

In the Matter of)	
)	
Structure and Practices of the Video Relay Service Program)	CG Docket No. 10-51
)	
Internet-based TRS Certification Application of Healinc Telecom, LLC)	

ORDER

Adopted: February 21, 2013

Released: February 21, 2013

By the Acting Chief, Consumer and Governmental Affairs Bureau:

1. The Consumer and Governmental Affairs Bureau (CGB, or Bureau) of the Federal Communications Commission (FCC or Commission) denies the application of Healinc Telecom, LLC (Healinc) to obtain recertification as a video relay service (VRS) provider and to obtain initial certification as an Internet Protocol (IP) Relay Service provider eligible to receive compensation from the Interstate Telecommunications Relay Services (TRS) Fund (Fund).¹ As described below, CGB has identified numerous instances of Healinc's noncompliance with the Commission's TRS rules and orders, as well as apparent deficiencies in Healinc's ability to maintain compliance with TRS rules and orders. Therefore, we find that Healinc has failed to satisfy the conditions set forth in our grant of conditional certification permitting Healinc to receive Fund compensation for the provision of VRS.² In addition, we find that Healinc has failed to demonstrate that its provision of VRS and IP Relay will meet or exceed the mandatory minimum standards applicable to those services.³ For these reasons, we conclude that Healinc is not qualified to receive compensation from the Fund for the provision of VRS and IP Relay, and we hereby deny Healinc's application for recertification.

I. BACKGROUND

2. On January 4, 2012, CGB granted Healinc conditional certification as a VRS provider eligible to be compensated by the Fund. Such conditional certification was granted:

¹ See Healinc, Internet-based TRS Certification Application (filed Dec. 1, 2011) (Healinc Application). On October 1, 2012, Healinc notified the Commission that it had transferred its VRS customer and network operations to Purple Communications, Inc. ("Purple"), effective September 30, 2012. See Letter from Lamar G. Stewart, Chief Operations Officer/Senior Vice President, Healinc Telecom, LLC, to Marlene H. Dortch, FCC Secretary (October 1, 2012). We are nonetheless issuing this order because Healinc's application for certification as a provider of Internet-based TRS (including IP Relay) remains pending at the Commission.

² See *Notice of Conditional Grant of Application of Healinc Telecom, LLC for Recertification as a Provider of Video Relay Service Eligible for Compensation from the Interstate Telecommunications Relay Services (TRS) Fund*, CG Docket No. 10-51, Public Notice, 27 FCC Rcd 116, 118 (CGB 2012) (*Healinc Conditional Certification PN*).

³ Our rules provide that certification of Internet-based TRS providers will be granted if the provider has established that it will meet or exceed all non-waived minimum standards for TRS. 47 C.F.R. § 64.606(b)(2).

pending inspection of Healinc's facilities and confirmation of Healinc's compliance with all applicable rules and orders, as well as our determination that Healinc is qualified to receive compensation from the Fund and that grant of full certification would be consistent with the objective of preventing waste, fraud, and abuse to the [TRS] Fund, as embodied in our VRS rules and orders.⁴

This grant of conditional certification, we stated, is "without prejudice to the Commission's final determination of Healinc's qualifications, and is dependent on the Commission verifying the information provided in the Healinc Recertification Application, as supplemented, and on the veracity of the applicant's representations that it will provide service in compliance with all pertinent Commission requirements."⁵ We further reserved the right to conduct one or more on-site inspections of Healinc's facilities⁶ and to request additional documentation relating to Healinc's provision of VRS. We stated:

Ultimate conversion to full certification will be granted if, based on on-site visits and our review of such additional documentation, the Commission finds that Healinc is in compliance with the Commission's rules and orders, including those rules designed to ensure the accuracy and integrity of Fund payments, and is qualified to receive compensation from the Fund for the provision of VRS. If at any time during the period in which Healinc is operating pursuant to this conditional certification, the Commission determines that Healinc has failed to provide sufficient supporting documentation for any of the assertions in Healinc's application, or that any of those assertions cannot be supported, or finds evidence of any apparent rule violation, fraud, waste, or abuse, the Commission will take appropriate action, including the possible denial of the Healinc Recertification Application. In the event of such denial, Healinc's conditional certification will automatically terminate 35 days after such denial.⁷

3. Since granting Healinc conditional certification, we have conducted further investigations of Healinc's eligibility for full certification. In addition to reviewing call detail records (CDRs) and other information Healinc submitted to the Fund administrator and the Commission, Bureau staff conducted on-site inspections of Healinc's call centers, test calls to 911 through Healinc's service, and test calls to confirm whether Healinc processes calls routed through non-Healinc URLs.

