

**Colorado Low-Income  
Telephone Assistance Program  
Public Utilities Commission  
Department of Human Services**

**Performance Audit  
May 2010**



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Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Colorado Low-Income Telephone Assistance Program. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The report presents our findings, conclusions, and recommendations, and the responses of the Public Utilities Commission and the Department of Human Services.

*Sally Symanski*

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## *Glossary of Terms and Abbreviations*

**Access line** – A means to provide a telephone subscriber with access to a telecommunications network in order to transfer information.

**Basic local exchange service** – Telecommunications service which provides a local dial tone line and local usage necessary to place or receive a call within a designated area.

**CBMS** – Colorado Benefits Management System. The information system used by the Departments of Human Services and Health Care Policy and Financing to maintain eligibility information for public assistance programs.

**Commission** – Public Utilities Commission. Three-member commission that is responsible for regulating public utilities in Colorado, including intrastate telecommunications services.

**Department** – Department of Human Services. A principal department in Colorado state government that oversees the State's county departments of social/human services and many of the State's public assistance programs, including the Low-Income Energy Assistance Program, Aid to the Needy Disabled, Aid to the Blind, Old Age Pension, and Temporary Assistance for Needy Families (Colorado Works).

**Eligible provider** – A telephone carrier that has been designated by the Public Utilities Commission as eligible to participate in the Colorado Low-Income Telephone Assistance Program.

**FCC** – Federal Communications Commission. An independent United States government agency that is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable.

**Federal poverty level** – Income thresholds determined by the U.S. Department of Health and Human Services using U.S. Census Bureau data. These thresholds are used as a measure to determine if a person or family is eligible for assistance through various federal programs. The federal poverty level for a family of four is currently set at \$22,050 annually.

**FTE** – Full-time equivalent. An FTE of 1.0 is equivalent to a full-time worker, while an FTE of 0.5 is equivalent to a half-time worker.

**LEAP** – Low-Income Energy Assistance Program. A federally funded, state-supervised, and county-administered program that is designed to assist eligible low-income individuals with paying their winter heating costs.

**LITAP** – Low-Income Telephone Assistance Program. A state-administered telephone assistance program that provides a monthly subsidy to eligible low-income individuals to help them obtain access to basic local telephone service.

**Lifeline** – A federal telephone assistance program that provides a monthly subsidy to eligible low-income individuals to help offset the cost of basic local telephone service.

**SSI** – Supplemental Security Income. A federal program that provides monthly assistance to aged, blind, and disabled individuals who have little or no income.

**USAC** – Universal Service Administrative Company. An independent, not-for-profit corporation created by the FCC in 1997 to administer the Universal Service Fund and Universal Service programs, including Lifeline, in accordance with FCC rules.

**VoIP** – Voice over Internet Protocol. A technology that allows individuals to make voice calls using a broadband Internet connection instead of a regular (or analog) phone line.



**Colorado Low-Income Telephone Assistance Program  
Public Utilities Commission  
Department of Human Services  
Performance Audit  
May 2010**

## **Purpose and Scope**

The purpose of this audit was to review the effectiveness of the Colorado Low-Income Telephone Assistance Program in meeting its legislative intent, as well as the oversight and management of the program by the Public Utilities Commission and Department of Human Services. The audit focused on the Public Utilities Commission's oversight controls and procedures and the Department of Human Services' eligibility determination controls and procedures. We performed our audit work from September 2009 through May 2010. We acknowledge the assistance and cooperation extended by management and staff at the Public Utilities Commission and the Department of Human Services.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **Overview**

The Colorado Low-Income Telephone Assistance Program (LITAP) is a state-administered program that was first established by the General Assembly in 1986 to help low-income individuals obtain access to basic local telephone services. The General Assembly designated two state agencies with specific responsibilities for administering LITAP. The Public Utilities Commission (Commission) is responsible for overall program monitoring and oversight and the Department of Human Services (Department) is responsible for determining individuals' eligibility for the program.

LITAP operates in conjunction with the federal Lifeline program, which was created by the Federal Communications Commission (FCC) to ensure affordable local telephone service for low-income households. The federal Lifeline program and LITAP provide separate monthly subsidies to eligible low-income individuals to offset the cost of basic telephone service, primarily provided through landlines. To be eligible for the subsidies, individuals must be (1) certified by the Department to receive financial assistance payments, (2) a current or prospective telephone subscriber, (3) a U.S. citizen or legal resident and a Colorado resident, and (4) part of a household with gross monthly income at or below 185 percent of the federal poverty level. As of December 2009, about 21,000 individuals were receiving the LITAP subsidy.

