



Federal Communications Commission
Office of the Managing Director
Washington, D.C. 20554

June 27, 2024

The Honorable Shalanda Young
Director
Office of Management and Budget
Eisenhower Executive Office Building
725 17th Street, NW
Washington, D.C. 20503

Dear Director Young:

The Federal Communications Commission (FCC or Commission) is writing to you to follow up on the results of the audit by its Office of Inspector General (OIG) of the FCC's compliance with Payment Integrity Information Act reporting requirements for Fiscal Year (FY) 2023.

The Improper Payments Information Act of 2002 (IPIA, P.L. 107-300), as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA, P.L. 111-204), the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA, P.L. 112-248), and the Payment Integrity Information Act of 2019 (PIIA, P.L. 116-117) requires each agency Inspector General to review the improper payment reporting performed by their agency to determine compliance with improper payment reporting requirements.

The Commission's Inspector General hired external auditors to perform this review. The Inspector General's auditors determined that one of the FCC's programs, the Universal Service Fund (USF) Lifeline program, was out of compliance this year. Despite this finding of non-compliance, the FCC's Lifeline program has consistently shown progress in reducing improper payments over the last three fiscal years with gross improper payment rates dropping from 13.72% in FY 2021 to 6.13% in FY 2022 and again to 2.18% in FY 2023.

The auditors reported this year and the two previous years that the Lifeline program was out of compliance because the FCC did not report \$30 million in improper payments related to a unique situation involving one entity in the program. The FCC informed the OIG and its auditors on numerous occasions each year that it was not reporting a dollar amount related to this alleged improper payment because it involved just one eligible telecommunications carrier (ETC) that had made a clerical mistake related to its geographic service areas, as identified in its petition for designation as an eligible telecommunications carrier. Since the FCC had not taken action on this situation prior to the end of the auditor's fieldwork this year, the auditors included the finding again. After the end of the fieldwork this year, the FCC resolved the issue on May 7, 2024 by

making a formal decision,¹ and the auditors agreed that the findings from prior years have now been resolved.² In addition, rather than making any new recommendations concerning this issue in their FY 2023 report, the auditors stated in their report that: “As a result of the Orders and Consent Decree that were issued on May 7, 2024, no additional action is required.”³

Unfortunately because of the auditors’ decision to include the finding of non-compliance for a third year in a row despite the FCC’s success in lowering the improper payment rate in the program and despite acknowledging that the FCC has now resolved the questions related to the alleged improper payment, the FCC now must provide this report to fulfill the requirements of PIIA and the Office of Management and Budget’s (OMB) related guidance, OMB M-21-19.⁴ Pursuant to PIIA and OMB’s implementing guidance, an agency that is out of compliance for three consecutive years must submit to Congress, the OMB, and the Comptroller General of the United States a report that includes:

- i. Reauthorization proposals for each (discretionary) program that has not been in compliance for three consecutive years; and/or
- ii. Proposed statutory changes necessary to bring the program that has not been in compliance for three consecutive years into compliance.

If the agency determines that the two actions above will not bring the program into compliance, then the report must provide:

- iii. A description of the actions that the agency is undertaking to bring the program into compliance and
- iv. A timeline for when the program will achieve compliance based on the actions described.⁵

The FCC notes that the Lifeline program is a mandatory program as defined by OMB; thus, the FCC does not view the requirement to submit reauthorization proposals as applicable since this program is not discretionary. Furthermore, the FCC does not believe that statutory changes are necessary at this time. As a result, the FCC is providing in the paragraphs that follow the information required by OMB in subparagraphs iii. and iv. listed above.

As an initial matter, the FCC and the Universal Service Administrative Company (USAC), the USF administrator, are committed to continually improving and strengthening the integrity of the Lifeline program. This commitment is evidenced by the substantial reduction in improper payments in the Lifeline program since FY 2019. The Commission has made and continues to make significant improvements to the Lifeline program that will further prevent and reduce improper payments in the program as described in the paragraphs below.

¹ *In the Matter of Federal-State Joint Board on Universal Service, i-wireless, LLC Petition for Limited Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia*, WC Docket No. 09-197, Order, DA 24-428 (WCB 2024).

² *Audit of the Federal Communications Commission’s FY 2023 Compliance with the Payment Integrity Information Act of 2019 Requirements*, 24-AUD-01-01, May 29, 2024, at pg. 2; available at: <https://www.fcc.gov/inspector-general/reports/audit>.

³ *Id.* at pg. 14.

⁴ Office of Management and Budget (OMB) Memorandum M-21-19, Appendix C to OMB Circular A-123, *Requirements for Payment Integrity Improvement*, Part VI.D.3 (OMB Memorandum M-21-19).

⁵ *Id.* at VI.D.3.

