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Rulemaking Hearing Rules
of
Tennessee Regulatory Authority
Consumer Services Division

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EXECUTIVE SECRETARY

Chapter 1220-4-10

Rules for Collecting Contributions from Telecommunications Providers and Distributing Assistive Telecommunications Equipment to the Qualified Individuals with Disabilities

New Rules

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1220-4-10-.01 Definitions

(1) "Act" refers to Tennessee Code Annotated §65-21-115.

(2) "Applicant" means a person who applies to the Tennessee Regulatory Authority for an assistive communications device.

(3) "Assistive Communications Device" means special equipment that permits individuals who are deaf, or have severe hearing loss, or severe visual and hearing loss, or severe speech impairment to communicate effectively over the telephone.

(4) "Authority" means the Tennessee Regulatory Authority.

(5) "Lifeline" means a telephone assistance program that reduces the monthly telephone charges for qualified persons.

(6) "Link-up" means a telephone assistance program that reduces the non-recurring cost of installing telephone service for qualified persons.

(7) "Permanent Resident" means that the applicant has resided in the State of Tennessee for three (3) months.

(8) "Provider" means a telecommunications service provider or a competing telecommunications provider as defined by T.C.A. § 65-4-101 whose annual intra-state gross receipts are greater than five million dollars ($5,000,000).

(9) "Recipient" means the person whose application for an assistive communications device has been granted by the Authority.

(10) "TDAP" refers to the Telecommunications Devices Access Program administered by the Tennessee Regulatory Authority.

(11) "TDAP Coordinator" refers to the individual employed by the Authority to implement the TDAP Program.

Authority: T.C.A. §§65-2-102 and 65-21-115.

1220-4-10-.02 Contributions of Providers

(1) All Telecommunications Service Providers and all Competing Telecommunications Service Providers (the Providers), as defined by T.C.A. §65-4-101 subsections (c) and (e), whose Tennessee intra-state gross receipts for the calendar years is more than five million dollars ($5,000,000) shall make contributions to the Telecommunications Devices Access Program ("TDAP") established by Chapter 417 of the Public Acts of 1999 (the "Act"). Each Provider shall make such contributions in proportion to its share of the total intra-state gross receipts of all appropriate Providers for the most recent calendar year.

(2) Monies collected for the TDAP will fund the purchase of telephone devices for the deaf/Hard of Hearing (TDDs), TeleBrailles (TB) for the deaf-blind, and other equipment that may be necessary to implement the Act, and in addition, cover the necessary administrative costs, to include outreach activities, of the Authority to administer the Program.

(3) For the purposes of this Rule Chapter, the intra-state gross receipts of the Providers shall be those reported on Form UD 16 "Statement of Gross Earnings and Computation of Inspection Fee" filed with the Authority on or before April 1 of each year.

(4) On or before October 15 of each year, the Authority shall calculate a contribution factor to apply to the intra-state gross receipts of each Provider to generate total contributions of no more than seven hundred and fifty thousand dollars ($750,000) per year from all Providers including minimum contributions.

(5) The Authority shall create a reserve fund for the Program that will not exceed one million dollars ($1,000,000) within any given year.

(6) Pursuant to the provisions of the Act, the Providers are prohibited from line itemizing on its end-users telephone bills any prorata contribution of the provider's contributions to the TDAP.

(7) Contributions by Providers to the TDAP are not recoverable from the Authority's Universal Service Fund.

Authority: T.C.A. §§65-2-102 and 65-21-115.

1220-4-10-.03 Collection of Contributions

(1) Forms designed by the Authority for the remittance of contributions to the Program shall be mailed to each Provider by November 1 of each year. Each Provider shall submit its contribution to the Authority by December 1 of each year.

(2) In the year this rule becomes effective, contribution forms shall be mailed by November 1 or 45 days after the effective date of this rule, whichever is later. Contributions shall be submitted to the Authority by December 1 or 30 days after the contribution form is mailed, whichever is later.

(3) Providers failing to submit contributions, or submitting late, may be subject to penalties under T.C.A. §§65-3-119, 65-4-116, and 65-4-120.

(4) Contributions when collected shall be deposited in the state treasury in the special fund created for the TDAP Program.

Authority: T.C.A. §§65-2-102 and 65-21-115.

1220-4-10-.04 Minimum Eligibility Requirements

(1) All applicants must be permanent residents of The State of Tennessee

(2) Applicants shall have a significant hearing, hearing and visual, or speech impairment, as verified by a physician licensed to practice in Tennessee, such that the person cannot use the telephone effectively without the use of an assistive device.

(3) Only one assistive device per household will be awarded through the TDAP unless there are persons in the same household with different adaptive needs. The Program Coordinator may then determine the need for more than one assistive device.

(4) Because the demand for assistive devices may exceed the supply, the Authority will award the assistive devices on a first come basis. Priority, however, will be given to those applicants with the greatest physical and financial and/or social need. Such factors as described below shall be used to evaluate an applicant's physical, financial and social need for the assistive devices:

(a) The receiving of federal or state public assistance (i.e., Temporary Assistance to Needy Families (TANF), Medicaid, Food Stamps, Supplemental Security Income (SSI), Federal Housing/Section 8 or Low Income Heating, etc.);

(b) Applicants whose total gross family income is less than 125 percent of the Federal Poverty Guidelines;

(c) The presence of any serious physical, medical, and/or mental condition, as verified by a physician licensed to practice in Tennessee, that may present a life threatening situation (i.e., heart condition, stroke, severe depression, epilepsy, etc.);

(d) An eligible applicant living alone;

(e) Applicants who are under the age of 18 years who are able to use assistive devices for at least emergency purposes and who are frequently left in charge of the household or alone;

(f) A living situation where there is more than one person requiring an assistive device;

(g) Other unique circumstances deserving of special consideration that do not meet the above factors; and

(h) Applicants who meet the federal and/or state qualifications for the Lifeline and Link-up Telephone Assistance Programs.

