

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-57
Public Service Commission, on)	Progression Order No. 5
its own motion, seeking to)	
administer the Nebraska)	ORDER
Telehealth Program.)	Entered: September 22, 2009

BY THE COMMISSION:

On October 29, 2008, the Commission sought comment in the above-captioned proceeding to determine whether the Commission should establish minimum requirements for the filing of Universal Service Administration Company (USAC) forms and contract processes between the hospitals and the telecommunications carriers for the Telehealth Program.

On March 24, 2009 the Commission entered a progression order finding that carriers may have the ability to impose late fees against a health care provider. This would serve as an incentive for health care providers to timely file USAC paperwork. In addition, the progression order defined the circumstances in which a carrier would have the ability to impose late fees. In that progression order the Commission also informed interested parties that it would review and release for comment a proposed timeline and potential suggestions for contract language.

On June 23, 2009, the Commission entered Progression Order No. 4, seeking comment on proposed timeline terms for contracts between health care providers (HCPs) and telecommunications carriers. The Commission also sought comment on proposed terms which could be used on the contracts between HCPs and carriers.

A. Timeline

First, the Commission sought comment on the following proposed timeline terms. Based on the comments received and the lack of opposition to the proposed timeline terms, we find such terms, as modified to fit the needs of the carrier and HCP, could be added to existing contracts as an addendum or to a new contract when negotiated.

1. On an annual basis, the USAC - Rural Health Care Division declares the "window opening" for the filing process to begin for eligible entities with the filing of the Form 465. Within twenty (20) working days of this declaration (opening of the

window), the HCP/or their designee will file the USAC form 465 or its equivalent.

2. After acknowledgement by USAC of the Form 465 filing, and following the 28-day waiting period the HCP/designee must file the form 466 or its equivalent.
3. The following represents different timeline scenarios for the filing of the 466 forms:

a. New Service or Request for Information on existing service:

If a telecommunication service is new, the carrier will be required to provide the HCP with necessary information to enable the HCP/designee to file the USAC form 466 or its equivalent. Instances also may arise where the HCP/designee must seek information from the carrier on an existing service. This shall be initiated on a request basis from the HCP/designee via written request or electronic mail. The carrier has twenty (20) working days to provide this information to the HCP/designee following the request for information. If the HCP disputes the completeness and accuracy of any of the information or documentation provided by the carrier, the HCP will notify the carrier to review specific information via written request or electronic mail within ten (10) working days.

Upon the HCPs receipt of the carrier information and the HCPs validation of the completeness and accuracy of the information, the HCP/designee shall have thirty (30) working days to file the USAC form 466 and submit the required documentation.

b. Contracted (Evergreen) Service:

There are instances when no information may be requested from the carrier. Instances may include, but are not limited to, existing contracts/Evergreen status services or existing service status of the telecommunication services for which filing is taking place. In these cases, the HCP/designee

shall have thirty (30) working days following the waiting period to file the USAC form 466.

c. Month-to-Month Service:

In the case where there is no annual or multi-year contract for services, but rather a month-to-month billing status, the HCP/designee shall have until July 31 of each funding year to file the form 466, to allow for the first billing cycle of the new USAC funding year to determine the cost.

4. Within ten (10) working days from the date that the HCP/designee receives notification of the USAC form 467 being available for approval, the HCP/designee will sign and return the form or its equivalent to USAC.

The Commission finds that such terms would add clarity to existing and proposed contracts. The Commission emphasizes that it is the responsibility of the contracting parties to use contractual terms that meet the needs of the program and the USAC filing requirements. Contractual language used by HCPs and carriers must be consistent with state law, rules and regulations, and Commission Orders. In addition, it is the responsibility of the HCPs and the carriers to keep records evidencing the date by which USAC filings are made in case any issue regarding timeliness is raised in a later dispute.

B. Proposed Terms

The Commission also sought comment on the following proposed contract terms. Such terms could be modified slightly to fit the needs of the carrier and the health care provider as long as the terms are consistent with state law, Commission rules and regulations and Commission Orders:

1. The HCP shall pay to the carrier the agreed upon minimum obligation of the hospital on a monthly basis, equal to the bill minus expected USAC and PSC funding.
2. The HCP will not receive disconnection or collection notices regarding payment of lines or equipment that will be reimbursed via USAC funding and/or PSC funding.
3. In instances where the HCP/designee does not adhere to the timelines delineated above, the carrier may impose a

late fee, not to exceed five percent of the remaining monthly recurring charge on the T-1 connection, excluding any other services or features. The late fee shall begin on the first month of the second quarter of the USAC funding year and shall be assessed monthly until USAC reimbursement is available.

4. In instances where the carrier does not adhere to the filing timelines contained herein, the carrier shall forgo its ability to charge late fees on the account if the HCP/designee would not be able to meet the timeline delineated above due to the late receipt of required information from the carrier.

The late fees assessed on an HCP must be structured consistent with the Commission's requirements adopted previously in this docket. The Commission approves the proposed terms described above to be used in contracts, as modified to fit the needs of the carriers and HCP. The Commission emphasizes that it is the parties' responsibility to ensure that the contract clearly specifies the rights and obligations of each party.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the proposed timeline and contract terms shall be, and they are hereby, adopted as provided herein.

MADE AND ENTERED at Lincoln, Nebraska this 22nd day of September, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director