

Legal Counsel for the Elderly

May 30, 2008

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

RE: Comments on Proposed Regulations to amend section 301.3 of the Digital-To-Analog Converter Box Coupon Program to waive the Household Eligibility and Application Process for individuals residing in Nursing Homes and Households that utilize Post Office Boxes.

Dear Mr. Brown:

The Office of the D. C. Long-Term Care Ombudsman Program (Ombudsman Program) is committed to improving the lives of the approximately 4600 residents of community residential facilities, nursing homes and assisted living facilities in the District of Columbia. On behalf of the Office of the D.C. Long-Term Care Ombudsman Program and long-term care residents, we submit the following comments regarding the proposed regulations amending section 301.3 of the Digital-To-Analog Converter Box Coupon Program (47 CFR 301.3).

The Ombudsman Program supports the amendment of section 301.3¹ of the Digital-To-Analog Converter Box Coupon Program to permit residents of nursing homes or senior care facilities to apply and acquire a coupon for a converter box.

We would recommend that your definition, “nursing home or other senior care facility” be changed to instead refer to “long-term care facility.” “Long-term care facility” is the term commonly used throughout the health care field and would include individuals with disabilities (e.g.: mental illness, mental retardation, physical disabilities, and/or development disabilities). We also, recommend that this definition be expanded to include community residence facilities and assisted living facilities. The Ombudsman Program acknowledges that some community residence facilities and assisted facilities may not be included in the CMS OSCAR database², but all are required to have a license; this documentation should be sufficient to allow them to participate in the proposed waiver program.

¹ 47 CFR Part 301 [Docket Number: 080324461-8462-01] RIN 0660-AA17, Section I, Page 22120.

² 47 CFR Part 301, Section I, A: Identification of Nursing Home or Other Senior Care Facilities, Page 22121.



Although we support your proposed amendment of the converter box coupon program, we are opposed to your implementation proposal.³ The Ombudsman Program does not believe that a resident of a long-term care facility should be required to provide his/her social security number to apply for a coupon in method numbers 1 through 3.

Requiring a resident's name, date of birth and the address of his/her long-term care facility are sufficient to verify identity and preclude fraud. Requiring a social security number is an unnecessary invasion of a resident's privacy and may lead to identity theft.

Needless to say, it is also a violation of the Privacy Act of 1974. It is hard to construe this requirement to provide a social security number as "voluntary" when the proposal states that if an individual should choose not to provide a Social Security Number, he/she would be subject to additional unnamed information requirements, which may delay a resident's receipt of a coupon.

Furthermore in "option 1", the requirement that a resident provide a certification as to whether he/she receives television exclusively over the air or through cable, satellite or other pay television service appears to have no relevancy to verifying the resident's identity and consequently should be eliminated. The Ombudsman Program is concerned that this may lead to marketing ploys subjecting long-term care residents to multi-media polling or mass information sharing with multi-media corporations in order to survey long-term care residents.

In "option 2", a person designated to act on a resident's behalf, would among other things, be required to provide his/her social security number and evidence that he/she is empowered to act on his/her behalf such as a birth certificate or a power of attorney. This evidence requirement would be extremely onerous on such an individual and may well convince the individual to withdraw his/her offer of assistance.

In "option 3", the administrator of a long-term care facility would be required to provide among other things his/her social security number and a copy of the long-term care facility's operating license indicating the administrator's authorization to administer the long-term care facility. Requiring an administrator to produce an operating license requirement seems sufficient, but requiring the administrator to produce his/her social security seems overly burdensome.

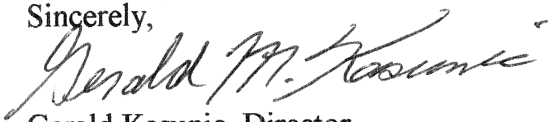
In sum, these three options are burdensome and would discourage any individual from applying for a coupon.

We support the proposal to allow an individual who uses a post office box for receipt of mail to be permitted to apply for a coupon. The identification requirements proposed for the post office box waiver seem reasonable and relevant.

³ 47 CFR Part 301, Section I, B. Administration of Coupon Program for Nursing Home Residents, (1), (2), and (3), Page, 22121

Thank you for allowing us to submit these comments. We look forward to working with the NTIA as it finalizes these proposed regulations.

Sincerely,

A handwritten signature in black ink that reads "Gerald M. Kasunic". The signature is written in a cursive style with a prominent initial "G".

Gerald Kasunic, Director
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