

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of )
Request for Review by Midwest Medical Center )
Rural Health Care Universal Service Support ) WC Docket No. 02-60
Mechanism )

ORDER

Adopted: December 8, 2021

Released: December 8, 2021

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we address a request for review of a decision by the Universal Service Administrative Company (USAC) to deny a funding request from Midwest Medical Center (MMC) for funding year (FY) 2018 because it determined that the requested equipment was ineligible in the Healthcare Connect Fund (HCF) Program.

II. BACKGROUND

2. The HCF Program provides support for advanced telecommunications or information services that enable health care providers (HCPs) to post their own data, interact with stored data, generate new data, or communicate by providing connectivity over private dedicated networks or the public internet for the provision of health information technology.

3. On June 27, 2018, MMC submitted an FCC Form 462 seeking support for network equipment and installation of network equipment.

1 Request for Review by Midwest Medical Center, WC Docket No. 02-60 (filed May 26, 2020), https://www.fcc.gov/ecfs/filing/10526088395645 (Request for Review).

2 47 CFR § 54.634(a) (2018). Effective October 11, 2019, this section has been re-codified as 47 CFR § 54.612(a).

3 See 47 CFR § 54.635(a) (2018). Effective October 11, 2019, this section has been re-codified as 47 CFR § 54.613(a).

4 See 47 CFR § 54.643(a) (2018). Effective October 11, 2019, this section has been re-codified as 47 CFR § 54.623(a). See also Rural Health Care (RHC) Universal Service, Healthcare Connect Fund, Funding Request Form, OMB 3060-0804 (July 2014) (FCC Form 462).

5 See FCC Form 462.

circuits with wireless equipment that would provide it with 1 Gbps connection to another eligible HCP.<sup>6</sup> The wireless equipment is a type of networking hardware device that enables a connection between two different locations by bridging a wireless connection between them.<sup>7</sup> In MMC's case, the wireless equipment would link MMC and Galena-Strauss Senior Care Community Center (Galena-Strauss),<sup>8</sup> without connecting separately to the public internet. Galena-Strauss is a senior care assisted living community affiliated under MMC's corporate entity. This connection between the facilities is used for data backup and disaster recovery.<sup>9</sup> MMC and Galena Strauss both filed for HCF Program support with individual, rather than consortium, applications.

4. During application review, USAC sent information requests to MMC requesting information on the "internet circuit used in conjunction with the installed equipment."<sup>10</sup> Even though the wireless equipment would connect the circuits at MMC and Galena-Strauss, MMC's response stated that it would not be utilizing a circuit with the proposed wireless equipment because the equipment would replace the T-1 circuits that were connecting the two sites.<sup>11</sup> Based on this response, USAC concluded that MMC failed to demonstrate that the wireless equipment was necessary to make functional an eligible service currently supported by the HCF Program as required by program rules and denied MMC's application.<sup>12</sup>

5. On February 20, 2019, MMC filed an appeal with USAC.<sup>13</sup> MMC acknowledged that the wireless equipment did not currently support an eligible service since the equipment had not yet been installed but emphasized that it would support an eligible service once installed.<sup>14</sup> On April 16, 2020, USAC rejected this argument and determined that in order for the wireless equipment to be eligible for support in the HCF Program, the network equipment must be necessary to make functional an eligible

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<sup>6</sup> See Request for Review Attachments (Email from Rachel Lawmaster, Espy Services, Inc. on behalf of Midwest Medical Center, to the Rural Health Care Division, USAC (July 12, 2018)). MMC referred to this equipment as a "wireless network bridge." *Id.*

<sup>7</sup> See *id.* (Email from Rural Health Care Division, USAC to Midwest Medical Center (July 11, 2018)). See also *id.* (Email from Rachel Lawmaster, Espy Services, Inc. on behalf of Midwest Medical Center, to the Rural Health Care Division, USAC (July 12, 2018)).

<sup>8</sup> See *id.* (Quote from Christopher Geyer, Netux Solutions, LLC to Steve Dittmer, Midwest Medical Center (Apr. 23, 2018)).

