American Hospital Association

The Rural Health Care Universal Service Support Program

Section for Small or Rural Hospitals

Introduction

Universal service has been a goal of the Federal Communications Commission (FCC), state utility regulators, and industry for decades. The Communications Act of 1934 first codified the goal as, "To make available, so far as possible, to all the people of the United States a rapid, efficient Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges." The Telecommunications Act of 1996 reaffirmed this goal by establishing policies to expand the concept of Universal Service.

An explicit Universal Service Fund was established in 1983 to ensure that all Americans can afford telephone service wherever they live. Prior to 1983, this was accomplished through AT&T's internal rate structure. The divestiture of AT&T led to the establishment of the Universal Service Fund to keep telephone service affordable in a competitive telecommunications market.

Until 1996, the Universal Service Fund compensated telecommunications companies that provided service to both low-income communities as well as rural areas where the cost of providing service was high. In the Telecommunications Act of 1996, Congress expanded the reach of the Universal Service Fund to provide support for rural health care providers and schools and libraries.

The Universal Service Fund is generated through contributions from all telecommunications providers in the United States, including local and long distance phone companies, wireless and paging companies and payphone providers. The Universal Service Administrative Company (USAC) administers the Universal Service Fund under the direction of the FCC. In addition, USAC administers four Universal Service programs: the High Cost Program, the Low Income Program, the Rural Health Care Program, and the Schools and Libraries Program. Although consumers benefit from the Universal Service Fund, only companies that provide telecommunications service may draw money directly out of the Universal Service Fund, which defrays the cost of delivering discounted service to consumers.

Rural Health Care Universal Service

Rural health care universal service was created by Section 254 of the Telecommunications Act of 1996. Section 254 directed the FCC to take steps to establish support mechanisms to ensure access to telecommunications and information services to consumers in all regions of the United States, including low-income consumers and those in rural, insular, and high cost areas. In addition, the FCC was directed to ensure access to advanced telecommunications services for schools, libraries, and health care providers. The funding

cycle for the Rural Health Care Universal Service Program is on a fiscal year basis, from July 1 to June 30. Funding Year 2003 will end June 30, 2004, and Funding Year 2004 will begin July 1, 2004.

Legislative Authority

The Telecommunications Act of 1996 authorizes not only support for telecommunications services provided to rural health care providers, but also access to advanced telecommunications and information services. Provisions of Section 254 that identify these responsibilities are:

- Section 254(h)(1)(A) concerns provision of telecommunication services:
  A telecommunications carrier *shall, upon receiving a bona fide request, provide telecommunications services* which are necessary for the provision of health care services in a State, including instruction relating to such services, to any *public or nonprofit health care provider* that services persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. (italics added)

- Section 254(h)(2)(A) concerns establishment of competitively neutral rules to enhance access to advanced telecommunications and information services.
  The Commission shall establish competitively neutral rules –
  (A) to enhance, to the extent technically feasible and economically reasonable, *access to advanced telecommunications and information services* for all public and nonprofit elementary and secondary school classrooms, *health care providers*, and libraries. . . (italics added)

History and Implementation

In May 1997, the FCC released a *Report and Order on Universal Service* implementing Section 254 of the Act, and establishing a universal service support system that became effective January 1, 1998. In this *Report and Order*, the FCC provided guidance concerning the funding mechanism to support telecommunications services used by rural health care providers, defined eligible services, and stipulated that total annual support for rural health care providers could not exceed $400 million. During this initial implementation period, the Rural Health Care Corporation (RHCC) was established to perform all functions associated with administering the rural health care program, except those directly related to billing and collecting universal service contributions and distributing support. RHCC was responsible for the application and bidding process that resulted in pairing eligible rural health providers and telecommunication carriers for support under universal service.

In May 1998, the Universal Service Administrative Company (USAC) assumed responsibility for the rural health care program. As part of administration of the Rural Health Care Program, USAC and RHCD are responsible for ensuring that telecommunications carriers receive credit or reimbursement from the Universal Service Fund. In November 1999, the FCC published the *Fourteenth and Fifteenth Orders on Reconsideration of the Universal Service Order.* These orders addressed major concerns with implementation of the Rural Health Care Program.

The Orders:

- Expanded the list of telecommunication carriers able to participate in the program to include non-ETC (long-distance) carriers;
- Streamlined the application process;
- Changed the discount calculation to distanced based charges paid by rural healthcare providers rather than a comparison of urban and rural published tariffs; and
- Eliminated bandwidth and quantity limits so that any bandwidth and any number of services could be supported.

