



March 15, 2019

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
445 12 St. SW  
Washington DC 20554

Radha Sekar  
CEO  
Universal Service Administrative Company  
700 12th Street, NW, Suite 900  
Washington, DC 20005

**Notice of ex parte filing: WC Docket No. 17-310, CC Docket No. 02-60**

Dear Chairman Pai and Ms. Sekar,

The Schools, Health & Libraries Broadband (SHLB) Coalition writes to express our deep concern regarding the operation of the Rural Health Care (RHC) Program. The program suffers from a variety of operational and policy problems that are discouraging health care providers and service providers from participating in the program. These problems are causing harm to patients in rural and underserved markets who need high-quality medical care. This is extremely unfortunate, especially considering that Congress enacted the RHC program to improve health care delivery to rural and underserved communities via telecommunications.

While we appreciate the efforts that have been made to improve the program, it has not operated smoothly for several years, and the problems appear to be getting worse. Many of our members now believe the problems are worse than ever. We provide details of these difficulties below. We urge you to consider emergency measures to restructure the administration of the program and to reach a final decision on the many open policy issues that are creating uncertainty in both the Telecommunications Program and the Healthcare Connect Fund by the end of June of this year.

**A. Program applicants are encountering extreme delays in the processing of their applications.**

Up until the year 2016, RHC applications were submitted on a rolling basis, and applicants typically received a decision within 3 months of filing their application. Today, however, there are hundreds of HCPs that are still waiting to hear about their funding for FY 2018, over 8 months after the FY 2018 funding window closed on June 30, 2018. Some consortia applicants are still awaiting a decision on FY 2017 applications. For instance,

- One consortium reports that only 3 FY 2018 funding applications have been approved so far out of 140 multi-year funding requests (impacting over 1,000 health care sites).
- Over one thousand requests for funding from the Telecommunications program are outstanding for FY 2018.
- One applicant has submitted five applications for funding for Skilled Nursing Facilities for FY 2018, but none of them have been acted upon.
- Another applicant has 2 applications pending for FY 2018 that together cover 114 health care provider sites.

We note that consortia applications and applications for multi-year funding are suffering from significantly greater delays in processing than single site/single year applications (most of which were decided in the fall of 2018). While we understand that some consortia and multi-year funding requests can involve a greater number of issues, the FCC has previously directed USAC to expedite the treatment of these applications because of the value of consortia and the great number of health care sites affected.

We also call attention to the significant delays in processing appeals of USAC decisions. Some SHLB members report that appeals before USAC and before the FCC have been pending for 18 months or longer.

**B. Applicants are not receiving information from the FCC or USAC about the status of their applications.**

Our members report that they frequently lodge complaints or concerns about the status of their applications and that they hear nothing in response or they receive an acknowledgement with no substantive information. For instance, here are some direct quotes from SHLB members:

USAC refuses to discuss these funding request application line items with applicants, so we have zero understanding of potential issues or errors on the applications or other potential reasons as to why these are being held with no path forward or opportunity for discussion with USAC.

When I submit questions to the [rhc-assist@usac.org](mailto:rhc-assist@usac.org) email, the questions are either not answered at all, or when they are, I am given incorrect information. When I escalate the question to the operations team, I am reprimanded by USAC staff.

**C. The current FY 2018 review process is shifting, making it difficult for applicants to track and understand.**

- It appears that USAC reviewers are applying new guidance from the Commission that was developed for FY 2019 applications and are not applying the guidance that was provided for FY 2018 applications.
- Health care providers (HCPs) are receiving some requests for information via email and some via the portal, leaving HCPs unable to track the requests they are receiving.

- For FY2018, brand new questions were asked that were never asked before. All of the data request “asks” are pre-written, and not customized. This means that applicants do not understand what information is being requested and the reviewer is not allowed to modify the language of the “ask”.
- HCPs are also only being given 5 business days to respond to USAC inquiries.

**D. The guidance provided for determining the rural and urban rates for the Telecommunications Program raises several concerns.**

USAC issued a bulletin offering guidance<sup>1</sup> for determining the rural rates without first seeking comment or consulting with stakeholders. This guidance is substantively problematic for many reasons. For instance, the guidance does not recognize that broadband providers offer volume and term discounts, which is a standard practice in the broadband industry. It also encourages use of E-rate data that is incomplete or does not reflect the different quality of service provided to health care providers. It also does not recognize the differences in technologies being used to provide such services and does not allow providers to include the cost of the service on a per-Mbps basis. We urge the Commission and USAC to complete the rulemaking process to clarify the rural rates determination process and to ensure that the rules recognize these marketplace realities.