⁴ *Healinc Conditional Certification PN*, 27 FCC Rcd at 117.

⁵ *Id.* at 118, citing *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Second Report and Order and Order, 26 FCC Rcd 10898, 1014, ¶ 36 (2011) (*iTRS Certification Order*).

⁶ In the *iTRS Certification Order*, the Commission noted that such visits would "better enable the Commission to verify the information provided in a certification application, and help us to better assess an applicant's ability to provide service in compliance with our rules." *iTRS Certification Order*, 26 FCC Rcd at 10914, ¶ 36.

⁷ *Healinc Conditional Certification PN*, 27 FCC Rcd at 118 (footnotes omitted).

II. FINDINGS

4. Our rules provide that an Internet-based TRS provider will be granted certification if the provider has established that it will meet or exceed all non-waived minimum standards for TRS.⁸ CGB's investigations of Healinc's VRS identified numerous instances in which Healinc did not provide VRS in compliance with the Commission's rules and orders. Among other violations, Healinc failed to process VRS 911 calls in accordance with the Commission's rules; submitted for compensation calls routed through URLs used by ineligible providers, contrary to the Commission's prohibitions against use of such URLs; repeatedly submitted false, inaccurate, or incomplete reports and information to the Fund administrator and the Commission; and failed to submit reports required by the Commission's rules. Our findings are discussed below.

A. Failure to Comply with TRS 911 Calling Requirements

5. Section 64.604 of the Commission's rules requires TRS providers to "be capable of handling any type of call normally provided by telecommunications carriers,"⁹ and Section 64.605 sets forth specific requirements for the processing of 911 calls placed by registered¹⁰ and nonregistered¹¹ users.

6. When a VRS provider handles a 911 call placed by one of the providers' registered VRS users, Section 64.605(b) generally requires that the provider must transmit the call, via the dedicated wireline E911 network, to the Public Safety Answering Point (PSAP) serving the caller's Registered Location and ensure that the caller's Registered Location and other relevant information is available to the PSAP from the appropriate automatic location information (ALI) database.¹²

7. When a provider handles a 911 call from a VRS user who is *not* registered with the provider, Section 64.605(a) of the rules requires, among other things, that the provider: (1) access a commercially available database that will allow the provider to determine an appropriate PSAP, statewide default answering point, or appropriate local emergency authority and to relay the call to that entity;¹³ (2) request, at the beginning of the call, the caller's name and location information;¹⁴ and (3) deliver to the PSAP or other appropriate entity such name and location information, as well as the provider's name, the

⁸ 47 C.F.R. § 64.606(b)(2).

⁹ *Id.* § 64.604(a)(3)(ii).

¹⁰ *Id.* § 64.605(b).

¹¹ *Id.* §§ 64.605(a)(1), (2)(i), (iv). Section 64.605(a) also contains emergency calling requirements that are generally applicable to all Internet-based TRS providers. *Id.* §§ 64.605(a)(2)(ii), (iii), (v), (vi).

¹² *Id.* § 64.605(b)(2).

¹³ *Id.* § 64.605(a)(2)(i).

¹⁴ *Id.* § 64.605(a)(2)(iii). This requirement does not apply if the provider already has, or has access to, the Registered Location for the caller.

communications assistant's (CA) callback number, and the CA's identification number, at the outset of the outbound leg of an emergency call.¹⁵

8. Although Healinc's application for certification stated that it handles 911 calls in accordance with these rules,¹⁶ two test calls conducted and recorded at FCC headquarters, on March 26, 2012, by a caller with 911 expertise (Test Caller), under CGB supervision, revealed noncompliance by Healinc with the requirements applicable to 911 calls from *non*registered users.¹⁷ Specifically, the CA failed to obtain relevant information from the Test Caller, as required by Section 64.605(a)(2)(iii), failed to relay the call to an appropriate PSAP, statewide default answering point, or local emergency authority as required by Section 64.605(a)(2)(i), and failed to convey required information to the appropriate PSAP, statewide default answering point, or local emergency authority as required by Section 64.605(a)(2)(iv).¹⁸