On November 17, 2003, the FCC published a *Report and Order, Order on Reconsideration and Further Notice of Proposed Rulemaking* (*Report and Order*). In the *Report and Order*, the FCC expanded the scope of entities eligible to receive discounts, provided support for Internet access, and modified the way in which discounts would be calculated to offer rural health care providers more flexibility. The FCC's actions were prompted by a desire to increase participation by rural health care providers in the Universal Service program and to ensure that the benefits of the program continue to be distributed fairly and equitably. The *Report and Order*:

- Clarifies that dedicated emergency departments of rural for-profit hospitals that participate in Medicare should be deemed "public" health care providers eligible to receive prorated rural health care support. Nonprofit entities that function as health care providers on a part-time basis will also be eligible to receive prorated support.
- States that rural health care providers will receive support for Internet access equal to 25 percent of the monthly cost for any form of Internet access reasonably related to the health care needs of the facility, and it is the most cost-effective method of meeting those needs.
- Expands the Maximum Allowable Distance (MAD) for distance-based charges to equal the distance from the rural health care provider to the farthest point on the jurisdictional boundary of the city with the largest population in the state.
- Allows rural health care providers to receive discounts for satellite services even where alternative land-based services may be available.
- Allows rural health care providers to compare rural rates to urban rates in <u>any</u> city with a population of at least 50,000 in the state.
- Allows rural health care providers to compare the urban and rural rates for <u>functionally</u> similar services viewed from the perspective of the end user.

These new provisions will be effective the beginning of Funding Year 2004, July 1, 2004, because the FCC does not want to make program changes in the middle of a funding year.

Eligible Health Care Providers (HCPs)

Applicants must meet each of the following three qualifications:

- Must be an HCP in one of the eligible categories
- Must be a public or not-for-profit organization
- Must be located in a rural area

Section 254(h)(7)(B) of the Telecommunications Act of 1996 states that the definition of a health care provider means the following seven categories of providers:

- Post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools
- Community health centers or health centers providing health care to migrants
- Local health departments or agencies
- Community mental health centers
- Not-for-profit hospitals
- Rural health clinics
- Consortia of health providers consisting of one or more entities as described above

The November 17, 2003, *Report and Order* expanded the definition of public health care provider to include:

- Dedicated emergency departments of rural for-profit hospitals that participate in Medicare
- Non-profit entities that provide health care services on a part-time basis

Eligible Services

Health Care Providers (HCPs) are permitted to apply to receive reduced rates for a variety of telecommunication services under the RHCD program. As a result of the Fourteenth and Fifteenth Orders, there is no limit on bandwidth or service quantity. HCPs may seek support for multiple telecommunications services of any bandwidth. Eligible telecommunications services and charges include, but are not limited to:

- Mileage Related Charges
- T3 or DS3
- T1
- Fractional T1
- Integrated Services Digital Network (ISDN) BRI and PRI
- Frame Relay
- Asynchronous Transfer Mode (ATM)
- Off-Premise Extension
- Satellite Service
- Centrex
- Dedicated Private Line
- Foreign Exchange Line
- Network Reconfiguration Service
- Direct Inward Dialing
- Onetime (Installation) Charges

It is often distance that creates disparities in the overall cost of telecommunication services between urban and rural areas. In the event an applicant can establish that there is a difference between the urban and rural rate for other than distance-based charges including onetime (installation) charges, RHCD will provide support for the difference.

Ineligible Services

Telecommunications equipment does not qualify for support under the RHCD program. The following items are not eligible:

- Computers
- Fax machines
- Video cameras
- Telephones
- Maintenance charges
- Franchises and zone charges
- Surcharges

Internet Access

The November 17, 2003, *Report and Order* provides for funding for Internet access to rural health care providers. The *Report and Order* defines eligible Internet access as an information service that enables rural health care providers to post their own data, interact with stored data, generate new data, or communicate over the World Wide Web. The FCC also states that eligible Internet access provides access to the world-wide information resource of the Internet, and includes all features that are typically provided by Internet service providers. Transport of digital communications using any Internet-based protocols, including encapsulation of data, video, or voice may be provided. The *Report and Order* provides support equal to 25 percent of the monthly cost for any form of Internet access reasonably related to the health care needs of the facility. No support is provided for the purchase of internal connections, computer equipment, or other telecommunications equipment because these items are not information services.

Toll Charges

Health care providers (HCPs), in both rural and urban areas, may qualify for Internet access assistance if they are unable to access the Internet via a toll-free or local call, and must dial into the Internet via a toll (long distance) call. In this case, HCPs may receive the lesser of 30 hours or $180.00 per month to pay for these toll charges.

Satellite Services

The November 17, 2003, *Report and Order* allows rural health care providers to receive discounts for satellite services. These discounts, however, will be capped at the amount providers would have received if they purchased functionally similar land-based alternatives. This means that when a cheaper land-based alternative is available, the extra cost of the more expensive satellite service will be borne by the rural health care provider.

> **Example:** A rural HCP pays $120 per month for satellite service. The rural rate for a comparable wire line service plan is $75 per month, and the urban rate is $40 per month. The health care provider will receive $35 per month towards the satellite service, and is responsible for the $85 balance.