(5) The Authority can request all necessary documentation needed to confirm information provided by applicants. This information could include but not be limited to doctor statements, copies of the applicant's federal income tax returns, evidence of public assistance eligibility and any other information needed to ensure the applicant meets the requirements as specified in the Act and this Rule Chapter.

(6) Applicants must confirm in their application their ability to utilize an assistive device effectively. For those applicants that are not qualified in the use of such equipment, the applicant must agree to accept the appropriate training. The TDAP Program Coordinator will maintain a list of qualified training facilities.

(7) The Authority shall furnish application forms to be completed by the applicant or his/her authorized representative.

Authority: T.C.A. §§65-2-102 and 65-21-115.

1220-4-10-.05 Purchase and Distribution of Assistive Devices

(1) The Authority will purchase assistive devices under a state contract.

(2) The TDAP Coordinator shall evaluate applications for assistive devices and shall award such equipment only to those applicants who meet the requisite requirements listed in this Rule Chapter. Applicants who fail to qualify shall be notified by U.S. Registered Mail of the reasons for denial. The notification shall also describe the appeal process of the decision.

(3) Assistive devices awarded to qualified applicants are available for their exclusive use as long as they meet the Minimum Eligibility Requirements listed in 1220-4-10-.04.

(4) The recipient must return the assistive devices if any of the following conditions occur:

(a) The recipient moves from the state;

(b) The recipient loses telephone service permanently;

(c) The recipient abuses the assistive device;

(d) The recipient is found to be using the device for illegal purposes;

(e) The recipient no longer requires the device.

(5) Equipment may be exchanged if a different device becomes necessary due to further hearing and/or vision loss.

(6) All contested issues arising from the application of these rules will be determined under T.C.A. §§ 4-5-301 and 65-2-101 et seq.

Authority: T.C.A. §§65-2-102 and 65-21-115.

1220-4-10-.06 Maintenance and Repair

(1) If the assistive device is in need of repair, the recipient shall notify the Authority to determine if loaner equipment is available and whether he/she qualifies for the equipment.

(a) Recipients will not qualify for a loaner device if it is determined that the original device was damaged as the result of negligence or abuse.

(b) Recipients must provide some evidence that they will pay for the repair cost of their assistive devices, or have coordinated with the TDAP Coordinator, in order to qualify for loaner equipment.

(2) The Authority shall maintain a list of locations where assistive devices can be repaired. The Authority shall make the final determination as to where the assistive devices are repaired.

(3) It is the responsibility of the recipient to return the assistive devices to the repair center, as designated by the Authority, for repair. The cost of the repair, and/or coordination with the

TDAP Coordinator, shall be the responsibility of the recipient Special consideration will be given by for repair cost by the Authority for recipients who have special financial needs as listed in 1220-4-10-.04 (4a-h).

(4) It is the responsibility of the recipient to purchase miscellaneous items, such as paper rolls, for the operation of the assistive devices.

Authority: T.C.A. §§65-2-102 and 65-21-115.

1220-4-10-.07 Monthly Telephone Charges

(1) The recipient is responsible for all charges for local and long distance telephone service and any other service charges from the telephone company.

Authority: T.C.A. §§65-2-102 and 65-21-115.

1220-4-10-.08 Confidentiality of Information and Nondiscriminatory Statement

(1) All information obtained by the Authority from applicants shall be kept confidential and will not be released to any person or entity without the expressed approval of the applicant unless for the purposes of reports or audits are required under state law.

(2) Services for the TDAP are provided on a nondiscriminatory basis in compliance with Title VI of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, and Title V of the Vocational Rehabilitation Act of 1973 and its amendments.

Authority: T.C.A. §§65-2-102 and 65-21-115.

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Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules:

Eddie Roberson,
Chief, Consumer Services Division

The roll-call vote by the Tennessee Regulatory Authority on these rulemaking hearing rules was as follows:

	Aye	No	Abstain
Melvin Malone, Chairman	x	___	_____
Lynn Greer, Director	x	___	_____
Sara Kyle, Director	x	___	_____

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Regulatory Authority on the 12th day of Octobert, 1999.

Further, I certify that the provisions of T.C.A. §4-5-222 have been fully complied with, that these rules are properly presented for filing, a notice of rulemaking has been filed in the Department of State on the 30th day of July, 1999 and such notice of rulemaking hearing having been published in the August, 1999 issue of the Tennessee Administrative Register, and such rulemaking hearing having been conducted pursuant thereto on the 16th day of September, 1999.

K. David Waddell,
Executive Secretary

Subscribed and sworn to before me this the 2nd day of November, 1999.

Notary Public

My commission expires on My Commission Expires JULY 26, 2003.

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Paul G. Summers
Attorney General and Reporter

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 22 day of Nov., 19 99 and will become effective on the 5 day of Feb., 2000.

Riley C. Darnell
Secretary of State

By: _____