In Colorado, most eligible LITAP participants receive a total subsidy of \$16.50 that is applied to

their monthly telephone bill. Of this amount, \$10 comes from the federal Lifeline program and \$6.50 comes from Colorado's LITAP. The LITAP subsidy is funded through a monthly access line fee (currently set at \$0.07) that is primarily charged on all residential and business landlines in the state. During Calendar Year 2009, 88 telephone carriers collected the access line fee from their residential and business customers. In total, these 88 carriers collected about \$1.1 million in access line fees and credited about \$1.9 million in subsidies to eligible LITAP participants' accounts during Calendar Year 2009.

## Key Findings

### Monitoring the Effectiveness of LITAP

We reviewed the Commission's monitoring of the effectiveness of LITAP in ensuring that low-income individuals have access to telephone service. Overall we found that the Commission has not adequately monitored the effectiveness of LITAP, as required by statute. Further, we identified serious concerns that raise questions about whether the program should continue:

**Program effectiveness.** Almost all low-income households in Colorado have access to telephone services without LITAP assistance. Only an estimated 5 percent of low-income households in Colorado participate in LITAP; however, according to FCC data, 96 percent of Colorado's low-income households have access to a telephone. These data indicate that LITAP may not be effective. However, the Commission lacks adequate data, goals, and performance measures for evaluating program effectiveness.

**Subsidy amount.** The current LITAP subsidy is \$6.50 per month, which is \$3 more than the amount necessary for participants to receive the full federal Lifeline subsidy of \$10 per month. This means that each year Colorado telephone customers pay about \$856,000 more in fees than is necessary for each LITAP participant to receive the full federal Lifeline subsidy. Additionally, Colorado's state subsidy amount is one of the highest in the country and the Commission has not evaluated the subsidy amount in over 10 years. In fact, in 2009 the total state and federal subsidy of \$16.50 more than covered the average cost of basic local telephone service (excluding taxes and surcharges) in Colorado.

**Program outreach.** The outreach conducted by the Commission and telephone carriers does not adequately publicize the availability of LITAP to potentially eligible individuals, particularly those individuals who do not currently have telephone service. Additionally, the Commission was unable to provide comprehensive information on the types or effectiveness of the outreach conducted by telephone carriers statewide. A lack of coordination and monitoring of outreach efforts have likely contributed to the low program participation rate.

### Eligibility and Enrollment

We reviewed the Department's processes for determining and recertifying individuals' eligibility for LITAP and found an absence of key controls:

**Eligibility determination.** The Department does not adequately mitigate the risk of fraud because it does not ensure that the LITAP applicant is the same individual whose name is associated with the telephone account, as required by statute. This increases the risk that individuals or households could be receiving more than one subsidy, contrary to statute. Also, the Department's process excludes individuals from LITAP who meet statutory eligibility criteria but do not participate in certain designated assistance programs. An estimated 154,000 additional individuals may be eligible for LITAP, based on their household income, but would be deemed ineligible by the Department's eligibility determination system because they do not participate in one of these programs.

**Eligibility recertification.** We identified approximately 11,800 of about 24,000 total Qwest LITAP accounts that were potentially ineligible for subsidies. If these questionable accounts represent ineligible subsidy recipients, then the State has been unnecessarily paying about \$920,000 each year in public funds to ineligible individuals and is at risk for having to repay about \$1.4 million to the federal government for the Lifeline subsidies paid to ineligible individuals for each year they were ineligible. The Department's recertification process needs to be strengthened to ensure that only eligible individuals continue to receive the LITAP subsidy.

## Financial Administration

We identified the following concerns with the Commission's financial administration and oversight of LITAP:

**Verification of fee collections and subsidies.** The Commission does not have sufficient controls in place to ensure that telephone carriers accurately collect and record access line fees collected from customers, provide the full LITAP subsidy to all eligible participants, and remit all excess collections to the State.

**Access line fee.** The Commission has not actively monitored and made timely adjustments to the access line fee charged to Colorado telephone subscribers. As a result, the LITAP Fund has exceeded the statutory limit on uncommitted reserves in two of the last five years.