**E. The change in the treatment of multi-year applications is causing havoc.**

We understand that the total amount of demand for multi-year applications and up-front expenditures has exceeded the \$150M sub-cap. To stay below this cap, FCC and USAC have apparently decided to fund just the first year of multi-year applications. But limiting multi-year funding requests to single-year contracts, while taking most of the funding year to approve these funding requests, is on its face unworkable. For instance, the North Carolina Telehealth Network summarizes the difficulty of this situation below:

North Carolina Telehealth Network (NCTN) currently provides broadband connectivity to about 275 sites throughout North Carolina. Nearly all NCTN’s subscribers sign multi-year contracts to facilitate budgeting, promote administrative efficiency, and minimize potential disruption associated with changing internet service providers. If USAC pursues the sub-cap funding guidance, we believe that the good work that has been done and the good will that has been cultivated for many NCTN healthcare sites will suffer a serious and, in some cases, deal-breaking setback. If the proposed guidance is pursued, we expect 126 sites to be affected. These and other under-resourced healthcare subscribers will see their internet service bills roughly triple (because discounts are not available on a timely basis) after their budgets have already been set. In practical terms, they must reallocate funds from other programs that are already strapped to pay for the service while discounts are delayed. Many of these providers will drop this Healthcare Connect Fund service for other inferior, but less expensive internet services. Of course, operations and quality of care will suffer as their new, inferior internet service becomes less reliable and experiences performance issues. In other words, the focus of the Healthcare Connect Fund on enabling small, under-resourced healthcare providers to leverage rapidly

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<sup>1</sup> [https://www.usac.org/res/documents/rhc/pdf/FY2018-RR-Tip-Sheet\\_1-23.pdf](https://www.usac.org/res/documents/rhc/pdf/FY2018-RR-Tip-Sheet_1-23.pdf).

evolving technologies will take a serious hit. The ill-will and the uncertainty introduced by this guidance will travel through word-of-mouth and will badly tarnish the reputation of NCTN and the FCC.

Another member commented as follows:

If only one year of these multi-year applications is approved, consortia applicants who were eligible for a multi-year commitment will instead need to request funds again this year for all these services. This situation demonstrates why we believe the sub-cap should also be raised and adjusted for inflation to stay aligned with the overall cap.

**F. The RHC program suffers from a lack of transparency that makes it extremely difficult for applicants to plan for the future and undermines the credibility of the program.**

We must call attention to the continued lack of transparency regarding the program. More than eight months after the end of the FY 2018 application window, USAC has not released information regarding the total demand for RHC funds or the total demand for funds subject to the \$150M sub-cap. This lack of information directly contradicts the FCC's Order in 2012 that USAC make this information publicly available.

**G. Recommendations for Action.**

Because of these problems, the SHLB Coalition respectfully makes the following requests:

1. Expedite review of all pending applications and complete processing of all pending applications by April 30, 2019.
2. Increase the number of USAC-RHC staff to help process the applications more quickly.
3. Improve the responsiveness of USAC staff to applicants' and service providers' questions and concerns.
4. Give applicants a complete listing (checklist) of all of the different documentation that USAC reviewers will seek in advance of the window actually closing, and provide applicants with enough time to comply with the information request.
5. Extend the deadline for FY 2019 applications to the end of June, as has been done in the past. The current funding application deadline is 5/31/19. It appears that many applicants will not have Funding Commitment Letters from FY 2018 approved by the time they need to post the RFP for FY 2019.
6. Send out Program Quality Assurance inquiries (PQAs) outside of the funding window. Replying to PQA requests at the same time applicants are working to develop strategic

plans, seek bids for services, evaluate bids, negotiate contracts and file their applications for FY 2019 is burdensome and adds to the challenge of meeting program requirements.

7. Allow FCC and USAC staff to make in-person site visits to the rural health care facilities and networks that are providing service. This will give personnel a better understanding of the issues and what is at stake. SHLB members will be pleased to help arrange these site visits.
8. Adjust the guidance regarding the urban and rural rates to provide greater flexibility to broadband providers and to reflect the more competitive marketplace.
9. Improve the transparency of the program by automatically publishing data about the application demand and costs of the program.
10. Eliminate the sub-cap for multi-year applications and up-front costs, or in the alternative, raise the sub-cap in proportion to the increase in the overall cap adopted last year.
11. Identify in advance how applications will be treated when the demand for funding exceeds the cap to avoid the ad hoc decision-making process that is in use today. This advance policy guidance will help applicants prepare for the future and will help to simplify and expedite the decision-making process.
12. Complete the rulemaking process to answer all of the open questions regarding both the Telecommunications Program and the Healthcare Connect fund (including the definition of rural entities) by June 30, 2019.

On a positive note, we note that our members have seen a notable improvement in the level of information and detail from USAC trainers than in past sessions. The training team addressed common questions, issues and mistakes, rather than just going field by field reading the field label. Questions posed by attendees during the trainings are receiving answers during the session (not always a common occurrence in the past) and a one-on-one email or phone call to address and make sure the question is answered completely. We are hopeful USAC trainers will follow through on plans for more focus groups and better communication in the future.

We would like to arrange a group meeting or meetings with both USAC and FCC staff in the near future to discuss these issues in more detail. I will be following up with your offices and hope that we can arrange a time to meet soon.

Thank you in advance for your attention to these matters. We know that you share our desire to ensure that rural Americans deserve high-quality health care, especially the underprivileged. Most of the people served by these health care providers are under-served, minorities, female, incarcerated, and persistent-poverty areas. They will be the true beneficiaries of your efforts.

Sincerely,



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