

## **CHAPTER 54-44.8**

### **COMMUNICATIONS-IMPAIRED TELECOMMUNICATIONS SERVICES**

**54-44.8-01. Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the individual employed by the chief information officer of the state to oversee administration of the program.
2. "Commission" means the public service commission.
3. "Communications impaired" means the condition of an individual who is deaf, hearing impaired, speech impaired, or mobility impaired so as to be unable to use a telephone readily purchased from a retail store.
4. "Department" means the information technology department.
5. "Disadvantaged" means residing in a household that has a median income not more than the applicable median income in this state, except the term includes residing in a household that has a median income not more than one hundred fifty percent of the applicable median income in this state if the resident is deaf.
6. "Local exchange company" means a telecommunications company that provides telephone access lines to members of the general public who are its customers.
7. "Program" means the program established under section 54-44.8-03.
8. "Radio communications access" means the radio access between a customer of a radio communications service provider and the provider.
9. "Radio communications service provider" means a telecommunications company that provides radio communication service or cellular service to members of the general public who are its customers.
10. "Specialized telecommunications equipment" means a dedicated telecommunications device that, when connected to a telephone, enables or assists a person who is communications impaired to communicate with another person utilizing the telephone network. The term may include telecommunications devices for the deaf, amplifiers, and signaling devices. Specialized telecommunications equipment provided under this chapter to an individual may not exceed two thousand dollars in total cost per device.
11. "Telecommunications relay service" means a statewide service through which a communications-impaired individual, using specialized telecommunications equipment, may send and receive messages to and from a noncommunications-impaired individual whose telephone is not equipped with specialized telecommunications equipment and through which a noncommunications-impaired individual, by using voice communication, may send and receive messages to and from a communications-impaired individual.
12. "Telephone access line" means the facilities between a serving central office and the customer of a local exchange company which are required to provide access to the local and toll network.

**54-44.8-02. Responsibilities of the administrator.** The administrator shall oversee the department's administration of the program. The administrator shall:

1. Review and recommend policies and procedures governing administration of the program and ensure the program is in compliance with any applicable state or federal law or rule;
2. Prepare a budget for administration of services under the program;
3. Monitor the expenditures of funds for the program;
4. Monitor the quality of the program and the satisfaction of the users; and
5. Perform any other duties necessary to oversee administration of the program.

**54-44.8-03. Program established - Purpose.**

1. The department shall establish and administer a program to provide telecommunications relay service to persons who are communications impaired.
2. The program shall provide a telecommunications relay service to allow persons who are communications impaired to communicate via the telecommunications network with noncommunications-impaired persons.
3. The department of human services shall furnish specialized telecommunications equipment to meet the needs of individuals who are communications impaired and who might be otherwise disadvantaged in their ability to obtain such equipment. The department of human services shall determine eligibility and may provide the specialized telecommunications equipment to individuals determined eligible within the limits of funding made available to the department of human services through gifts and grants received under section 54-44.8-06 and from funding made available by the information technology department from the surcharge collected pursuant to section 54-44.8-08, which are appropriated.

**54-44.8-04. Responsibilities of the department.** The department shall:

1. Develop rules, policies, and procedures, as may be necessary, to govern administration of the program.
2. Implement the telecommunications relay service as described in subsection 2 of section 54-44.8-03 by July 26, 1993, to the extent funds generated by the surcharge described in section 54-44.8-10 are available.
3. Perform any other duties necessary to properly administer the program.

**54-44.8-05. Telecommunications relay service - Requirements.**

1. The department shall contract with a qualified provider to design and implement a telecommunications relay service that fulfills the requirement of subsection 2 of section 54-44.8-03. The department shall award the contract for this service to the offeror whose proposal is the most advantageous to the state; considering price, the interests of the communications-impaired community in having access to a high quality and technologically advanced telecommunications system, and all other factors listed in the request for proposals.
2. Except in cases of willful misconduct, gross negligence, or bad faith, neither the department nor the provider of the telecommunications relay service, nor the employees of the provider, are liable for any damages or claims for relief arising out of or resulting from the establishment of, participation in, or operation of the telecommunications relay service.
3. The department shall require, under the terms of the contract, that:

- a. The service be available statewide for operation seven days a week, twenty-four hours per day, including holidays, for both interstate and intrastate calls.
- b. The service relay all messages promptly and accurately.
- c. The service maintain the privacy of persons using the system.
- d. The provider preserve the confidentiality of all telephone communications.
- e. The service conform to any standards established by applicable state or federal laws or rules.

**54-44.8-06. Gifts and grants.** The department of human services may accept contributions and gifts and may apply for and accept grants, in money or otherwise, to the program. Monetary contributions, gifts, and grants must be deposited in the state treasury to be credited to the department of human services operating account.

**54-44.8-07. Telecommunications services account for the communications impaired.** The telecommunications services account for the communications impaired consists of all surcharges billed and collected pursuant to section 54-44.8-08. Subject to legislative appropriation, the department may expend moneys from the account for purposes of implementing this chapter.

**54-44.8-08. Telephone access line and radio communications access surcharge.**

1. Before May first of each year, the department shall report all cost data and other information to the commission. Each local exchange company and radio communications service provider shall report all information requested by the department in order to determine the number of telephone access lines and radio communications access service numbers. Before June first of each year, the commission shall determine the amount of a surcharge, not to exceed eleven cents per telephone access line per month, based upon available cost data and other information provided by the department necessary to cover the costs of providing intrastate telecommunications relay service as provided in section 401 of the federal Americans with Disabilities Act of 1990 [47 U.S.C. 225], including the cost of implementing and administering this chapter which includes the provision of specialized equipment to eligible persons, and taking into consideration any surplus in the telecommunications services account. The surcharge is imposed effective on its determination by the commission and must be billed and collected as provided in this chapter. The surcharge is subject to section 49-21-01.3. Funding for the interstate portion of the state telecommunications relay service must be provided in a manner consistent with rules and orders adopted by the federal communications commission in implementing the federal Americans with Disabilities Act. The department shall notify each local exchange company and radio communications service provider, in writing, of the amount of the monthly surcharge determined by the commission.
2. Each local exchange company and radio communications service provider shall include and identify the surcharge determined under subsection 1 in its monthly billing for service to a customer of the company or provider.
3. Each customer of a local exchange company or radio communications service provider is liable for payment to the local exchange company or radio communications service provider of any surcharge imposed pursuant to this chapter. The local exchange company or radio communications service provider is not liable for any uncollected surcharge, nor does the company have an obligation to take any legal action to enforce the collection of any surcharge that is unpaid by its customers.

4. No customer of a local exchange company may be required to pay the surcharge on more than one hundred telephone access lines per account and no customer of a radio communications service provider may be required to pay the surcharge on more than one hundred radio communications access service numbers per account in this state.
5. Except as provided in subsection 6, a local exchange company or radio communications service provider shall transmit all surcharges billed and collected to the department no later than the last day of the month following the end of the calendar quarter in which the surcharge is collected. The administrator shall remit the surcharges received to the state treasurer. The state treasurer shall deposit all surcharges received in the state treasury to the credit of the telecommunications services account for the communications impaired.
6. Each local exchange company or radio communications service provider may deduct and retain five percent of the total surcharges billed and collected each month to cover its administrative expense in complying with the requirements of subsections 2, 3, 4, and 5.

**54-44.8-09. Records - Audit.** Each local exchange company or radio communications service provider shall maintain a record of the surcharges billed and collected pursuant to section 54-44.8-08 for a period of three years from the date of billing or collection, respectively. The commission may audit each local exchange company's or radio communications service provider's records to assure compliance with this chapter.