## Future of the Program

We found that LITAP has become increasingly obsolete and that, due to federal regulations and the State's lack of jurisdiction over cellular telephones, the State has limited ability to redesign LITAP to become more relevant to low-income users of today's telephone technologies. Issues related to the overall lack of effectiveness of LITAP, combined with the program's emphasis on an increasingly outdated technology, raise questions about whether LITAP should continue or be eliminated. All of these factors should be considered by the General Assembly when determining the future of LITAP. Eliminating the program would save telephone customers about \$1.9 million per year.

Our recommendations and the responses from the Public Utilities Commission and Department of Human Services can be found in the Recommendation Locator and in the body of this report.

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**RECOMMENDATION LOCATOR**

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<b>Rec. No.</b>	<b>Page No.</b>	<b>Recommendation Summary</b>	<b>Agency Addressed</b>	<b>Agency Response</b>	<b>Implementation Date</b>
1	22	Establish and implement a process for routinely monitoring LITAP's effectiveness and make program improvements by (a) establishing program goals and performance measures and (b) developing mechanisms to collect sufficient and reliable data to monitor program effectiveness.	Public Utilities Commission	Agree	Pending Further Direction from the General Assembly
			Department of Human Services (Part b)	b. Agree	b. Pending Commission Implementation
2	26	Evaluate the LITAP statutory subsidy amount to determine whether it is still appropriate and necessary to provide adequate assistance to ensure access to basic local telephone service and report findings to the General Assembly for consideration.	Public Utilities Commission	Partially Agree	Pending Further Direction from the General Assembly
3	29	Improve LITAP outreach efforts by (a) developing a formal outreach plan, (b) working with the Department of Human Services and telephone carriers to define each entity's role with respect to outreach, and (c) monitoring the implementation of the outreach plan and assessing the effectiveness of outreach efforts.	Public Utilities Commission	Partially Agree	Pending Further Direction from the General Assembly
			Department of Human Services (Part b)	b. Agree	b. Pending Commission Implementation
4	34	Ensure eligibility is determined in accordance with statute and limits participation to eligible individuals by (a) assessing LITAP eligibility criteria to determine if they are clearly defined, appropriate, and cost-effective and (b) once any statutory changes are made, modifying the eligibility process to ensure applicants' eligibility is assessed against statutory criteria.	Department of Human Services	a. Agree b. Agree	a. July 2011 b. October 2011

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## RECOMMENDATION LOCATOR

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Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
5	37	Ensure an effective, efficient, and documented recertification process by (a) developing, implementing, and standardizing an eligibility recertification process in accordance with statute, (b) incorporating mechanisms into the recertification process to ensure it is timely, (c) verifying eligibility of the 2,000 questionable LITAP accounts identified during the audit, and (d) verifying Qwest has discontinued the LITAP subsidy for accounts not recertified.	Department of Human Services	a. Agree b. Agree c. Agree d. Agree	a. December 2010 b. December 2010 c. July 2010 d. July 2010
6	41	Establish and implement sufficient controls to ensure telephone carriers accurately collect LITAP fees, distribute subsidies, and remit excess fee collections. Controls may include (a) comparing Department of Human Services' data on eligible LITAP participants against carrier quarterly reports and (b) using a risk-based or random approach to select a sample of carriers to review and require them to provide documentation to support their quarterly reports.	Public Utilities Commission	a. Agree b. Agree	a. July 2010 b. Pending Further Direction from the General Assembly
7	43	Improve management of the access line fee by (a) actively monitoring and evaluating the fee and (b) adjusting the fee in a timely manner.	Public Utilities Commission	Agree	Ongoing
8	47	Provide any necessary information to the Legislative Audit Committee and the General Assembly to assist with determining whether LITAP should continue or be eliminated. If the decision is to eliminate LITAP, seek statutory change. If the decision is to continue LITAP, structure an efficient and effective program.	Public Utilities Commission  Department of Human Services	Agree  Agree	Pending Further Direction from the General Assembly  Pending Further Direction from the General Assembly

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# Overview of the Colorado Low-Income Telephone Assistance Program

## Chapter 1

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The Colorado Low-Income Telephone Assistance Program (LITAP) is a state-administered program to help low-income individuals obtain access to basic local telephone services primarily provided through landlines. LITAP was originally established by the General Assembly in 1986 through House Bill 86-1217. The program was partially restructured in 1990 through Senate Bill 90-069 and changes were made to LITAP eligibility criteria in 2008 through House Bill 08-1227. In the original legislation establishing the program and in subsequent legislation, the General Assembly stated that:

. . . the absence of basic local exchange telecommunications services, especially during time of emergency, presents a potential hazard and an unnecessary danger to human health and safety. Therefore, the [G]eneral [A]ssembly declares it to be of vital importance to the public health, safety, and welfare that low-income individuals receive assistance that is adequate to [e]nsure access to basic local exchange telecommunications services. [Section 40-3.4-102, C.R.S.]

