

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-2
Public Service Commission, on its)	Progression Order No. 9
own Motion, seeking to establish)	
guidelines for the administration)	ORDER SEEKING COMMENTS
of the Nebraska Telephone)	
Assistance Program.)	Entered: May 1, 2012

BY THE COMMISSION:

On February 6, 2012 the Federal Communications Commission (FCC) released a Report and Order and Further Notice of Proposed Rulemaking (Report and Order) relative to Lifeline and Link Up reform and modernization.¹ In the Report and Order, the FCC adopted sweeping reform of the federal Lifeline program, eliminated the Link Up program in large part, and promulgated new rules requiring significant changes related to the enrollment and de-enrollment of Lifeline recipients. The Commission enters this Progression Order to make the necessary changes to its Nebraska Telephone Assistance Program (NTAP) requirements and to seek comments from interested parties on the administration of these changes.

The Commission last visited the list of criteria for NTAP eligibility in 2004. At that time, the Commission modified the criteria to include the child Medicaid programs. The Commission also considered but rejected enlarging the program to include a straight income-based criteria or a program which uses self-certification. The Commission also declined to include Temporary Assistance for Needy Families, or the National School Lunch Program in the Commission's eligibility criteria.

Eligibility Criteria

In its Report and Order the FCC sets a floor of eligibility criteria for the federal Lifeline Program. Formerly state commissions could elect to be "non-default" and determine their own eligibility criteria for Lifeline enrollment. State commissions are now required to use the FCC's floor criteria in

¹ See *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking (rel. February 6, 2012)(Report and Order).

determination of Lifeline program eligibility. In its Report and Order, the FCC modified 47 C.F.R. § 54.409, with such rule to be effective June 1, 2012, and provides that consumers can qualify for Lifeline Program benefits if:

1. A consumer's household income as defined in § 54.400(f) must be at or below 135 percent of the Federal Poverty Guidelines for a household of that size; or
2. The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs:
 - i. Medicaid,
 - ii. Supplemental Nutrition Assistance Program,
 - iii. Supplemental Security Income,
 - iv. Housing Assistance (Section 8),
 - v. Low-Income Home Energy Assistance Program,
 - vi. National School Lunch Program's free lunch program, or
 - vii. Temporary Assistance for Needy Families.

According to 47 C.F.R. § 54.409(a)(3), states are permitted to develop additional state-specific criteria based on income or factors directly related to income.

Currently, the Commission's rules provide the following programs will be used for eligibility: Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), Housing Assistance, and the Low-Income Home Energy Assistance Program (LIHEAP). The Commission's rules further provide that the Commission can add to the list of eligibility criteria through an Order where appropriate and such Order will be determinative pending the completion of a rulemaking proceeding.²

² See Neb. Admin. Code Title 294, Chapter 9, § 006.03A(1). The Commission's proposed universal service fund rules also include the Children's Health Insurance programs (SAM, MAC, E-MAC, and Kids Connection) which were approved as qualifying programs for Lifeline/NTAP eligibility in Progression Order No. 8.

Based on the FCC's Report and Order, the Commission preliminarily concludes that its eligibility criteria should be modified so that the criteria is consistent with Rule 47 C.F.R. § 54.409. The Commission seeks comment on this proposal with an effective date of such change being the effective date of the FCC rule.

The Commission staff has been involved in discussions with the Nebraska Department of Health and Human Services (NDHHS) to incorporate these changes in its coordinated enrollment process. The Commission is also working on a revised NTAP application form for Lifeline/NTAP enrollment.

Recognizing that these changes now require the Commission to consider income and program enrollment the household level, the Commission proposes that its rules and administrative processes be modified to be consistent with the federal rules. However, for administrative tracking purposes, the Commission recommends that, where appropriate, the person applying for the Lifeline and NTAP programs, based on Medicaid, SNAP, LIHEAP, Housing Assistance or SSI enrollment, should be the person listed on the telephone account. In addition, the Commission proposes that Lifeline/NTAP applicants be required to list by name and social security number the dependent or other person(s) in the household enrolled in an eligible program.

The Commission proposes to coordinate with NDHHS to verify that the dependent or member of the household is enrolled in a qualifying program, and (1) the adult applying for NTAP is listed as the financially responsible party on the application (2) or that his/her income was examined to determine eligibility of the dependent to be in one of these programs.

The Commission solicits comment on the adoption of the revised eligibility criteria and suggested changes to the Lifeline/NTAP process described above. Comments responsive to these issues should be filed on or before **May 15, 2012**. The Commission will determine the necessity of a hearing after comments have been filed. Commenters should file one (1) paper copy as well as one (1) electronic copy of the comments. Electronic copies of the comments should be sent to Sue.Vanicek@nebraska.gov and also to Brandy.Zierott@nebraska.gov.

The Commission intends to seek comment on additional changes to the re-certification and de-enrollment procedures required by the Report and Order in a subsequent Progression Order. However, commenters are invited to provide general comments or suggested rule changes which are germane to the implementation of the FCC's Report and Order.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the proposals contained herein be, and they are hereby, open for public comment.

IT IS FURTHER ORDERED that comments responsive to this Order may be filed by interested parties on or before **May 15, 2012** as provided above.

MADE AND ENTERED at Lincoln, Nebraska, this 1st day of May 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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//s// Rod Johnson
//s// Frank Landis

Executive Director

