible or the benefits would terminate within 60 days.

The Commission supports Mr. Pursley's recommendation and adopts the two-year re-certification procedures described in Mr. Pursley's testimony.

Obligations of Eligible Telecommunications Carriers

The FCC also recommended that Eligible Telecommunications Carriers (ETCs) be required to notify the Commission within 30 days of a person removing service and they terminate people in the program when they have knowledge or belief that a person is no longer eligible. Given that the ETCs don't administer the program, Mr. Pursley did not think that the FCC recommendation would be relevant here. As the NETCs have no knowledge of whether somebody's actually enrolled in the program or which

program that they would be enrolled in, the Commission agrees and finds that such recommendation should not be adopted.

Outreach Programs

At this point, the Commission continues to examine the comments filed and recommendations received relative to its outreach programs. The Commission encourages further participation by all commenters in its consideration on how to enroll more currently eligible persons in the NTAP program.

Timeframe for Modifications

Understandably, the changes we adopt herein will take time to implement. We direct the NUSF Department to begin working on the approved modifications to the NTAP program in coordination with the telecommunications carriers and other state and federal agencies.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the opinions and findings contained herein be and they are hereby adopted.

MADE AND ENTERED at Lincoln, Nebraska, this 7th day of December, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director