LITAP operates in conjunction with the federal Lifeline telephone assistance program. Lifeline was created by the Federal Communications Commission (FCC) to ensure affordable local telephone service for low-income households. In the sections that follow we discuss (1) the oversight of telecommunications services nationwide; (2) the history of telephone assistance and the federal Lifeline program; (3) federal incentives for state telephone assistance programs; and (4) LITAP's operations in Colorado, including its regulatory framework, eligibility and enrollment, the subsidy amount and carrier reimbursements, participating carriers, and revenue and expenses.

## Telecommunications Oversight

Oversight of telecommunications services in the United States is primarily the purview of the federal government. Congress specifically authorized the FCC to regulate interstate and international communications by radio, television, wire, and satellite. For telephone communications, the FCC primarily oversees

interstate service, including both landline and cellular telephones. Although the federal government has responsibility for interstate and international telecommunications services, states also have responsibilities for overseeing certain telecommunications services. Specifically, states have authority over telecommunications services provided through landlines within their state. States do not, however, have the authority to oversee cellular telephone carriers or broadband service providers operating within their state. Following a recent court case, it is unclear whether the FCC has the authority to regulate broadband services, although it has attempted to do so in the past.

## **History of Telephone Assistance and the Federal Lifeline Program**

The FCC's goal is to ensure the availability of communications services to all Americans at a reasonable cost and without discrimination. To further this goal, in 1934 Congress first authorized the FCC to establish programs to ensure access to affordable residential telephone service. When the telephone industry was divested in the early 1980s, Congress and consumer groups raised concerns that basic telephone service through landlines would no longer be affordable to low-income households. Prior to the divestiture, revenue from long-distance telephone service subsidized local telephone service, thereby keeping the costs of local telephone service artificially low. Revenues generated from long-distance service primarily paid the cost of connecting local networks to long-distance networks. With the divestiture, however, local telephone carriers became responsible for the costs of connecting their own local networks to the long-distance network. In the Telecommunications Act of 1996, Congress again emphasized the importance of telephone assistance programs and the need for all consumers to have access to telecommunications services.

In response to Congress' concern, the FCC established the federal Lifeline program. As mentioned previously, Lifeline is a federal telephone assistance program that provides a monthly subsidy to low-income individuals to help offset the cost of basic local telephone service provided through landlines. To cover the cost of this subsidy, the FCC requires all landline, cellular, and Voice over Internet Protocol (VoIP) telephone carriers in the country to collect a Universal Service Fund fee from their subscribers. This fee is used to fund several federal telephone assistance programs, including Lifeline. Eligible Lifeline participants in most states and U.S. territories receive a federal subsidy of \$8.25 that is applied to their monthly bills for landline telephone services. Telephone carriers are responsible for crediting eligible subscribers' accounts with the Lifeline subsidy. The subsidy does not typically extend to other types of telephone service, such as cellular telephones. In states and U.S. territories applying the federal criteria, an eligible individual must either:

- have a monthly income at or below 135 percent of the federal poverty level, or
- participate in one of the following federal assistance programs: Medicaid, Food Stamps, Supplemental Security Income, Federal Public Housing Assistance, Low-Income Home Energy Assistance Program, National School Lunch Program's free lunch program, or Temporary Assistance for Needy Families.

In 1997 the FCC created the Universal Service Administrative Company (USAC), an independent, not-for-profit corporation, to administer the Universal Service Fund and Universal Service programs, including Lifeline, in accordance with FCC rules. USAC's responsibilities include coordinating with the telephone carriers for the collection of the Universal Service Fund fee, eligibility determinations, and payment of the Lifeline subsidies.

## **Federal Incentives for State Telephone Assistance Programs**

The FCC, through the federal Lifeline program, established incentives for states and U.S. territories to create their own low-income telephone assistance subsidy programs that work in conjunction with Lifeline and enhance the benefits available to eligible individuals. The FCC offers three incentives to encourage states to operate their own programs and provide their own separate state subsidies to supplement the Lifeline subsidy.