Determination of Universal Service Support

Universal Service support is calculated by one of two methods: using a mileage-based calculation, or comparing the differences between urban and rural rates. Applicants may choose the method based on which is easier, or which provides the most support, according to their own circumstances. The November 17, 2003, *Report and Order* revised the Maximum Allowable Distance (MAD) (which is a cap on distance) to equal the distance between the rural HCP and

the farthest point on the jurisdictional boundary of the largest city in the same state as the HCP. As a result, the RHCD will provide support to rural HCPs to any location that exceeds the Standard Urban Distance (SUD) and is less than the revised MAD. The SUD, which is a mileage allowance for urban areas, determines HCP support for mileage sensitive charges. Each state has its own SUD; for example, the SUD for Colorado is 14 miles. RHCD supports mileage charges beyond the SUD and up to the maximum allowable distance (MAD). Information about the SUD for each state is available on the USAC website at**:**
http://www.rhc.universalservice.org/applicants/sud.asp

Distance-based charges: Support is provided for the cost of mileage beyond the standard urban distance (urban mileage allowance for each state) up to the maximum allowable distance (MAD).

> **Example:** A rural HCP has a dedicated T1 line from its site to an urban hospital with a circuit distance (CD) equal to 150 miles. The revised MAD for the rural HCP is 110 miles. The telecommunications carrier charges $10 per mile for the line. The standard urban distance (SUD) in the state is 10 miles. Support is calculated as follows:
>
> (CD - SUD) x $/mile = Support per month
>
> (110 miles - 10 miles) x $10/mile per month = $1000 per month
>
> Because the circuit distance is greater than the MAD, support for mileage is provided up to the MAD.

Non-distance based charges: Rural health care providers may receive discounts for service charges that are not distance-based. Support is provided for the difference between the urban rate and rural rate for all non-distance sensitive charges based on functionally similar services.

> **Example:** A rural HCP has an ISDN - BRI - 128 Kbps line. The telecommunications carrier charges the rural HCP as follows:
> Non-recurring (installation) charge = $250
> Monthly recurring charge = $175
>
> The urban rate in the closest large city to the rural HCP is as follows:
> Non-recurring (installation) charge = $150
> Monthly recurring charge = $100
>
> The rural HCP would receive a credit for the onetime non-recurring (installation) charge of $100 and monthly recurring support of $75. If service was not actually installed during the funding year, installation support would not be provided.

Determination of urban rate: The urban rate is defined as a rate that is no higher than the highest tariffed or publicly-available rate charged by a telecommunications carrier to a commercial customer for a similar service provided over the same distance in a city with a population of 50,000. As a result of the November 17, 2003, *Report and Order*, rural HCPs are to compare

rural rates to urban rates in any city with a population of at least 50,000 in the state. Previously, the comparison was to the nearest city with a population of 50,000. Information on urban rates is provided on the USAC website at: http://www.universalservice.org/rhcdb/urbanrates/search.asp.

Similar service defined: The rules implementing the Universal Service program did not provide a definition for the term "similar" for the purposes of comparing urban and rural services. In the November 17, 2003, *Report and Order*, the FCC has allowed rural health care providers to compare urban and rural rates for functionally similar services as viewed from the perspective of the end user. The previous comparison between technically similar services did not consider that telecommunications services provided in urban areas are not always available in rural areas.

Safe harbor categories of functionally similar services: The November 17, 2003, *Report and Order* has created "safe harbor" categories of functionally equivalent services based on the advertised speed and nature of the service. For the purposes of the rural health care support mechanism, the following advertised speed categories are functionally equivalent:

Low – 144-256 kbps
Medium – 257-786 kbps
High – 769-1400 kpbs (1.4mbps)
T-1 – 1.41-8 mpbs
T-3 – 8.1-50 mbps.

Receipt of support

HCPs receive support through their telecommunications carrier, either as a credit to their account with their carrier or by a check issued by the carrier.

Additional Information

Visit the Universal Service Administrative Company web site for in-depth information about the Rural Health Care Universal Service Program.

http://www.rhc.universalservice.org/

References

The introduction has been excerpted from the following article: "Get Connected: Afford-A-Phone." Federal Communications Commission. Consumer & Governmental Affairs Bureau. August 16, 2002. www.fcc.gov/cgb/getconnected/background, and U.S. General Accounting Office. *Telecommunications: Federal and State Universal Service Programs and Challenges to Funding.* Feb. 2002, pp. 1-12

Much of the content of the rest of this document was drawn from the following resources:

1. American Hospital Association. *Universal Service for Rural Health Care Providers*. Oct. 1998.
2. Federal Communications Commission (FCC). *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking*. Nov. 17, 2003.
3. Office for the Advancement of Telehealth (OAT). FCC rural health care program: A short history. Appendix 6, *2001 Report to Congress on Telemedicine.* Jan. 2001.
4. Rural Health Care Division web site. www.rhc.universalservice.org/
5. USAC web site. www.universalservice.org/overview.
6. 47 USC 254 (b)(3), (b)(6), (h)(1)(A), (h)(2)(B).