USF Lifeline Program Integrity Improvement Highlights

The following are descriptions of the FCC and USAC's key efforts to prevent and reduce improper payments in the Lifeline program:

- **Standardized Forms:** To prevent payments for improperly certified subscribers, the FCC and USAC developed standardized forms for the Lifeline program's certification, re-certification, and one-per-household worksheets. Since July 1, 2018, all Lifeline service providers have been required to use these forms to verify and recertify subscriber eligibility.
- **National Verifier:** The FCC and USAC have launched the National Verifier in all states and territories to conduct independent third-party eligibility determinations for Lifeline applicants. The National Verifier increases program integrity by applying a consistent eligibility standard for Lifeline program participants. California, Texas, and Oregon continue to manage their own third-party eligibility processes for most Lifeline participants living in those states, in which eligibility determinations are processed by a state agency or its administrator. The FCC and USAC monitor these states' eligibility determination processes to ensure compliance with the Commission's rules. The National Verifier has helped to significantly reduce improper payments related to prior program integrity issues, such as ineligible subscribers, deceased subscribers, duplicate subscribers, and oversubscribed addresses. The National Verifier utilizes a combination of automated and manual processes to verify eligibility and confirm whether a consumer is qualified for the Lifeline program. To confirm participation in a qualifying program, the National Verifier connects to multiple eligibility databases, including connections with the U.S. Department of Housing and Urban Development database to verify federal public housing assistance, and with the Centers for Medicare and Medicaid Services (CMS) database to verify Medicaid participation. The National Verifier also benefits from connections to state Supplemental Nutrition Assistance Program, Medicaid, and Supplemental Security Income, and/or income databases in more than 20 states and territories. To further refine the verification process, USAC continues to work with states and territories to implement additional automated connections to eligibility databases. USAC also continuously revisits its programmatic review and audit procedures to properly address risks in the program, which are changing as a result of the National Verifier.
- **Sales Agent Compliance:** In October 2019, the Commission adopted a rule prohibiting Lifeline service providers from paying commissions to enrollment representatives based on the number of applications or enrollments processed by those representatives. In addition, the Commission established the Representative Accountability Database to identify and register sales agents who assist consumers in applying for Lifeline. The Representative Accountability Database, which became mandatory for all Lifeline service providers on May 25, 2020, issues unique identifiers to enrollment representatives that allow USAC to monitor those representatives' activities in USAC's Lifeline systems, such as the National Lifeline Accountability Database (NLAD) and the National Verifier. As part of this monitoring effort, USAC is able to better detect suspicious activity in its systems and restrict the access of enrollment representatives engaged in potentially fraudulent activity (e.g., enrolling fictitious subscribers). These restrictions may include a

permanent lock-out of an enrollment representative from USAC's systems, and referral of individual enrollment representatives to the FCC's enforcement authorities where appropriate.

- **Prevention of Duplicate Support:** As part of duplicate prevention, the NLAD continues to be the system of record to associate enrollments of consumers with a Lifeline service provider. With the launch of the National Verifier, USAC has enhanced the NLAD to ensure that no enrollment is permitted in a National Verifier state until the NLAD confirms that the Verifier has found the consumer to be eligible. Further, the National Verifier itself will not deem a consumer eligible until it confirms that the consumer is not already enrolled in the program as recorded in the NLAD. These cross-checks help prevent service providers from attempting to enroll a duplicate subscriber.
- **Eliminating Phantom Subscribers:** Phantom subscribers are described as those that are not enrolled in the NLAD and claimed for support, or vice versa. Beginning in January 2018, all claims for support have been limited to only those subscribers that have been validated and enrolled in NLAD. As a result, no Lifeline service provider can claim more subscribers than have been validated. In the three states that have opted out of the NLAD (California, Oregon, and Texas), payment is based on a qualified subscriber listing provided by the state administrator. In October 2019, the Commission codified a requirement that ETC reimbursement requests be based on the service provider's subscriber list in NLAD or those provided by a state administrator in the three states that operate their own duplicate checks.
- **Preventing Support for Deceased Subscribers:** USAC automatically prevents the enrollment of a deceased subscriber through its connection to LexisNexis, which leverages the Social Security Administration's Death Master File, among other sources of data. USAC also reviews a statistical sample of existing subscribers to verify they are not deceased or did not die after enrollment. In October 2019, the Commission codified a rule prohibiting ETCs from enrolling or claiming for reimbursement a Lifeline subscriber if the National Verifier or NLAD cannot verify the subscriber as living.
- **Program Integrity Reviews:** On a quarterly basis, USAC reviews a statistical sample of subscribers to verify eligibility, to confirm the subscriber is not deceased, to review oversubscribed households, and to evaluate possible phantom subscribers. These reviews may result in funding recovery, internal process improvements, or enforcement actions as appropriate.
- **Improper Payment Analysis:** USAC management performs deep-dive analysis of its improper payments to more thoroughly understand the root cause and to identify corrective actions that will address the root cause. Through this analysis, USAC management develops corrective actions as part of its program integrity efforts that help reduce future instances of improper payments.

In terms of a timeline to bring the Lifeline program into compliance, as noted above, the auditors have determined the prior year findings of non-compliance have been resolved by the Commission's actions, and in addition, the auditors stated in their FY 2023 report that no additional action on this issue is required. As such, the FCC believes that it has already completed the

necessary actions to bring the Lifeline program into compliance with PIIA reporting requirements. If you have any questions about this report, please do not hesitate to contact me. Thanks very much for your consideration of this information.

Sincerely,

Mark Stephens
Managing Director