

III. Waiver of Proposed Rulemaking and Delayed Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a notice take effect. We can waive this procedure, however, if we find good cause that notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and the reasons for it into the notice issued. We can also waive the 30-day delayed effective date of the Administrative Procedure Act (5 U.S.C. 553(d)) when there is good cause to do so and we publish in the rule an explanation of our good cause.

We find it unnecessary to undertake notice-and-comment rulemaking because this notice merely provides technical corrections to the regulations. We are not changing our payment methodology, but rather, are simply implementing correctly the payment methodology that we previously proposed, received comment on, and subsequently finalized. Thus, because the public has already had the opportunity to comment on the payment methodology being used to calculate wage indexes, additional comment would be unnecessary.

Further, it would be impracticable at this point in time either to solicit additional comments or to delay the effective date of these changes beyond October 1, 2003. The Social Security Act, in subparagraphs (G) and (H) of section 1888(e)(4), requires the updated SNF PPS rates to be in place at the beginning of each Federal fiscal year. Since the fiscal year begins on October 1, 2003, it is imperative that we ensure that the correct rates are in place and effective by October 1, 2003, and it would not have been possible to publish a notice and receive comments on it in the brief period of time between discovering our error and the October 1, 2003 effective date for the updated SNF PPS rates.

Finally, we believe that engaging in notice and comment prior to making these corrections or delaying the effective date beyond October 1, 2003 would be contrary to the public interest. As a matter of good public policy, the rates used in the SNF PPS should not be based on wage indexes that we now know were miscalculated. The public interest is served by ensuring that the rates used in the SNF PPS are correct and that such rates are in effect for the entire fiscal year. Thus, it would be contrary to the public interest to delay implementing such corrected rates in

order either to engage in notice-and-comment rulemaking or to provide for a 30-day delay in the effective date. Therefore, we find good cause to waive notice-and-comment procedures, as well as the 30-day delay in effective date.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 24, 2003.

Ann Agnew,

Executive Secretary to the Department.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 98-67; FCC 03-190]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Clarification and waiver.

SUMMARY: This document clarifies that captioned telephone voice carry over (VCO) service is a type of telecommunications relay service (TRS), and that eligible providers of such service are eligible to recover their costs in accordance with section 225 of the Communications Act. This document also clarifies that certain TRS mandatory minimum standards do not apply to captioned telephone VCO service, and waives other TRS mandatory standards for captioned telephone VCO service, for all current and future captioned telephone VCO service providers, for the same period of time indicated herein, beginning on the date of release of this *Declaratory Ruling*.

DATES: Effective August 1, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comment on the information collection contained herein should be submitted to Leslie Smith, Federal Communications Commission, Room 1-A804, 445 12th Street SW., Washington, DC 20554, or via the Internet to Leslie.Smith@fcc.gov, and to Kim A. Johnson, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the

Internet to

Kim_A_Johnson@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT:

Janet Sievert, of the Consumer & Governmental Affairs Bureau at (202) 418-1362 (voice), (202) 418-1398 (TTY), or e-mail Janet.Sievert@fcc.gov.

SUPPLEMENTARY INFORMATION: This *Declaratory Ruling* contains new and/or modified collections subject to the PRA of 1995, Pub. L. 104-13. These will be submitted to the OMB for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new and/or modified information collection(s) contained in this proceeding. This is a summary of the Commission's *Declaratory Ruling*, adopted July 25, 2003, released August 1, 2003. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0531 (voice), (202) 418-7365 (TTY). This *Declaratory Ruling* can also be downloaded in Text and ASCII formats at: <http://www.fcc.gov/cgb/dro>.

Paperwork Reduction Act

The *Declaratory Ruling* contains either new and/or modified information collection(s). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection(s) contained in this *Declaratory Ruling* as required by the PRA of 1995, Pub. L. 104-13. Public and agency comments are due November 28, 2003.

Synopsis

In this *Declaratory Ruling*, the Commission responds to a *Petition for Clarification* filed by Ultratec, Inc. (Ultratec), requesting that the Commission clarify that captioned telephone service, which Ultratec calls CapTel, an enhanced VCO service, is a type of TRS and eligible for