<sup>9</sup> Each location would utilize the wireless equipment for sending data backups to the other location and for disaster recovery in the event of a natural or human-made disaster that results in a threat to each location's technology infrastructure. The main purpose of both of these services is to duplicate data from each location and store it in another location so that it may be used to restore the original data after a data loss event. Redundant, secondary, or fail-over services are eligible for support in the HCF Program but the cost and bandwidth of those services must reasonably reflect their use as a secondary service and the most cost-effective option must be used. See *Rural Healthcare Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, 16730-31 paras. 113, n.295 (2012) (*Healthcare Connect Fund Order*).

<sup>10</sup> See Request for Review Attachments (Email from Rural Health Care Division, USAC to Midwest Medical Center (July 11, 2018)); *id.* (Email from Julio Fuentes, Rural Health Care Division, USAC to Rachel Lawmaster, Government Funding Specialist, Espy Services, Inc. on behalf of Midwest Medical Center (July 11, 2018)).

<sup>11</sup> The T-1 circuits allowed MMC to replicate its servers at other locations for backup and disaster recovery and allowed MMC to call direct extensions over the Virtual Private Network (VPN) so providers and staff could communicate. See *id.* (Email from Rachel Lawmaster, Espy Services, Inc. on behalf of Midwest Medical Center, to the Rural Health Care Division, USAC (July 12, 2018)).

<sup>12</sup> Request for Review Attachments (Email from USAC to Espy Services (Jan. 18, 2019)).

<sup>13</sup> See Appeal from Espy Services, Inc. on behalf of Midwest Medical Center, to the Rural Health Care Division, USAC (Feb. 20, 2019) (USAC Appeal).

<sup>14</sup> MMC sought support for ethernet, internet, and ISDN PRI in FY 2018.

service that the HCP is currently using and is supported under the HCF Program.<sup>15</sup> USAC's decision did not address whether the network equipment is the type of equipment that could be eligible if it made functional an eligible service. On May 26, 2020, MMC filed the instant Request for Review to the Commission.<sup>16</sup> It argues that USAC should fund the equipment since the equipment and the supported connection are both eligible under the HCF Program for providing the ability for backup, disaster recovery, and redundancy for MMC.<sup>17</sup>

### III. DISCUSSION

6. We grant MMC's request for review and find the wireless equipment is eligible under HCF Program rules.<sup>18</sup> To be eligible for support in the HCF Program, equipment must fall within the categories of eligible equipment listed in the Commission's rules and also must make functional an eligible service that is supported under the HCF Program.<sup>19</sup> First, we find that the type of wireless equipment requested falls within the categories of equipment that are eligible for HCF Program support. The HCF Program ensures that HCPs have enhanced access to advanced telecommunication services based on their individual health care broadband needs.<sup>20</sup> To promote this end, we recognize that technology continues to evolve over time to create more effective connectivity solutions. In the *Healthcare Connect Fund Order*, the Commission made clear that eligible equipment may include "equipment necessary to connect dedicated health care broadband networks or individual HCPs to middle mile or backbone networks."<sup>21</sup> This broad designation makes eligible a variety of connectivity solutions and equipment, including wireless equipment, such as the equipment used here by MMC, which connects one eligible health care provider to another.<sup>22</sup>

7. Next, we find that MMC's wireless equipment, which enables a redundant connection, would "make functional an eligible service" that is supported under the HCF Program as required by the Commission's rules for the HCF Program.<sup>23</sup> In response to USAC's two information requests, MMC explained that it would no longer need to use the two circuits previously supported by the HCF Program because the wireless network equipment would functionally upgrade those T-1 circuits to a 1 Gbps connection.<sup>24</sup> The purpose of this connection would be to maintain and upgrade the redundant connection to provide data backup and disaster recovery between the two locations.<sup>25</sup> In the *Healthcare Connect Fund Order*, the Commission recognized the importance of funding redundant, secondary, or fail-over

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<sup>15</sup> Request for Review Attachments (Letter from USAC to Ms. Cindy Hefel, Midwest Medical Center (Apr. 16, 2020)).