- First, a participating state is allowed to establish the criteria that it will use to determine eligibility for both its own program and the federal Lifeline program. As a result, individuals who qualify for a subsidy under the state's eligibility criteria will also qualify for the federal Lifeline subsidy, thereby streamlining the eligibility determination process for low-income participants.
- Second, a participating state can increase the amount of the federal subsidy, depending on the amount the state contributes. A state or territory that contributes a subsidy of at least \$3.50 per month will trigger the maximum Lifeline subsidy of up to \$10, which is \$1.75 more than the \$8.25 Lifeline subsidy that most eligible individuals receive in states lacking their own telephone assistance programs.
- Third, a participating state can establish its own regulations to control and administer the state program. The state can choose its method of funding

the state subsidy and its process for providing the state subsidy to telephone carriers.

States that choose not to establish their own telephone assistance programs are considered “federal default states.” That is, the federal Lifeline program is the default telephone assistance program in these states. There are currently 10 federal default states and U.S. territories. In these states and territories, USAC works directly with the telephone carriers to determine Lifeline eligibility based on federally established criteria, as described previously. Most Lifeline participants in federal default states receive only the \$8.25 monthly federal subsidy.

## Colorado’s LITAP

As discussed previously, LITAP is Colorado’s state-administered telephone assistance program. The General Assembly has designated two state agencies with specific responsibilities for administering LITAP. The Public Utilities Commission is responsible for overall program monitoring and oversight, and the Department of Human Services is responsible for determining individuals’ eligibility for LITAP. A brief description of each agency’s responsibilities is outlined below.

- **The Public Utilities Commission** (Commission), within the Department of Regulatory Agencies, is responsible for regulating public utilities in Colorado, including intrastate telecommunications services. The Commission’s mission for telecommunications is to provide safe, reliable, and quality services to telecommunications utility customers on just and reasonable terms, while managing the transition to effective competition where appropriate. By statute, the Commission is responsible for monitoring the effectiveness of LITAP [Section 40-3.4-107, C.R.S.] and for promulgating rules and regulations for the program’s implementation [Section 40-3.4-106, C.R.S.]. The Commission is also responsible for setting and imposing the monthly access line fee, currently at \$0.07, on all residential and business landlines in the state [Section 40-3.4-108, C.R.S.], as discussed later in this chapter. The Commission’s Telecommunications Section is responsible for overseeing LITAP. One employee within this section has primary responsibility for administering LITAP, although no full-time-equivalent (FTE) positions are specifically appropriated to the Section for this purpose.
- **The Department of Human Services** (Department) is responsible for certifying individuals’ eligibility to participate in LITAP and for periodically recertifying participants’ eligibility [Section 40-3.4-105, C.R.S.]. The Division of Low-Income Energy Assistance, within the

Department's Office of Self-Sufficiency and Independence, manages the eligibility certification process. For Fiscal Year 2010, this Division was appropriated 1.1 FTE for LITAP; three division employees work part-time on certifying and recertifying LITAP eligibility.

The Commission and the Department, in conjunction with other stakeholders, convened a LITAP Task Force in August 2009 to improve the eligibility determination and recertification processes.

## LITAP Eligibility and Enrollment

State statute [Section 40-3.4-105, C.R.S.] mandates who may be served by LITAP. To be eligible for the LITAP subsidy, an individual must be:

- certified by the Department as qualified to receive financial assistance payments,
- a current or prospective telephone subscriber,
- a U.S. citizen or legal resident and a Colorado resident, and
- part of a household with gross monthly income at or below 185 percent of the federal poverty level (about \$41,000 per year for a family of four in 2009).

Statute also requires that priority for eligibility be given to households with participants in one or more of the programs listed in the bullets below. Like LITAP, these programs all provide assistance to low-income individuals. The qualifying income standards for all of these programs are equal to or more stringent than LITAP's income requirement.

- **Supplemental Social Security Disability Benefits (SSI)** - This federal program provides up to \$674 per month for aged, blind, or disabled individuals who have little or no income.
- **Old Age Pension** - This state program provides financial assistance up to \$699 per month and may provide medical assistance for low-income adults aged 60 or older.
- **Aid to the Needy Disabled** - This state program provides financial assistance up to \$200 per month for low-income individuals who are between the ages of 18 and 59. Eligible individuals must have at least a 6-month total disability that precludes them from working. Individuals must also apply for SSI benefits (explained above). The amount of financial assistance provided may be offset by other income, including wages, Social Security benefits, or a retirement pension.