9. As a result of Healinc's noncompliance, it took more than six minutes, on the first test call, and more than three minutes, on the second test call, for the Test Caller to reach a 911 dispatcher.¹⁹ The noncompliant acts and omissions of Healinc's CAs during these 911 test calls also reflect Healinc's failure to train its CAs adequately in accordance with Section 64.604(a)(1) of the rules.²⁰

B. Failure to Comply with the URL Rule

10. Section 64.604(c)(5)(iii)(N)(I)(i) of the Commission's rules provides that only service providers who are eligible to receive Fund compensation for VRS may hold themselves out as VRS providers.²¹ In addition, Section 64.604(c)(5)(iii)(N)(I)(ii) requires that VRS must be offered only under the name of the eligible VRS provider and in a manner that clearly identifies that provider, and any sub-brands used to identify a provider's VRS must clearly identify the eligible provider.²² Further, a VRS

¹⁵ *Id.* § 64.605(a)(2)(iv).

¹⁶ *See* Healinc Application at 23-28.

¹⁷ Test calls to 911 from FCC headquarters, placed through Healinc call centers, March 26, 2012 (911 Test Calls). The Test Caller was not able to successfully register with Healinc prior to making the test calls; therefore, the Test Caller placed the test calls with Healinc using a ten-digit number and video communications software obtained from another provider. Because the Test Caller was not registered with Healinc, Healinc's contention that the 911 requirements applicable to calls from registered users do not apply to these test calls is moot. *See* Letter from Lamar A. Stewart, Chief Operating Officer, Healinc, to Marlene H. Dortch, Secretary, FCC at 1 (March 29, 2012).

¹⁸ 911 Test Calls.

¹⁹ By contrast, when no relay service is involved, the connection to a PSAP is typically instantaneous, and the expectation is that a 911 call will be answered by a 911 dispatcher within 10 seconds. *See* National Emergency Number Association, NENA Call Answering Standard/Model Recommendation, § 3.1 (2006) (providing that "90% of all 9-1-1 calls arriving at the PSAP during the busy hour shall be answered within 10 seconds").

²⁰ 47 C.F.R. § 64.604(a)(1). Section 64.604(a)(1) requires TRS providers to ensure that their CAs are "sufficiently trained to effectively meet the specialized needs of individuals with hearing and speech disabilities." *Id.* During the May 7, 2012, site visit to a Healinc call center, the CA on duty reported he had never been trained or even received a manual on handling 911 calls. Inspection of Call Center 5007, May 7, 2012 (Call Center Inspection).

²¹ 47 C.F.R. § 64.604(c)(5)(iii)(N)(I)(i).

²² *Id.* § 64.604(c)(5)(iii)(N)(I)(ii).

provider must route all VRS calls through a single URL address used for each name or sub-brand used.²³ These provisions, known as the “branding and URL” rules, became effective June 1, 2011.²⁴ As an additional measure to ensure that providers comply with the branding and URL rules, Section 64.604(c)(5)(iii)(D)(2) requires that the CDRs submitted by VRS providers in support of their claims for Fund compensation specify, for each call, the URL address through which the call is initiated.²⁵

11. Prior to the grant of conditional certification to Healinc, the Fund administrator withheld payment for numerous calls processed by Healinc in July, August, and September 2011 because Healinc failed to comply with the branding and URL rules.²⁶ Subsequently, Healinc asserted that it had made various changes to ensure future compliance with the branding and URL rules, including ensuring that all

²³ *Id.* § 64.604(c)(5)(iii)(N)(I)(ii).

²⁴ *See Structure and Practices of the Video Relay Service Program*, 76 Fed. Reg. 24393 (May 2, 2011). The Commission adopted the branding and URL rules in part because it found that the complex branding and commercial relationships that had previously existed between eligible and ineligible VRS providers hindered consumers from making informed choices among VRS providers. *Anti-Fraud Order*, 26 FCC Rcd at 5574, ¶ 57. The Commission also found that the use of multiple URLs facilitated fraud by enabling providers to track calls made by users assigned to specific URLs. *Anti-Fraud Order*, 26 FCC Rcd at 5574, ¶ 57.