<sup>16</sup> Request for Review.

<sup>17</sup> *See id.*

<sup>18</sup> *Healthcare Connect Fund Order*, 27 FCC Rcd at 16750-753, paras. 156-163.

<sup>19</sup> *See* 47 CFR § 54.635(a), (c) (2018). Effective October 11, 2019, these sections have been re-codified as 47 CFR § 54.613(a), (c). Additionally, consortium applicants may receive support for network equipment necessary to manage, control, or maintain an eligible service or a dedicated health care broadband network. *See* 47 CFR § 54.635(b) (2018).

<sup>20</sup> *See Healthcare Connect Fund Order*, 27 FCC Rcd at 16729-730, para. 111.

<sup>21</sup> *Id.* at 16753, para. 162.

<sup>22</sup> *See id.* *See also id.* at 16750, para. 156 (*citing* ITN PN Comments at 3 (supporting, at a minimum, the inclusion of the initial costs for routers and bridges associated with the installation of broadband services to eligible HCPs)).

<sup>23</sup> *See* 47 CFR § 54.635(a)

<sup>24</sup> *See* Request for Review Attachments (Email from Rachel Lawmaster, Espy Services, Inc. on behalf of Midwest Medical Center, to the Rural Health Care Division, USAC (July 12, 2018)).

<sup>25</sup> *See* USAC Appeal at 1.

services in the HCF Program.<sup>26</sup> Adequate backhaul redundancy helps provide network stability and continued operation during emergencies.<sup>27</sup> Health care facilities with multiple locations such as MMC benefit from redundant connections to maintain network stability in the face of events that could disrupt or bring down the entire network system.<sup>28</sup> Therefore, the wireless network equipment would make functional an eligible service, namely, it would allow MMC to connect to Galena-Strauss's HCF Program supported circuit and for Galena-Strauss to connect to MMC's supported circuit in the event that one of the circuits fails. We therefore find, consistent with the *Healthcare Connect Fund Order*, that MMC's funding request for the wireless network equipment and its installation is supported by the HCF Program. Accordingly, we remand the funding request at issue to USAC for further processing consistent with the terms of this Order.

#### IV. ORDERING CLAUSES

8. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, 54.635 and 54.722(a) of the Commission's rules, 47 CFR §§ 0.91, 0.291, 54.635 and 54.722(a) (2018), that the Request for Review filed by Espy Services, Inc. on behalf of Midwest Medical Center on May 26, 2020 IS GRANTED.

9. IT IS FURTHER ORDERED, pursuant to authority contained in section 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, sections 0.91, 0.291, and 54.722(a), 47 CFR §§ 0.91, 0.291, and 54.722(a), that the denied application for Funding Request Number 18452711 IS REMANDED to USAC for further action in accordance with the terms of this Order.

10. IT IS FURTHER ORDERED that, pursuant to the authority delegated in section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Chief  
Wireline Competition Bureau

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<sup>26</sup> See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16730-31, paras. 113, n.295 (affirming that support for redundant connections is available in the HCF Program and explaining competitive bidding requirements for seeking support for redundant connections).

<sup>27</sup> See *Reliability and Continuity of Communications Networks, including Broadband Technologies; Effects on Broadband Communications Networks of Damage or Failure of Network Equipment or Severe Overload; Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, PS Docket No. 11-60 and No. 10-92, EB Docket No. 06-119, Notice of Inquiry, 26 FCC Rcd 5614, 5620, para. 17 (2011).

<sup>28</sup> See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16843, para. 26 (2012) ("HCPs often need a high degree of reliability, service quality, and redundancy for telehealth applications..."). The Commission has also previously found that commercial networks are often disrupted in emergencies and that networks are less susceptible to failure due to backup power and redundant backhaul. See *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, EB Docket No. 06-119, Order, 22 FCC Rcd 10541, 10564, 10565, paras. 74, 77 (2007).