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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Public Hearing

October 3, 2008
Jefferson City, Missouri
Volume 1

In the Matter of Proposed)
Emergency and Permanent Amendments) Case No. TX-2009-0030
To the Missouri Universal Service)
Fund Rules)

COLLEEN M. DALE, Presiding,
CHIEF REGULATORY LAW JUDGE.

ROBERT M. CLAYTON III,
COMMISSIONER.

REPORTED BY:

KELLENE K. FEDDERSEN, CSR, RPR, CCR
MIDWEST LITIGATION SERVICES

1 APPEARANCES:

2 SARAH KLIETHERMES, Assistant General Counsel
3 P.O. Box 360
4 200 Madison Street
Jefferson City, MO 65102
(573)751-3234

5 FOR: Staff of the Missouri Public
6 Service Commission.

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1 P R O C E E D I N G S

2 JUDGE DALE: We are here today,
3 October 3rd, 2008, in the matter of proposed amendments to
4 Chapter 31, Missouri Universal Service Fund, 31.010,
5 definitions. This is a change to the definition of a
6 low-income customer. And we will have an entry of
7 appearance.

8 MS. KLIETHERMES: Thank you, Judge. On
9 behalf of Staff of the Missouri Public Service Commission,
10 Sarah Kliethermes, Governor Office Building, Suite 800,
11 200 Madison Street, Jefferson City, Missouri 65102.

12 JUDGE DALE: Thank you. Why don't you go
13 ahead and we will -- would you like to make some
14 introductory remarks or shall I swear your witness first?

15 MS. KLIETHERMES: If you want to go ahead
16 and swear Mr. Van Eschen.

17 (Witness sworn.)

18 JUDGE DALE: Thank you. You may proceed.

19 JOHN VAN ESCHEN testified as follows:

20 DIRECT EXAMINATION BY MS. KLIETHERMES:

21 Q. Mr. Van Eschen, if you could very briefly
22 describe the purpose of this minor change to the rule.

23 A. The purpose of the change is to reflect the
24 fact that the reference to the Medicaid program, the name
25 of that program at least for Missouri's purposes has been

1 changed to Missouri HealthNet, and that change apparently
2 took place in August of 2006, and it did raise some
3 questions from companies in terms of verifying that
4 customers qualify for the Lifeline program.

5 I think this rule change would avoid any
6 confusion over whether a customer that qualifies for
7 Missouri HealthNet qualifies for Lifeline service. The
8 emergency rule that went into effect on August 1st, 2008
9 simply replaced the term Medicaid with Missouri's Medicaid
10 program and put in parentheses Missouri HealthNet.

11 This pending rulemaking to make the rule
12 permanent proposes to slightly change that rulemaking so
13 that the term Medicaid is replaced with the phrase a
14 program pursuant to 42 USC Sections 1396-1396(v).
15 According to our legal counsel, that's the federal
16 statutory reference to the Medicaid program. It was felt
17 that that might be a more appropriate wording in the event
18 that this program's name changes in the future. But we
19 support the rulemaking.

20 JUDGE DALE: Thank you.

21 COMMISSIONER CLAYTON: May I proceed? Yes,
22 I have some questions. Thank you, Judge.

23 QUESTIONS BY COMMISSIONER CLAYTON:

24 Q. The emergency rule, how long did that take
25 effect? It took effect what?

1 A. August 1st --

2 Q. August 1st?

3 A. -- 2008, and it expires January 29th, 2009.

4 Q. Okay. So it's good for six months, and
5 then this one will supplant that emergency rule?

6 A. That is correct.

7 Q. And you have defined the health care
8 program as a program pursuant to 42 USC Sections 1396
9 through 1396(v), as in Victor; is that correct?

10 A. Yes.

11 Q. Now, will that statutory reference ever
12 change in a likely scenario? For example, if Missouri
13 changes its health care name again after the following
14 legislative session, will this still be an accurate
15 reference for a health care program?

16 MS. KLIETHERMES: Commissioner, if I could
17 interject? In discussions with personnel from Missouri's
18 Department of Health and Senior Service -- or so sorry,
19 Social Services, and also in reviewing information
20 available on their website, this statutory reference is to
21 the federal statute, so no Missouri level changes would
22 impact that statutory reference.

23 COMMISSIONER CLAYTON: Okay. So Missouri's
24 involvement with any federally subsidized low-income
25 health care program is going to be pursuant to these

1 sections; is that correct?

