

Rulemaking Hearing Rules  
of the  
Tennessee Regulatory Authority

Chapter 1220-4-10

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

Amendment

Chapter 1220-4-10 is amended by deleting it in its entirety and substituting the following language, so that, as amended Chapter 1220-4-10 shall read as follows:

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1220-4-10-.01 Definitions

- (1) "Act" refers to Chapter 417 of the Public Acts of 1999, now codified at Tenn. Code Ann. § 65-21-115.
- (2) "Applicant" means a person who applies to the Tennessee Regulatory Authority for a device to assist with communication through the basic telephone network.
- (3) "Qualified Applicant" is a person that because of a disability cannot use the basic telephone network effectively without the use of an assistive communications device.
- (4) "Assistive Communication Device" means special equipment that permits individuals who have a disability to communicate effectively over the telephone network.
- (5) "Authority" means the Tennessee Regulatory Authority.
- (6) "Lifeline" means a telephone assistance program that reduces the monthly telephone charges for qualified persons.
- (7) "Link-up" means a telephone assistance program that reduces the non-recurring cost of installing telephone service for qualified persons.
- (8) "Provider" means a telecommunications service provider or a competing telecommunications provider as defined by Tenn. Code Ann. § 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" or "Program" 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 manage the Program.

Authority: T.C.A. §§ 65-2-102 and 65-21-115. Administrative History: Original rule filed November 22, 1999; effective February 5, 2000. Amendment filed February 24, 2000; effective May 9, 2000.

#### 1220-4-10-.02 Contributions of Providers

- (1) Providers shall make contributions to the TDAP in proportion to each Provider's share of the total intra-state gross receipts of all Providers for the most recent calendar year.
- (2) Contributions collected for the TDAP will fund the purchase of assistive communication devices for Tennesseans with disabilities, and other equipment that may be necessary to implement the Act, and in addition, cover the necessary administrative costs (including outreach activities) of the Authority to administer the Program.
- (3) The Authority shall create a reserve fund for the Program that will not exceed one million dollars (\$1,000,000) within any given fiscal year, including the contributions for that fiscal year.
- (4) For the purposes of this 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.
- (5) On or before May 1 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 fiscal year from all Providers.
- (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. Administrative History: Original rule filed November 22, 1999; effective February 5, 2000. Amendment filed February 24, 2000; effective May 9, 2000.

#### 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 May 15 of each year. Each Provider shall submit its contribution to the Authority by June 15 of each year.
- (2) Providers failing to submit contributions, or submitting late, may be subject to penalties under Tenn. Code Ann. §§ 65-4-116 and 65-4-120.

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

Authority: T.C.A. §§ 65-2-102 and 65-21-115. Administrative History: Original rule filed November 22, 1999; effective February 5, 2000. Amendment filed February 24, 2000; effective May 9, 2000.

#### 1220-4-10-.04 Minimum Eligibility Requirements

- (1) All applicants must be residents of the State of Tennessee.
- (2) A qualified applicant shall have a disability, as verified by a care giver licensed to practice in the state of Tennessee, such that the person cannot use the basic telephone network effectively without the use of an assistive communication device.
- (3) Only one assistive communication device per household will be awarded through the Program unless there are persons in the same household with different adaptive needs. The TDAP Coordinator may then determine the need for more than one assistive communication device.
- (4) Because the demand for assistive communication devices may exceed the supply, the Authority will award the assistive communication 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 communication 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 cognitive condition, as verified by a care giver licensed to practice in Tennessee, that may present a life threatening situation (i.e., heart condition, stroke, severe depression, epilepsy, etc.);
  - (d) A qualified applicant living alone;
  - (e) Applicants who are under the age of 18 years who are able to use assistive communication 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 communication 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 or Link-up Telephone Assistance Programs.
- (5) The Authority may request all necessary documentation needed to confirm information provided by applicants. This documentation may include, but not be limited to, medical statements, copies of the applicant's federal income tax returns, evidence of public

assistance eligibility and any other documentation needed to ensure the applicant meets the requirements as specified in the Act and this Chapter.

- (6) Applicants must confirm in their application their ability to utilize an assistive communication device effectively. For those applicants that are not qualified in the use of such equipment, the TDAP Coordinator will provide applicants with information about qualified training.
- (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. Administrative History: Original rule filed November 22, 1999; effective February 5, 2000.