²⁵ *See* 47 C.F.R. § 64.604(c)(5)(iii)(D)(2)(x) (2012) (requiring providers to identify, in their CDRs, “the URL address through which [each] call is initiated”). The initial version of the CDR rule itself, as published in the Federal Register, used the word “handled” in place of “initiated.” *See Structure and Practices of the Video Relay Service Program*, 76 Fed. Reg. 24393, 24400 (May 2, 2011). The order adopting the rule, however, used the term “initiated” in its discussion and description of the rule. *See Anti-Fraud Order*, 26 FCC Rcd at 5580, ¶ 73. Similarly, the Federal Register publication on September 26, 2011, announcing OMB’s approval of the rule’s information collection requirement and the rule’s effective date, used “initiated.” On October 4, 2012, a correction of the codified rule was published in the Federal Register. *See Structure and Practices of the Video Relay Service Program*, 77 Fed. Reg. 60630, 60630-31 (October 4, 2012). On April 9, 2012, RLSA amended its instructions to require providers to include in their CDRs the URL address through which each call is initiated. As noted above, Section 64.604(c)(5)(iii)(N)(I)(ii) requires that each call processed under a particular name or sub-brand must be routed through a “single” URL. The use of the term “initiated” in the *Anti-Fraud Order* and in the text of 64.604(c)(5)(iii)(D)(2)(x), as corrected, makes clear the Commission’s intent to require providers to report the first URL through which the call was routed. Given the role of the CDR reporting requirement as a tool for ensuring compliance with the branding and URL rules, this likewise informs our interpretation of the requirements in section 64.604(c)(5)(iii)(N)(I)(ii) of the rules that each call processed under a particular name or sub-brand must be routed through a “single” URL. As explained in Section II.C.1, in its CDRs for June and July 2012, Healinc failed to accurately report the URLs through which its VRS calls were initiated.

²⁶ Specifically, Healinc failed to ensure that the subcontractors processing VRS calls for Healinc clearly identified Healinc as the eligible provider and used only Healinc URLs to route calls. *See Structure and Practices of the Video Relay Service Program; Healinc Telecom, LLC, Request for Reimbursement of July 2011 and August 2011 Video Relay Service Minutes*, CG Docket No. 10-51, Letter Order, 27 FCC Rcd 9314 (CGB 2012) (*First Healinc Withholding Order*); *Structure and Practices of the Video Relay Service Program; Healinc Telecom, LLC, Request for Reimbursement of September 2011 Video Relay Service Minutes*, CG Docket No. 10-51, Letter Order, DA 13-1259 (rel. Feb. 21, 2013) (*Second Healinc Withholding Order*). *See also CODAVRS Corporation*, EB-11-TC-097, Citation, 26 FCC Rcd 13406 (EB 2011) (*CODAVRS Citation*); *IWRelay, Inc.*, EB-11-TC-102, Citation, 26 FCC Rcd 13422 (EB 2011) (*IWRelay Citation*); *Malka Communications Group, Inc.*, EB-11-TC-079, Citation, 26 FCC Rcd 13427 (EB 2011) (*Malka Citation*); *PowerVRS, Inc.*, EB-11-TC-084, Citation, 26 FCC Rcd 13443 (EB 2011) (*PowerVRS Citation*); *Say-Hey, Inc.*, EB-11-TC-086, Citation, 26 FCC Rcd 13451 (EB 2011) (*Say-Hey Citation*).

calls were routed through a single URL, <healinctelecom.tv>.²⁷ Notwithstanding these written and oral representations to the Commission, test calls conducted by Bureau staff on June 5, 2012 and July 17, 2012, that were routed through URLs not associated with known Healinc brands or sub-brands demonstrated that Healinc had failed to end its practice of accepting, processing, and billing VRS calls routed to its call centers through non-compliant URLs, in violation of Section 64.604(c)(5)(iii)(N)(I)(ii).²⁸

C. Failure to Submit Truthful, Accurate, and Complete Reports and Information

12. The Commission's TRS rules require VRS providers to submit to the Fund administrator and/or the Commission a variety of reports and information deemed necessary to ensure that providers are operating in accordance with statutory and regulatory requirements and are entitled to the monthly payments they request from the TRS Fund.²⁹ Healinc repeatedly failed to submit truthful, accurate, and complete information in accordance with these provisions. Healinc's failure to be truthful and accurate in reporting required information not only provides further confirmation that Healinc is not able to meet the minimum standards of Section 64.604,³⁰ but also constitutes an independent violation of the Commission's rules and an independent reason compelling denial of Healinc's application for certification.³¹

