

against the selling or transferring iTRS provider, and

(iv) The toll-free customer service telephone number of the acquiring iTRS provider.

(2) All iTRS users receiving the notice will be transferred to the acquiring iTRS provider, unless they have selected a different default provider before the transfer date.

[78 FR 40609, July 5, 2013]

EFFECTIVE DATE NOTE: At 78 FR 40609, July 5, 2013, § 64.631 was added. Paragraphs (a) through (d) and (f) contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 64.632 Letter of authorization form and content.

(a) An iTRS provider may use a written or electronically signed letter of authorization to obtain authorization of an iTRS user's request to change his or her default provider. A letter of authorization that does not conform with this section is invalid for purposes of this subpart.

(b) The letter of authorization shall be a separate document or located on a separate screen or Web page. The letter of authorization shall contain the following title "Letter of Authorization to Change my Default Provider" at the top of the page, screen, or Web page, as applicable, in clear and legible type.

(c) The letter of authorization shall contain only the authorizing language described in paragraph (d) of this section and be strictly limited to authorizing the new default provider to implement a default provider change order. The letter of authorization shall be signed and dated by the iTRS user requesting the default provider change.

(d) At a minimum, the letter of authorization must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms:

(1) The iTRS user's registered name and address and each telephone number to be covered by the default provider change order;

(2) The decision to change the default provider from the original default provider to the new default provider;

(3) That the iTRS user designates [insert the name of the new default provider] to act as the iTRS user's agent and authorizing the new default provider to implement the default provider change; and

(4) That the iTRS user understands that only one iTRS provider may be designated as the TRS user's default provider for any one telephone number.

(e) If any portion of a letter of authorization is translated into another language then all portions of the letter of authorization must be translated into that language. Every letter of authorization must be translated into the same language as any promotional materials, descriptions or instructions provided with the letter of authorization.

(f) Letters of authorization submitted with an electronically signed authorization must include the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National Commerce Act.

[78 FR 40609, July 5, 2013]

§ 64.633 Procedures for resolution of unauthorized changes in default provider.

(a) *Notification of alleged unauthorized provider change.* Original default providers who are informed of an unauthorized default provider change by an iTRS user shall immediately notify the allegedly unauthorized provider and the Commission's Consumer and Governmental Affairs Bureau of the incident.

(b) *Referral of complaint.* Any iTRS provider that is informed by an iTRS user or original default provider of an unauthorized default provider change shall:

(1) Notify the Commission's Consumer and Governmental Affairs Bureau, and

(2) Shall inform that iTRS user of the iTRS user's right to file a complaint with the Commission's Consumer and Governmental Affairs Bureau. iTRS providers shall also inform the iTRS user that the iTRS user may contact and file a complaint with the alleged unauthorized default provider. An original default provider shall have the

right to file a complaint with the Commission in the event that one of its respective iTRS users is the subject of an alleged unauthorized default provider change.

(c) *Notification of receipt of complaint.* Upon receipt of an unauthorized default provider change complaint or notification filed pursuant to this section, the Commission will notify the allegedly unauthorized provider and the Fund administrator of the complaint or notification and order that the unauthorized provider identify to the Fund administrator all minutes attributable to the iTRS user after the alleged unauthorized change of default provider is alleged to have occurred. The Fund administrator shall withhold reimbursement for such minutes pending Commission determination of whether an unauthorized change, as defined by § 64.601(a) of this part, has occurred, if it has not already done so.

(d) *Proof of verification.* Not more than 30 days after notification of the complaint or other notification, the alleged unauthorized default provider shall provide to the Commission's Consumer and Governmental Affairs Bureau a copy of any valid proof of verification of the default provider change. This proof of verification must clearly demonstrate a valid authorized default provider change, as that term is defined in §§ 64.631 through 64.632 of this part. The Commission will determine whether an unauthorized change, as defined by § 64.601(a) of this part, has occurred using such proof and any evidence supplied by the iTRS user or other iTRS providers. Failure by the allegedly unauthorized provider to respond or provide proof of verification will be presumed to be sufficient evidence of a violation.

[78 FR 40609, July 5, 2013]

§ 64.634 Procedures where the Fund has not yet reimbursed the provider.

(a) This section shall only apply after an iTRS user or iTRS provider has complained to or notified the Commission that an allegedly unauthorized change, as defined by § 64.601(a) of this part, has occurred, and the TRS Fund (Fund), as defined in § 64.604(c)(5)(iii) of this part, has not reimbursed the alleged

edly unauthorized default provider for service attributable to the iTRS user after the allegedly unauthorized change occurred.

(b) An allegedly unauthorized provider shall identify to the Fund administrator all minutes submitted by the allegedly unauthorized provider to the Fund for reimbursement that are attributable to the iTRS user after the allegedly unauthorized change of default provider, as defined by § 64.601(a) of this part, is alleged to have occurred.

(c) If the Commission determines that an unauthorized change, as defined by § 64.601(a) of this part, has occurred, the Commission shall direct the Fund administrator to not reimburse for any minutes attributable to the iTRS user after the unauthorized change occurred, and neither the authorized nor the unauthorized default provider may seek reimbursement from the fund for those charges. The remedies provided in this section are in addition to any other remedies available by law.

(d) If the Commission determines that the default provider change was authorized, the default provider may seek reimbursement from the Fund for minutes of service provided to the iTRS user.

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§ 64.635 Procedures where the Fund has already reimbursed the provider.

(a) The procedures in this section shall only apply after an iTRS user or iTRS provider has complained to or notified the Commission that an unauthorized change, as defined by § 64.601(a) of this part, has occurred, and the Fund has reimbursed the allegedly unauthorized default provider for minutes of service provided to the iTRS user.

(b) If the Commission determines that an unauthorized change, as defined by § 64.601(a) of this part, has occurred, it shall direct the unauthorized