- **Aid to the Blind** - This state program provides financial assistance up to \$200 per month to legally blind low-income individuals who are under the age of 60. Individuals must also apply for SSI benefits (explained above).
- **Temporary Assistance for Needy Families (Colorado Works)** - This federal program, which is administered by the State, provides basic cash assistance to qualifying families, help with emergency household expenses, and services such as counseling and training. The cash assistance equates to approximately 30 percent of the federal poverty level.

Approximately 21,000 individuals were receiving the LITAP subsidy as of December 31, 2009. As shown in the following table, the average monthly number of LITAP participants has steadily declined over the past five calendar years.

<b>Average Monthly Number of LITAP Participants Calendar Years 2005 Through 2009</b>						
	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>Percent Change 2005 to 2009</b>
<b>Average Monthly Number of LITAP Participants</b>	29,900	28,300	27,400	26,000	23,800	-20%
<b>Source:</b> Telephone carriers' quarterly reports provided to the Public Utilities Commission.						

## **LITAP Subsidy and Carrier Reimbursements**

LITAP provides most eligible participants with a state telephone assistance subsidy of \$6.50 per month that is credited to their telephone accounts. The subsidy does not typically extend to other types of telephone service, such as cellular telephones, unless the cellular carrier has been designated by the Commission as an eligible provider. Eligible participants also receive the maximum federal Lifeline subsidy of \$10, as discussed previously. Essentially, eligible LITAP participants receive a total subsidy of \$16.50 per month on their basic local telephone service—\$6.50 from LITAP and \$10 from Lifeline. As discussed above, USAC pays the federal subsidy (\$10) directly to the telephone carriers to reimburse them for crediting the subsidy to participants' accounts.

The state subsidy (\$6.50) is funded through a monthly access line fee (currently \$0.07) that is charged primarily on all residential and business landlines in the state. Telephone carriers collect this access line fee from their customers and use the revenue to credit the LITAP subsidy to eligible customers' accounts. Carriers are also allowed to use the revenue to reimburse themselves for administrative

costs associated with the program and are required to remit any excess fees to the State. The Commission records revenue in the LITAP Fund on the State's financial system only for net fees remitted to the State. If a carrier does not collect enough in access line fees to credit the subsidy to its LITAP-eligible customers and cover its administrative costs, then the carrier is reimbursed by the Commission from the LITAP Fund at the end of the calendar year.

## **Participating Carriers**

During Calendar Year 2009, 88 telephone carriers in the state collected the access line fee from all of their residential and business customers. Of the 88 telephone carriers that collected the fee, 33 provided the LITAP subsidy to eligible customers. As discussed in the prior section, carriers must remit all fees collected in excess of subsidy payments and administrative costs to the Commission for deposit into the LITAP Fund. Most LITAP participants (95 percent) received their telephone services through Qwest Corporation. The remaining 5 percent received telephone services through one of the other 32 carriers. According to the Commission, two of these carriers were cellular telephone carriers. A cellular telephone carrier may choose to participate in the program by applying to the Public Utilities Commission for designation as an "eligible provider." Collections and carrier participation are discussed in more detail in Chapter 2.

## **LITAP Revenue and Expenses**

As discussed previously, LITAP receives its revenue from the monthly access line fee collected on all residential and business access lines in the state. The fee has been set at \$0.07 per month since June 2009. The Commission suspended the access line fee and drew down funds from the LITAP Trust Fund from April 2006 through May 2009. The LITAP Trust Fund received funds in Calendar Year 2006 from Qwest Corporation as part of a \$5.5 million settlement agreement with the Commission on an unrelated issue. The Commission drew down funds from the Trust Fund twice annually and transferred them into the LITAP Fund to cover program expenditures, including state subsidy payments and administrative costs incurred by the telephone carriers and the Department of Human Services. The Commission reinstated the monthly access line fee in June 2009 when the settlement funds were close to being exhausted.

We compiled data from telephone carriers' quarterly reports and Commission records to show the total amount of access line fees collected from residential and business customers, as well as other sources of program funding during Calendar Years 2005 through 2009. In addition, we compiled information on the total amount telephone carriers credited to eligible customers' accounts for the LITAP subsidy and program administrative costs incurred by carriers and the Department of Human Services during the same 5-year period. These revenue and expenses

are shown in the following table. The Commission is not currently appropriated funds and does not charge any administrative expenses to LITAP.