1. CDRs

13. Section 64.604(c)(5)(iii)(D) of the Commission's rules requires VRS providers, as well as other TRS providers, to provide the Fund administrator with accurate and complete data supporting their requests for payment,³² including CDRs containing specified data for each VRS call for which compensation is sought.³³ VRS providers must employ an automated record keeping system to capture the required call data³⁴ and must submit such data electronically in a standardized format.³⁵ In submitting

²⁷ See, e.g., Healinc, Petition for Waiver, CG Docket No. 10-51, at 3 (filed Sept. 28, 2011). After receiving such assurances that Healinc had brought itself into compliance with the URL rule, the Commission granted Healinc conditional certification.

²⁸ Test Calls placed by CGB staff to the URLs <iwrelay.tv> and <malkavrs.tv> on June 5, 2012, and again on July 17, 2012 (URL Test Calls).

²⁹ See, e.g., 47 C.F.R. §§ 64.604(c)(5)(iii)(D) (requiring VRS providers, as well as other TRS providers, to provide the Fund administrator with accurate and complete CDRs and speed-of-answer data supporting their requests for payment); 64.604(c)(5)(iii)(N)(2) (requiring reports and change-of-status notifications regarding a VRS provider's call centers; and 64.606(a)(2)(ii)(A) (requiring applicants for certification as a VRS provider to submit information regarding the applicant's VRS call centers).

³⁰ *Id.* § 64.606(b)(2)(ii).

³¹ See *id.* § 1.17 (requiring applicants for Commission authorization, as well as others, to provide truthful and accurate information to the Commission).

³² *Id.* § 64.604(c)(5)(iii)(D)(I).

³³ *Id.* § 64.604(c)(5)(iii)(D)(2).

³⁴ *Id.* § 64.604(c)(5)(iii)(D)(4)(i). An "automated record keeping system" is one that captures data in a computerized and electronic format that does not allow human intervention during the call session for either conversation or session time. *Id.* § 64.604(c)(5)(iii)(D)(4)(ii).

such call data, the chief executive officer (CEO), chief financial officer (CFO), or other senior executive of a TRS provider with first hand knowledge of the accuracy and completeness of the information provided, must certify under penalty of perjury that the information is accurate and complete.³⁶

14. On multiple occasions, Healinc failed to submit accurate, complete, and properly certified CDRs to the Fund administrator as required by Section 64.604(c)(5)(iii)(D). For example, we have determined that Healinc falsified URLs in the CDRs it submitted for September 2011, in violation of Section 64.604(c)(5)(iii)(D).³⁷ Moreover, test calls revealed that Healinc submitted incorrect URLs for certain calls completed in June 2012 and July 2012.³⁸ In addition, Healinc repeatedly failed to provide a certification of the accuracy and completeness of its CDRs by a senior executive, as required by Section 64.604(c)(5)(iii)(D)(5). Instead, the certifications submitted to the administrator were signed by a billing consultant.³⁹

15. Healinc's repeated and extensive revisions of its initial call data submissions provide further confirmation that its CDRs were not accurate and complete when originally submitted. Specifically, according to the Fund Administrator, between September 26, 2011, and July 31, 2012, Healinc made the following revised submissions of CDRs for the months indicated.

- August 2011: revised October 4, 2011, October 11, 2011, and October 17, 2011
- September 2011: revised November 21, 2011, and May 30, 2012
- December 2011: revised February 23 and 24, 2012
- January 2012: revised June 8, 2012
- February 2012: revised June 4, 2012
- March 2012: revised June 4, 2012 and July 11, 2012⁴⁰

16. The fact that Healinc had to revise and resubmit call data for almost every month between August 2011 and March 2012 leads us also to question how Healinc could certify under penalty of perjury that Healinc's CDRs were accurate and complete when submitted, as required by Section

³⁵ *Id.*

³⁶ *Id.* § 64.604(c)(5)(iii)(D)(5).

³⁷ See *Second Healinc Withholding Order*. Although Healinc had acknowledged that the URLs were incorrect prior to the grant of conditional certification, the Commission subsequently determined that the URLs were deliberately falsified in order to mask the routing of calls through noncompliant URLs.