2 MS. KLIETHERMES: Yes.

3 COMMISSIONER CLAYTON: All right. Now,
4 since we're making a reference here, should we -- would it
5 be helpful to give it a, like a reference in parentheses
6 stating that it relates to a low-income health care
7 program so that if a layperson or anyone not familiar with
8 what 42 Section 1396 is, or do you think that's not
9 necessary?

10 MS. KLIETHERMES: Well, Commissioner, that
11 is actually addressed on the form itself that a low-income
12 person would be filling out. The only interaction a
13 low-income person would have with the rules is if they
14 chose to look up those rules. This just -- this rule
15 prescribes those programs that need to be mentioned on the
16 form.

17 COMMISSIONER CLAYTON: So the form will
18 actually make reference to what this section is -- what it
19 means?

20 MS. KLIETHERMES: I believe the form
21 currently approved by the Universal Service Board does
22 make reference to Medicaid, paren Mo. HealthNet.

23 COMMISSIONER CLAYTON: Now, looking at the
24 other items that are listed within this paragraph,
25 specifically food stamps or SSI or federal public housing

1 assistance or Section 8, would it be more comprehensive to
2 include statutory references to those as well?

3 MS. KLIETHERMES: That's something that we
4 can look into.

5 COMMISSIONER CLAYTON: Well, it's not a
6 problem, but what I'm -- I guess the only reason I'm
7 thinking about this is rather than come back and have to
8 deal with changing a section again if, for example, they
9 change the food stamp program. I mean, are food stamps
10 defined anywhere?

11 MS. KLIETHERMES: That I'm not sure. I can
12 say that the SSI reference and the federal public housing
13 and the other national level references are basically on
14 the level that we have made the Medicaid reference at in
15 the sense that they refer to the federal program. So
16 however the State of Missouri might title that program
17 would not be impacted.

18 COMMISSIONER CLAYTON: I understand, but
19 that's not really what I'm asking. I guess what I'm
20 asking is, while we have this section open and while we're
21 dealing with it, would it be more comprehensive to,
22 instead of say food stamps, make a reference to the
23 federal statute that identifies food stamps and do it for
24 each of them?

25 Because it kind of looks funny just -- I

1 don't know if it's that big of a deal, but we made this
2 big deal about opening up Section 9 and correcting this,
3 and so you've got a program pursuant to 42 USC
4 Section 1396, comma, then you've got food stamps, SSI
5 federal public housing assistance or Section 8. Who knows
6 what Section 8 is?

7 I don't know. That's just a suggestion. I
8 don't know what you think about it.

9 MR. VAN ESCHEN: I can see some value in
10 looking at that in the sense that, you know, we got into a
11 situation right now where a name change has created a
12 problem, and to the extent that we can word this
13 definition so that in the event names of programs change
14 down the road, we're not faced with doing another
15 emergency rulemaking and another rulemaking like that.

16 COMMISSIONER CLAYTON: This isn't that big
17 of a deal. I think what my suggestion -- I guess what I'm
18 just saying is, put in the formal statutory reference
19 rather than use the lay -- the lay reference here, and
20 wouldn't it make the section more complete? And I know
21 you don't have those here today, but considering that
22 they're not -- there probably isn't any -- well, there is
23 no opposition to this change, maybe we could do that for
24 completeness sake. I don't know.

25 I don't think I have any other questions.

1 Thank you, Judge.

2 JUDGE DALE: Thank you. Is there anything
3 else we need to address while we're on the record?

4 MS. KLIETHERMES: I do not believe so.

5 JUDGE DALE: Thank you. In that case,
6 we're off the record and adjourned.

7 WHEREUPON, the rulemaking hearing was
8 concluded.

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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)

5 I, Kellene K. Feddersen, Certified
6 Shorthand Reporter with the firm of Midwest Litigation
7 Services, and Notary Public within and for the State of
8 Missouri, do hereby certify that I was personally present
9 at the proceedings had in the above-entitled cause at the
10 time and place set forth in the caption sheet thereof;
11 that I then and there took down in Stenotype the
12 proceedings had; and that the foregoing is a full, true
13 and correct transcript of such Stenotype notes so made at
14 such time and place.

15 Given at my office in the City of
16 Jefferson, County of Cole, State of Missouri.

17 _____
18 Kellene K. Feddersen, RPR, CSR, CCR
19 Notary Public (County of Cole)
20 My commission expires March 28, 2009.
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