

June 9, 2008

Mr. Milton Brown
Office of the Chief Counsel
National Telecommunications and Information Administration
1401 Constitution Avenue, Room 4713
Washington, DC 20230

Re: Docket Number: 080324461-8462-01. Waiver of “eligible household” requirements for individuals residing in nursing homes, FR Vol. 73, No. 80, April 24, 2008. Submitted by facsimile to 202/501-8013 and electronically to coupon@ntia.doc.gov.

Dear Mr. Brown:

The undersigned organizations would like to thank the NTIA for your proposal to amend the regulations on household eligibility for the Converter Box Coupon Program and to permit residents of nursing homes and other care facilities to apply for coupons to purchase converter boxes. As you have noted, the elderly are among those most vulnerable to losing TV reception on February 17, 2009, when the nation transitions to digital TV broadcasting, because they are more likely to have analog sets and to use antennas for reception. Residents of long-term care facilities, including those younger than 65 with disabilities, are also often among the most financially disadvantaged Americans – 70 percent of nursing home residents use Medicaid to help pay for their care, for example – and the most reliant upon television for news, entertainment, and connection with their community, state and nation. Thank you for listening to the concerns our organizations have expressed about these residents’ inability to apply for discount coupons under the current rules and for inviting comments on how to make coupons available to those who live in long-term care facilities.

Some of the organizations signed on below are submitting separate comments with specific recommendations related to the questions in the notice of proposed rulemaking. However, we are joining together in this letter to express our mutual concerns about how the NTIA addresses several important, overarching issues:

Defining the scope of facilities whose residents will qualify for the waiver. Many of our organizations’ constituents in long-term care facilities are people with disabilities who are younger than 65 and who receive the same or similar kinds of services as people whose disabilities are related to the aging process. Moreover, many facilities – such as intermediate care facilities for the mentally retarded and group homes for persons with mental illness or developmental disabilities – may serve a population that is predominantly younger than 65. We urge you not to publish final rules that arbitrarily

exclude facilities that provide supportive services and/or nursing care to people under 65; rather, we urge you to develop a definition that is inclusive of all types of facilities that serve people who need 24-hour care or supportive services. Age should not be an artificial barrier that would prevent some vulnerable adults and youth from having access to this government benefit.

Verification of the legitimacy of requests. While we understand the agency's desire to avoid the risk of fraud in the coupon program, we do not agree that there is a higher risk of fraud in nursing homes and other care facilities than there is in residential households. The proposed regulations would establish a substantially higher burden of proof for identifying and confirming the eligibility of long-term care facility residents and their helpers than for the general population; and they would unnecessarily impede the easier access to converter boxes that you are trying to facilitate.

Because of national concern about identity theft, we believe that a requirement for applicants to provide their Social Security numbers and birth dates would have a chilling effect on individuals' willingness to apply for coupons on behalf of themselves or others. Exercising their statutory right not to provide their SSNs would delay receipt of a coupon, at best, or thwart their ability to obtain one, at worst. Family members and close friends are the most likely applicants on behalf of residents; but requiring them to produce a birth certificate or power of attorney to prove a relationship to the resident will discourage many from assisting their loved ones. Many will simply not be able to produce documents that establish a relationship. Likewise, we believe that administrators would be unduly burdened by the proposal and that residents in their facilities would benefit from an expedited process for approving applications for all residents within a facility who need converter boxes.

We strongly urge you to simplify the application process and bring it more closely in line with the requirements for individual households.

Ensuring that all appropriate facilities are identified and included in NTIA waiver standards. There are a number of legitimate sources from which to identify appropriate facilities, including the OSCAR database, state licensing and certification agencies (most of which have licensed facilities posted on their websites) for assisted living and other types of facilities, accrediting organizations, and trade associations. Individuals who provide a legitimate address from a list compiled by NTIA from these sources should be entitled to a coupon with minimal need for further verification. Furthermore, since the potential for fraud with this program appears very small, one option would simply be to ask applicants if they live in a "nursing home, assisted living facility, group home, or other senior care residence" and, if so, to provide the name, address, and phone number of the facility. NTIA could simply take their word that they live where they say they live, and possibly double check with a small sample of the facilities to determine the extent to which errors or misrepresentations were being made about whether someone lived in a nursing home or other senior care facility.

Please call upon us if you have questions regarding the final development and implementation of the regulations.

Sincerely,

Janet C. Wells
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On behalf of:

AARP
American Association for Long Term Care Nursing
American Association of Homes and Services for the Aging
American College of Health Care Administrators
American Geriatrics Society
American Health Care Association
American Postal Workers Union Retirees Department
American Society on Aging
Association for Gerontology and Human Development in Historically Black Colleges and Universities
CARF-CCAC and Aging Services
Hartford Institute for Geriatric Nursing
Massachusetts Advocates for Nursing Home Reform (MANHR)
Michigan Campaign for Quality Care
National Association of Area Agencies on Aging (n4a)
National Association of Directors of Nursing Administration/LTC, Inc.
National Association of State Long-Term Care Ombudsman Programs
National Center for Assisted Living
National Gerontological Nursing Association
Resident Councils of Washington
Service Employees International Union
United Senior Action of Indiana