³⁸ URL Test Calls.

³⁹ See Healinc, Interstate TRS Fund Requests for Compensation for September 2011 (dated October 17, 2011), October 2011 (dated November 14, 2011), November 2011 (dated November 14, 2011), December 2011 (dated January 13, 2012), January 2012 (February 13, 2012), February 2012 (dated March 12, 2012), and March 2012 (dated April 13, 2012). Sections 64.604(c)(5)(iii)(D)(2), (4) and (5), which require that Fund payment requests include specified types of call data, that such call data be automatically recorded, and that the call data be submitted under oath and certified by a senior executive, took effect on September 26, 2011. See *Structure and Practices of the Video Relay Service Program* 76 Fed. Reg. 59269 (Sept. 26, 2011).

⁴⁰ See Healinc submissions to RLSA dated October 4, 2011, October 11, 2011, October 17, 2011, November 21, 2011, February 23, 2012, February 24, 2012, May 30, 2012, June 4, 2012, June 8, 2012, and July 11, 2012.

64.604(c)(5)(iii)(D)(5).⁴¹ Further, the fact that, for several months, the data had to be corrected multiple times indicates that even Healinc's corrected CDRs were not always reliable.

2. Call Center Reports

17. Section 64.606(a)(2)(ii)(A)(2) of the rules requires applicants for certification to submit information to the Commission about their call centers.⁴² In addition, Section 64.604(c)(5)(iii)(N)(2) provides that VRS providers shall file a biannual written report with the Commission and the TRS Fund administrator, identifying each call center operated by the VRS provider and providing specified information about each center.⁴³ Section 64.604(c)(5)(iii)(N)(2) also requires that VRS providers notify both the Commission and the TRS Fund administrator of the opening, closing, or relocation of any center at least 30 days prior to any such change.⁴⁴

18. We find that Healinc repeatedly violated these requirements as explained below.

- Healinc's initial biannual call center report was to be filed October 1, 2011. Healinc filed this report with the Commission on March 20, 2012, more than 5½ months after the due date.⁴⁵
- Healinc failed to notify the Commission of the closing of numerous call centers that were listed on Healinc's October 2011 call center report but not in Healinc's December 2011 certification application or its April 2012 call center report.⁴⁶
- With respect to more than three-quarters of the call centers listed in its application, the period for which Healinc's call center reports indicate that each call center was open do not match up with the period for which calls were actually handled by the call center according to Healinc's call center reports. Specifically for several centers, the reported opening date occurred four to six months before the first date that Healinc's CDRs indicate any calls were actually processed by those centers. In addition, for numerous centers, the reported closing date occurred one to six months after the last date that Healinc's CDRs indicate any calls were processed by those centers,

⁴¹ Healinc's repeated revisions of call data also raise doubts about whether Healinc's call recording system accurately captured required call data without human intervention, as required by Section 64.604(c)(5)(iii)(D)(4)(ii). If Healinc's call recording system had automatically and accurately recorded the required data, one would expect Healinc to have been able to submit accurate data to the Fund Administrator without the need for repeated revisions.

⁴² 47 C.F.R. § 64.606(a)(2)(ii)(A)(2).

⁴³ *Id.* § 64.604(c)(5)(iii)(N)(2). Reports are due April 1st and October 1st of each year. *Id.* This rule became effective September 26, 2011. See *Structure and Practices of the Video Relay Service Program*, 76 Fed. Reg. 59269 (Sept. 26, 2011).

⁴⁴ 47 C.F.R. § 64.604(c)(5)(iii)(N)(2).

⁴⁵ See Letter from Andrew O. Isar, Miller Isar, Inc., to Marlene H. Dortch, Secretary, FCC and confidential attachment (March 20, 2012) (Healinc October 2011 Call Center Report).

