



SCHOOL of LAW

Health Justice Project

Loyola University Chicago School of Law
Beazley Institute for Health Law and Policy
Corboy Law Center | 25 E. Pearson St. | Chicago, IL 60611
Phone 312.915.6470 | Fax 312.915.6588 | 1.800.424.4839
Email healthjustice@luc.edu | LUC.edu/healthjustice

VIA FIRST CLASS MAIL AND FASCIMILE

November 29, 2011

Megan C. McNeill
Michael J. Lannon
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, IL 60601

Dear Ms. McNeill and Mr. Lannon:

I write in support of revisions to the Illinois Administrative Code – 83 Ill. Admin. Code Part 280.160 Medical Certification – offered by the Illinois Commerce Commission (“ICC”) Staff. The ICC Staff’s proposal adopts a reasonable sixty-day medical certification period, thereby avoiding the need for customers with ongoing medical conditions to renew the current rule’s thirty-day certification.

I also write in support of amendments to the Illinois Administrative Code – 83 Ill. Admin. Code Part 280.160 Medical Certification – offered by the Governmental and Consumer Intervenors (“GCI”) on October 14, 2011 in Docket 06-0703. GCI proposes two additional and essential modifications to the proposed Staff rule that (1) permit customers to orally declare a medical emergency for a short time (3 days) in order to permit the customer to obtain the necessary documentation; and (2) obliges the utility to attempt to negotiate an individual payment plan and only implement the automatic (12-month) Deferred Payment Arrangement if the customer fails to respond or refuses to negotiate any payment plan. GCI Ex. 1.0 at 34-35;929-942.

In addition, I urge the ICC Staff to consider another revision to the Illinois Administrative Code, which specifically discharges ill consumers from making any payments to regulated utilities during the medical extension period.

Factual Background

In July 2011, ComEd granted my client, the consumer, a thirty-day extension to pay arrears after receiving written notice from the consumer’s physician explaining that the consumer suffered from various medical conditions that prevented her from making a timely payment to ComEd. Towards the end of the thirty-day period, the consumer, after much difficulty, obtained a renewal of the initial medical certification from her physician,

which should have entitled the consumer to an additional thirty days of service. ComEd refused to accept the second medical notification on the basis that the consumer did not make any payments during the first thirty-day period, including payments towards a security deposit. It should be noted, however, that ComEd in fact refused to accept a partial payment of the amount owed by the client on the last day of the thirty-day period, asserting that time ran out.

On September 8, 2011, I spoke with a ComEd Supervisor, to discuss ComEd's rejection of the second medical notice. The ComEd Supervisor explained that ComEd's internal policies require consumers to make a payment prior to accepting a renewal of medical notice. The ComEd Supervisor said that since the client failed to tender a payment for ComEd's Deferred Payment Agreement during the initial thirty-day period, the client was automatically ineligible for the additional thirty-day medical grace period. When I informed the ComEd Supervisor that her actions, and the actions of ComEd, were in violation of 83 Ill. Adm. Code 280.130(j)(3) and quoted the section to her, the ComEd Supervisor replied, "I see these renewals of medical notifications rejected everyday for this exact reason."

Permitting consumers to orally declare a medical emergency for a 3 days to obtain necessary medical documentation is both reasonable and justified

As mentioned in the above narrative, my client experienced extreme difficulty in communicating with her physician, in order to obtain a renewed medical certification. This case exemplifies the experience of many low-income and medically-challenged consumers in connecting with medical professionals. Given such universal challenges, GCI's proposed revision to the Illinois Administrative Code – permitting customers to orally declare a medical emergency for 3 days in order to obtain the necessary medical documentation – is both reasonable and justified.

Obliging utilities to negotiate an individual payment plan – taking into consideration an ill consumer's economic challenges

This specific revision acknowledges that a customer may need one or more months in which there is no payment on the arrears balance, but rather a payment of only the monthly bill, particularly when the customer's household is facing a significant loss of income due to the medical emergency. Furthermore, the proposed revision by GCI accounts for delinquent consumers by providing the regulated utilities with the authority to implement the automatic (12-month) Deferred Payment Arrangement if the customer fails to respond or refuses to negotiate any payment plan. GCI Ex. 1.0 at 34-35:929-942.

Exempting medically certified consumers from having to make monetary payments during the reprieve period

ComEd denied my client's renewed certificate for medical reprieve, because of her failure to tender any monetary payments during the initial thirty-day grace period. Although the ICC Staff has recommended to provide consumers with a total of sixty days

for medical certification, the ICC Staff's recommendation fails to address the regulated utilities' practice of requiring ill consumers to establish and keep current with a payment plan during the certification period. Such a requirement is antithetical to the need for an extension and the reality of the medical condition affecting the ability to keep an account current. I urge the ICC Staff to specifically prohibit this practice.

ComEd's requirement of payment prior to accepting a second medical notification presently violates 83 Ill. Adm. Code 280.130(j)(3). The Code provides that:

Initial certification shall prohibit discontinuance of service for thirty days. Certification may be renewed by the customer for an additional thirty days by providing another certificate to the utility. Failure to so renew the certificate shall entitle the utility to initiate discontinuance procedures...

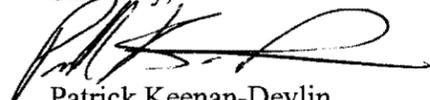
By refusing to accept a renewed certification, ComEd is in violation of the Illinois Administrative Code. According to Section 280.130(j)(3), the only accepted grounds for refusing to accept a renewed certification is the consumer's "[f]ailure to so renew the certificate..."

And although the ICC Staff has recommended to extend the medical reprieve period to sixty days without any renewal, ComEd, and the other regulated utilities, will likely continue requiring consumers to stay current on their bills and tender down payments for the Deferred Payment Program. This billing practice, whether employed under the current system or under the ICC Staff's proposed sixty day medical reprieve period, is violative of the Illinois Administrative Code.

It is reasonable for ComEd to require a consumer who is ill or has impairments to enter into a Deferred Payment Agreement during the medical grace period as a prerequisite for the repayment program. However, it is illegal and explicitly contrary to the intent of the Illinois Administrative Code to require consumers to tender a monetary payment of any amount during the medical reprieve.

Therefore, the ICC Staff should recommend amending the Code to explicitly provide ill consumers a medical grace period without requiring any monetary payments.

Sincerely,



Patrick Keenan-Devlin
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CHICAGO, IL 606

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Ms. Megan L. McAul
Mr. Michael J. Lannon
Illinois Commerce Commission
160 N. La Salle Street, Suite L-800
Chicago Illinois 60601

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