

■ 7. Section 411.384 is added to subpart J to read as follows.

**§ 411.384 Disclosing advisory opinions and supporting information.**

(a) Advisory opinions that CMS issues and releases in accordance with the procedures set forth in this subpart are available to the public.

(b) Promptly after CMS issues an advisory opinion and releases it to the requestor, CMS makes available a copy of the advisory opinion for public inspection during its normal hours of operation and on the DHHS/CMS Web site.

(c) Any predecisional document, or part of such predecisional document, that is prepared by CMS, the Department of Justice, or any other Department or agency of the United States in connection with an advisory opinion request under the procedures set forth in this part is exempt from disclosure under 5 U.S.C. 552, and will not be made publicly available.

(d) Documents submitted by the requestor to CMS in connection with a request for an advisory opinion are available to the public to the extent they are required to be made available by 5 U.S.C. 552, through procedures set forth in 45 CFR part 5.

(e) Nothing in this section limits CMS's obligation, under applicable laws, to publicly disclose the identity of the requesting party or parties, and the nature of the action CMS has taken in response to the request.

■ 8. Sections 411.386 through 411.389 are added to subpart J to read as follows.

**§ 411.386 CMS's advisory opinions as exclusive.**

The procedures described in this subpart constitute the only method by which any individuals or entities can obtain a binding advisory opinion on the subject of a physician's referrals, as described in § 411.370. CMS has not and does not issue a binding advisory opinion on the subject matter in § 411.370, in either oral or written form, except through written opinions it issues in accordance with this subpart.

**§ 411.387 Parties affected by advisory opinions.**

An advisory opinion issued by CMS does not apply in any way to any individual or entity that does not join in the request for the opinion. Individuals or entities other than the requestor(s) may not rely on an advisory opinion.

**§ 411.388 When advisory opinions are not admissible evidence.**

The failure of a party to seek or to receive an advisory opinion may not be introduced into evidence to prove that

the party either intended or did not intend to violate the provisions of sections 1128, 1128A or 1128B of the Act.

**§ 411.389 Range of the advisory opinion.**

(a) An advisory opinion states only CMS's opinion regarding the subject matter of the request. If the subject of an advisory opinion is an arrangement that must be approved by or is regulated by any other agency, CMS's advisory opinion cannot be read to indicate CMS's views on the legal or factual issues that may be raised before that agency.

(b) An advisory opinion that CMS issues under this part does not bind or obligate any agency other than the Department. It does not affect the requestor's, or anyone else's, obligations to any other agency, or under any statutory or regulatory provision other than that which is the specific subject matter of the advisory opinion.

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

Dated: September 15, 2004.

**Ann Agnew,**

*Executive Secretary to the Department.*

[FR Doc. 04-21206 Filed 9-23-04; 8:45 am]

**BILLING CODE 4120-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 1**

[OMD Docket No. 02-339; FCC 04-72]

**Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains a correction to the final rule, which was published in the *Federal Register* at 69 FR 27843 on May 17, 2004. The final rule related to the Debt Collection Improvement Act of 1996 (DCIA).

**DATES:** Effective on October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Regina W. Dorsey, Special Assistant to the Chief Financial Officer, at 1-202-418-1993, or by e-mail at [Regina.Dorsey@fcc.gov](mailto:Regina.Dorsey@fcc.gov), or Laurence H. Schecker, Office of General Counsel, Administrative Law Division, at 1-202-418-1720, or by e-mail at [Laurence.Schecker@fcc.gov](mailto:Laurence.Schecker@fcc.gov).

**SUPPLEMENTARY INFORMATION:** In FR Doc 04-10661, in the *Federal Register* of Monday, May 17, 2004, the following corrections are made.

**§ 1.1116 [Corrected]**

■ 1. On page 27847, in the third column, in § 1.1116, the reference to “§ 1.1109(b)” is corrected to read “§ 1.1109(d)”.

■ 2. On page 27850, in the third column, § 1.1910 is corrected to read as follows:

**§ 1.1910 Effect of insufficient fee payments, delinquent debts, or debarment.**

(a)(1) An application (including a petition for reconsideration or any application for review of a fee determination) or request for authorization subject to the FCC Registration Number (FRN) requirement set forth in subpart W of this chapter will be examined to determine if the applicant has paid the appropriate application fee, appropriate regulatory fees, is delinquent in its debts owed the Commission, or is debarred from receiving Federal benefits (*see, e.g.*, 31 CFR 285.13; 47 CFR part 1, subpart P).