⁴⁶ See generally Healinc October 2011 Call Center Report; Healinc Application, Exhibit A; Letter from Lauren J. Stewart, Chief Technology Officer, Healinc, to Marlene H. Dortch, Secretary, FCC, and attachment (April 2, 2012) (Healinc April 2012 Call Center Report); other FCC filings by Healinc.

according to Healinc's CDRs. It is not credible that Healinc allowed CAs to remain idle at a call center for a month or more (and in some cases as long as six months) after opening a center or before closing a center. Therefore, we conclude that Healinc apparently failed to provide timely notification of the opening and/or closing of the affected centers and misrepresented the opening and/or closing dates to the FCC.⁴⁷

D. Failure to Certify That Healinc Continued to Meet Minimum Standards After Substantial Changes

19. A primary purpose of the VRS certification process is to enable the Commission to ensure that providers who are certified to provide VRS have the capability to provide service in compliance with the Commission's minimum standards for VRS, including the standards for speed of answer,⁴⁸ 24/7 operation,⁴⁹ and redundancy features.⁵⁰ Accordingly, Section 64.606(a)(2) of the rules requires, among other things, that an applicant for VRS certification provide a detailed description of how it will meet the applicable mandatory minimum standards, including the number and location of its call centers and the number of full-time and part-time CAs staffing such call centers.⁵¹ In addition, Section 64.606(f) requires that when a VRS provider makes any substantial change in its service, such as the discontinuation of service from any facility, the provider must certify within 60 days after such change that the provider is able to continue to meet the Commission's minimum standards for TRS.⁵²

20. Notwithstanding its representations to the Commission, Healinc ceased providing service from some of the call centers listed in its certification application even before Healinc filed its certification application, and it discontinued service from additional call centers after receiving a conditional grant of its application.⁵³ Yet, despite discontinuing service from more than two-thirds of its call centers prior to April 1, 2012 (centers that employed about 75% of the CAs specified in its application), Healinc failed to file a single one of the certifications mandated by Section 64.606(f), as

⁴⁷ See generally Healinc October 2011 Call Center Report; Healinc Application, Exhibit A; Healinc April 2012 Call Center Report; other FCC filings by Healinc; CDR submissions to RLSA by Healinc.

⁴⁸ 47 C.F.R. § 64.604(b)(2).

⁴⁹ *Id.* § 64.604(b)(4)(i).

⁵⁰ *Id.* § 64.604(b)(4)(ii) ("TRS shall have redundancy features functionally equivalent to the equipment in normal central offices, including uninterruptible power for emergency use").

⁵¹ *Id.* § 64.606(a)(2)(ii).

⁵² *Id.* § 64.606(f).

⁵³ Call center closings on such a scale, had they been fully disclosed in a timely manner, would have raised doubts as to whether Healinc was able to continue meeting the Commission's TRS standards. In fact, the site inspection of a Healinc call center conducted by Commission staff on May 7, 2012, indicated that Healinc may not have had the ability to meet minimum standards for 24/7 operation and redundancy. Call Center Inspection ; 47 C.F.R. §§ 64.604(b)(4)(i), (ii).

required, after a call center's service is discontinued, in order to confirm the provider's continuing ability to meet the Commission's mandatory minimum standards.⁵⁴

III. CONCLUSION AND ORDERING CLAUSES

21. Based on the facts presented above, and an analysis of the totality of the circumstances regarding Healinc's lack of compliance with numerous Commission rules and requirements, we find that Healinc has failed to satisfy the conditions set forth in our grant of conditional certification permitting Healinc to receive Fund compensation for the provision of VRS.⁵⁵ In addition, we find that Healinc has failed to demonstrate that its provision of VRS and IP Relay will meet or exceed the mandatory minimum standards applicable to those services.⁵⁶ We thus conclude that Healinc is not qualified to be certified and receive compensation from the Fund for the provision of VRS and IP Relay. Therefore, we deny Healinc's application for recertification as a VRS provider and for initial certification as an IP Relay provider.

22. ACCORDINGLY, IT IS ORDERED that, pursuant to Sections 1, 2, 4 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154 and 225, and Section 64.606 of the Commission's rules, 47 C.F.R. § 64.606, and pursuant to authority delegated in Sections 0.141 and 0.361 of the Commission's rules, 47 C.F.R. §§ 0.141 and 0.361, the application filed by Healinc for certification as a provider of Internet-based TRS is DENIED.

23. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Acting Chief, Consumer and Governmental Affairs Bureau

⁵⁴ See generally FCC filings by Healinc.

⁵⁵ See *Healinc Conditional Certification PN*, 27 FCC Rcd at 118.

⁵⁶ See 47 C.F.R. § 64.606(b)(2).