

C. Alternatives Considered

In developing the policies set forth in this rule, we met with professional organizations and interested parties to solicit their ideas and concerns. We also worked with our national regional office staffs to review currently approved Medicaid State Plans for information on the provision of audiology services in States' Medicaid programs. We considered the role of audiology services in the Medicaid program and the potential impact changes in the standards for audiology providers will have overall. We considered several options that suggested we— (1) make no change to the current Medicaid audiology requirements; (2) retain current requirements but issue updated policy guidance on issues such as provider equivalency authority; (3) rewrite the current Medicaid regulations to adopt the current Medicare requirements; and (4) rewrite the current Medicaid regulations to adopt the Medicare standards, but with minimum standards that apply in States that license as well as those that do not license or that exempt some practitioners from State licensure requirements.

After much research and consideration of the impact of each of the options, we concluded that option 4—the standards contained in this rule—best satisfies the Secretary's intention, and addresses the request raised by interested parties, to conform the definition of a qualified audiologist under the Medicare and Medicaid programs by recognizing the role of State licensure as a Medicaid provider requirement. We also concluded that the standards in this rule best continue to recognize the broad program discretion granted States under Medicaid by retaining program flexibility while at the same time also building in quality standards that continue to ensure Medicaid services are provided to all Medicaid-eligible individuals by recognized, highly trained professionals.

D. Conclusion

For the reasons stated above, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects Affected in 42 CFR Part 440

Grant programs—Health, Medicaid.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

PART 440—SERVICES: GENERAL PROVISIONS

Subpart A—Definitions

■ 1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

■ 2. In § 440.110, paragraph (c)(2) is revised, and a new paragraph (c)(3) is added to read as follows:

§ 440.110 Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

* * * * *

(c) * * *

(2) A “speech pathologist” is an individual who meets one of the following conditions:

(i) Has a certificate of clinical competence from the American Speech and Hearing Association.

(ii) Has completed the equivalent educational requirements and work experience necessary for the certificate.

(iii) Has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(3) A “qualified audiologist” means an individual with a master's or doctoral degree in audiology that maintains documentation to demonstrate that he or she meets one of the following conditions:

(i) The State in which the individual furnishes audiology services meets or exceeds State licensure requirements in paragraph (c)(3)(ii)(A) or (c)(3)(ii)(B) of this section, and the individual is licensed by the State as an audiologist to furnish audiology services.

(ii) In the case of an individual who furnishes audiology services in a State that does not license audiologists, or an individual exempted from State licensure based on practice in a specific institution or setting, the individual must meet one of the following conditions:

(A) Have a Certificate of Clinical Competence in Audiology granted by the American Speech-Language-Hearing Association.

(B) Have successfully completed a minimum of 350 clock-hours of supervised clinical practicum (or is in the process of accumulating that supervised clinical experience under

the supervision of a qualified master or doctoral-level audiologist); performed at least 9 months of full-time audiology services under the supervision of a qualified master or doctoral-level audiologist after obtaining a master's or doctoral degree in audiology, or a related field; and successfully completed a national examination in audiology approved by the Secretary.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: January 23, 2004.

Dennis G. Smith,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: February 23, 2004.

Tommy G. Thompson,

Secretary.

Editorial Note: This document was received at the Office of the Federal Register on May 25, 2004.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 99–217; FCC 04–41]

Promotion of Competitive Networks in Local Telecommunications Markets

AGENCY: Federal Communications Commission.

ACTION: Final rule, petition for reconsideration.

SUMMARY: In this document the Commission addresses four petitions seeking Reconsideration and/or Clarification of the Commission's determination to extend to users of fixed-wireless telecommunications antennas the same OTARD (Over-the-Air-Reception Devices) protections previously available to customers of multi-channel video service.

DATES: Effective July 27, 2004.

FOR FURTHER INFORMATION CONTACT: Cara Voth, Broadband Division, Wireless Telecommunications Bureau, at (202) 418–0025.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, (Order) released on March 24, 2004 (FCC 04–41). The full text of the Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text may also be purchased

from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. Additionally, the complete item is available on the Commission's Web site at <http://www.fcc.gov/wtb>.