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

- (1) The Authority will purchase assistive communication devices under a state contract.
- (2) The TDAP Coordinator shall evaluate applications for assistive communication devices and shall award such equipment only to those applicants who meet the requisite requirements listed in this Chapter. Applicants who fail to qualify shall be notified by U.S. Registered Mail of the reasons for denial. Upon such notification, an applicant may request, in writing, directed to the Chief of Consumer Services, an informal conference to reconsider the denial. If the proposed solution is not satisfactory to the applicant, the applicant may file a petition for review with the Authority in accordance with Chapter 1220-1-1.
- (3) Assistive communication 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 communication 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 communication 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 because of a change in access needs.
- (6) Stolen or damaged equipment may be replaced. The applicant must provide copies of the appropriate documentation, such as fire department and/or police department reports.

Authority: T.C.A. §§ 65-2-102 and 65-21-115. Administrative History: Original rule filed November 22, 1999; effective February 5, 2000.

1220-4-10-.06 Maintenance and Repair

- (1) If the assistive communication 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 such equipment.
  - (a) Recipients will not qualify for loaner equipment if it is determined that the original device was damaged as the result of negligence or abuse.
  - (b) In order to qualify for loaner equipment, recipients must contact the TDAP Coordinator and provide some evidence that they will pay for the repair cost of their assistive communication devices.
- (2) The Authority shall maintain a list of locations where assistive communication devices can be repaired. The Authority shall make the final determination as to where the assistive communication devices are repaired.
- (3) It is the responsibility of the recipient to return the assistive communication 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 for repair cost by the Authority for recipients who have special financial needs as listed in 1220-4-10-.04(4)(a-h).
- (4) It is the responsibility of the recipient to purchase miscellaneous items, such as paper rolls, for the operation of the assistive communication devices.

Authority: T.C.A. §§ 65-2-102 and 65-21-115. Administrative History: Original rule filed November 22, 1999; effective February 5, 2000.

1220-4-10-.07 Monthly Telephone Charges

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. Administrative History: Original rule filed November 22, 1999; effective February 5, 2000.

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 express approval of the applicant unless such information is necessary for the preparation of reports or audits 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, Section 602 of the Individuals with Disabilities Education Act of 1997, Title II of the Americans with Disabilities Act of 1990 and Title V of the Vocational Rehabilitation Act of 1973 and its amendments.

Authority: T.C.A. §§ 65-2-102 and 65-21-115. Administrative History: Original rule filed November 22, 1999; effective February 5, 2000.

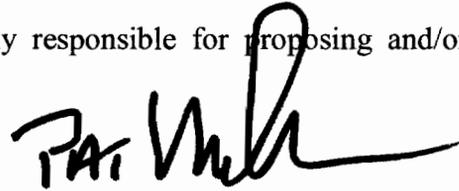
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Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules:



Pat Miller, Chairman

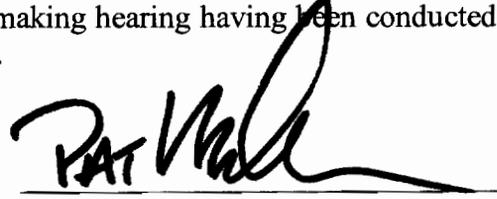
The roll-call vote by the Tennessee Regulatory Authority on these rulemaking hearing rules was as follows:

	Aye	No	Abstain
Pat Miller, Chairman	<u>  X  </u>	<u>      </u>	<u>      </u>
Deborah Taylor Tate, Director	<u>  X  </u>	<u>      </u>	<u>      </u>
Sara Kyle, Director	<u>  X  </u>	<u>      </u>	<u>      </u>
Ron Jones, Director	<u>  X  </u>	<u>      </u>	<u>      </u>

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 10<sup>th</sup> of January, 2005.

Further, I certify that the provisions of Tenn. Code Ann. § 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 31<sup>st</sup> day of August, 2004, and such notice of rulemaking hearing having been published in the September, 2004 issue of the

Tennessee Administrative Register, and such rulemaking hearing having been conducted pursuant thereto on the 8<sup>th</sup> day of November, 2004.



Pat Miller  
Chairman

Subscribed and sworn to before me this the 8<sup>th</sup> day of February, 2005.

  
Notary Public

My commission expires on the 28th day of May, 2006.

All rulemaking hearing rules provided for herein have been examined by the Attorney General & 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, Section 211.

  
Paul G. Summers  
Attorney General & Reporter

9/28/06

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 5 day of Dec., 2006, and will become effective on the 18 day of Feb., ~~2006~~ 2007

  
Riley C. Darnell  
Secretary of State

By: 

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REC'D