(2) Fee payments, delinquent debt, and debarment will be examined based on the entity's taxpayer identifying number (TIN), supplied when the entity acquired or was assigned an FRN. See 47 CFR 1.8002(b)(1).

(b)(1) Applications by any entity found not to have paid the proper application or regulatory fee will be handled pursuant to the rules set forth in 47 CFR part 1, subpart G.

(2) Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission (*see* § 1.1901(j)), unless otherwise provided for in this regulation, *e.g.*, 47 CFR 1.1928 (employee petition for a hearing). The entity will be informed that action will be withheld on the application until full payment or arrangement to pay any non-tax delinquent debt owed to the Commission is made and/or that the application may be dismissed. *See* the provisions of §§ 1.1108, 1.1109, 1.1116 and 1.1118. Any Commission action taken prior to the payment of delinquent non-tax debt owed to the Commission is contingent and subject to rescission. Failure to make payment on any delinquent debt is subject to collection of the debt, including interest thereon, any associated penalties, and the full cost of collection to the Federal government pursuant to the provisions of the Debt Collection Improvement Act, 31 U.S.C. 3717.

(3) If a delinquency has not been paid or the debtor has not made other satisfactory arrangements within 30 days of the date of the notice provided pursuant to paragraph (b)(2) of this section, the application or request for authorization will be dismissed.

(i) The provisions of paragraphs (b)(2) and (b)(3) of this section will not apply if the applicant has timely filed a challenge through an administrative appeal or a contested judicial proceeding either to the existence or amount of the non-tax delinquent debt owed the Commission.

(ii) The provisions of paragraphs (b)(2) and (b)(3) of this section will not apply where more restrictive rules govern treatment of delinquent debtors, such as 47 CFR 1.2105(a)(2)(x) and (xi).

(c)(1) Applications for emergency or special temporary authority involving safety of life or property (including national security emergencies) or involving a brief transition period facilitating continuity of service to a substantial number of customers or end users, will not be subject to the provisions of paragraphs (a) and (b) of this section. However, paragraphs (a) and (b) will be applied to permanent authorizations for these services.

(2) Provisions of paragraph (a) and (b) of this section will not apply to application or request for authorization to which 11 U.S.C. 525(a) is applicable.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 04-21412 Filed 9-23-04; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CC Docket No. 98-67; FCC 03-112]

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

**AGENCY:** Federal Communications Commission.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to the final regulations of the Commission's rules, which were published in the *Federal Register* on Monday, August 25, 2003, 68 FR 50973.

The final regulations amended the Commission's rules pertaining to mandatory minimum standards, and other regulations for Telecommunications Relay Services and

Speech-to-Speech services for individuals with hearing and speech disabilities.

**DATES:** Effective September 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** Cheryl King, of the Consumer & Governmental Affairs Bureau at (202) 418-2284 (voice), (202) 418-0416 (TTY), or e-mail [cheryl.king@fcc.gov](mailto:cheryl.king@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Communications Commission published a document amending 47 CFR 64.604 in the *Federal Register* of August 25, 2003, (68 FR 50973). The amended rules are intended to improve the overall effectiveness of TRS to ensure that persons with hearing and speech disabilities have access to telecommunications networks that is consistent with the goal of functional equivalency mandated by Congress.

#### Need for Correction

As published, the final regulations contain errors which may prove to be misleading and need to be clarified.

#### List of Subjects in 47 CFR Part 64

Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications.

■ Accordingly, 47 CFR Part 64 is corrected by making the following correcting amendments:

#### PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Public Law 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254(k) unless otherwise noted.

#### § 64.604 [Amended]

■ 2. Section 64.604 is amended by removing paragraphs (a)(5) and (a)(6) and by redesignating paragraph (a)(7) as paragraph (a)(5).

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 04-21514 Filed 9-23-04; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 04-2933, MM Docket No. 00-127, RM-9894]

#### Digital Television Broadcast Service; Jamestown, ND

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Red River Broadcast Company, substitutes DTV channel 18 for DTV channel 14. See 69 FR 29252 (May 21, 2004). DTV channel 18 can be allotted to Jamestown, North Dakota, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 46-55-27 N. and 98-46-19 W. with a power of 1000, HAAT of 135 meters and with a DTV service population of 47 thousand. Concurrence from the Canadian government was received for this allotment. With this action, this proceeding is terminated.

**DATES:** Effective November 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 00-127, adopted September 9, 2004, and released September 17, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 301-816-2820, facsimile 301-816-0169, or via e-mail [joshir@erols.com](mailto:joshir@erols.com).

This document does not contain [new or modified] information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

The Commission will send a copy of this Report & Order in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).