I. Prodedural Matters

A. Regulatory Flexibility Act

1. A Regulatory Flexibility Analysis is not required because this order does not promulgate or revise any rules.

2. This action is taken pursuant to sections 4(i), 303, and 405 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 154(i), 303, and 405.

II. Ordering Clauses

3. The Petition for Reconsideration filed by Real Access Alliance, Inc., is denied.

4. The Petition for Partial Reconsideration filed by the Wireless Communications Association, Inc., is granted.

5. The Petition for Clarification and Partial Reconsideration filed by the Satellite Broadcasting Industry Association and Satellite Industry Association, Broadband and Internet Division, is granted.

6. The Petition for Reconsideration filed by Triton Network Systems, Inc., is granted.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04-12164 Filed 5-27-04; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 87

[WT Docket No. 98-20; RM-8677; FCC 98-234]

Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission adopted a new rule requiring that each applicant for a unicom license, renewal or modification of frequency assignment at an airport which does not have a control

tower, Remote Communications Outlet or Federal Aviation Administration flight service station must certify in the application that either it has notified in writing the owner of the airport and all aviation service organizations located at the airport, or that such notice is not required because the applicant owns the airport and there are no organizations that should be notified. The rule contains new or modified information collection requirements and was published in the **Federal Register** on December 14, 1998. This document announces the effective date of that published rule.

DATES: The amendment to § 87.215(d) published at 63 FR 68957, December 14, 1998, became effective on February 19, 1999.

FOR FURTHER INFORMATION CONTACT: Jeffrey Tobias, jeff.tobias@FCC.gov, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418-0680, or TTY (202) 418-7233.

SUPPLEMENTARY INFORMATION: On February 19, 1999, the Office of Management and Budget (OMB) approved the information collection requirements contained in section 87.215(d) pursuant to OMB Control No. 3060-0865. Accordingly the information collection requirements contained in this rule became effective on February 19, 1999.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04-12047 Filed 5-27-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173, 174, 175, 176, 177, and 178

[Docket No. RSPA-98-4952 (HM-223)]

RIN 2137-AC68

Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: On October 30, 2003, RSPA published a final rule (68 FR 61905) to clarify the applicability of the Hazardous Materials Regulations to loading, unloading, and storage

operations. RSPA is delaying the effective date of the final rule from October 1, 2004 to January 1, 2005.

DATES: The effective date of the final rule amending 49 CFR Parts 171, 173, 174, 175, 176, 177, and 178 published at 68 FR 61905 on October 30, 2003, is delayed until January 1, 2005.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky (202) 366-8553, Office of Hazardous Materials Standards, Research and Special Programs Administration; or Donna O'Berry (202) 366-4400, Office of the Chief Counsel, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:

I. Background

On October 30, 2003, the Research and Special Programs Administration (RSPA, we) published a final rule to clarify the applicability of the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) to specific functions and activities, including hazardous materials loading and unloading operations and storage of hazardous materials during transportation (68 FR 61906). The final rule amended the HMR to incorporate the following new definitions and provisions:

- We defined a new term—"pre-transportation function"—to mean a function performed by any person that is required to assure the safe transportation of a hazardous material in commerce. When performed by shipper personnel, loading of packaged or containerized hazardous material onto a transport vehicle, aircraft, or vessel and filling a bulk packaging with hazardous material in the absence of a carrier for the purpose of transporting it is a pre-transportation function as that term is defined in this final rule. Pre-transportation functions must be performed in accordance with requirements in the HMR.

- We defined "transportation" to mean the movement of property and loading, unloading, or storage incidental to the movement. This definition is consistent with the definition of "transportation" in Federal hazmat law. Transportation in commerce begins when a carrier takes physical possession of a hazardous material for the purpose of transporting it and continues until delivery of the package to its consignee or destination as evidenced by the shipping documentation under which the hazardous material is moving, such as shipping papers, bills of lading, freight orders, or similar documentation.

- We defined "movement" to mean the physical transfer of a hazardous