<b>Colorado Low-Income Telephone Assistance Program (LITAP)</b>						
<b>Revenue and Expenses</b>						
<b>Calendar Years 2005 Through 2009</b>						
	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>Percent Change 2005 to 2009</b>
<b>Revenue and Other Sources of Funds</b>						
Access Line Fees Collected	\$3,131,000	\$637,000 <sup>1</sup>	\$0 <sup>1</sup>	\$0 <sup>1</sup>	\$1,120,000 <sup>1</sup>	-64%
Qwest Legal Settlement <sup>2</sup>	0	0	2,032,000	2,083,000	1,796,000	N/A
<b>Total Revenue and Other Sources of Funds</b>	<b>\$3,131,000</b>	<b>\$637,000</b>	<b>\$2,032,000</b>	<b>\$2,083,000</b>	<b>\$2,916,000</b>	<b>-7%</b>
<b>Expenses</b>						
LITAP Subsidies Credited to Eligible Accounts	\$2,333,000	\$2,205,000	\$2,132,000	\$2,026,000	\$1,858,000	-20%
Telephone Carrier Administrative Costs	5,600	4,900	4,100	4,300	5,000	-11%
Department of Human Services Administrative Costs <sup>3</sup>	63,500	65,300	67,400	59,700	64,700	2%
<b>Total Expenses</b>	<b>\$2,402,100</b>	<b>\$2,275,200</b>	<b>\$2,203,500</b>	<b>\$2,090,000</b>	<b>\$1,927,700</b>	<b>-20%</b>
<b>Source:</b> Telephone carrier quarterly reports submitted to the Public Utilities Commission, Commission records, and the Colorado Financial Reporting System (COFRS).						
<sup>1</sup> The Commission suspended the access line fee from April 2006 through May 2009. During Calendar Year 2009 the access line fee was collected only from June through December.						
<sup>2</sup> LITAP received \$5.5 million in 2006 from a settlement with Qwest Corporation on an unrelated issue. The table shows disbursements of the settlement funds (plus earned interest) for program use.						
<sup>3</sup> Department of Human Services' administrative costs are on a fiscal year basis.						

## Audit Scope and Methodology

This report includes the results of our performance audit of LITAP. The audit assessed the effectiveness of LITAP in meeting its statutory intent and reviewed the Commission's and Department's oversight and management of the program. We assessed the Commission's oversight controls and procedures and the

Department's eligibility determination controls and procedures. We analyzed Commission and Department data and reviewed statutes, rules, and Department and Commission policies and procedures. We also interviewed staff from the Commission, the Department, the FCC, USAC, and five telephone carriers that operate in Colorado, including Qwest Corporation. Finally, to gain insight into other states' telephone assistance programs and identify best practices, we obtained information from 16 other states (Delaware, Florida, Hawaii, Idaho, Indiana, Iowa, Louisiana, Minnesota, Montana, Nebraska, New Hampshire, North Dakota, Oregon, South Dakota, Utah, and Washington). We selected these states to obtain information from states that operate their own state telephone assistance programs, as well as from states that do not operate their own programs (and are thus considered federal default states).

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# Colorado Low-Income Telephone Assistance Program

## Chapter 2

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As discussed in Chapter 1, Colorado's Low-Income Telephone Assistance Program (LITAP) was created to ensure access to basic local telephone service for low-income individuals, especially in times of emergency. When Colorado established LITAP in 1986, the landline telephone was the only method available to the general public for communicating in real time over short and long distances. Therefore, the program's emphasis was on providing the LITAP subsidy to low-income individuals with landline telephone service. Since that time, technological advances have brought about cellular telephones, email and instant messaging, text messaging, and Voice over Internet Protocol (VoIP)—technologies that have increasingly replaced landline telephone service. As a result, according to research conducted by the Public Utility Research Center at the University of Florida, landline telephone service no longer plays the role it did in 1986, when LITAP was created. Despite changes in technology, in Colorado the federal Lifeline program and LITAP remain primarily focused on subsidizing basic landline service to people with low incomes.

This audit reviewed the State's oversight of LITAP, as well as the overall effectiveness of the program in ensuring that low-income individuals have access to telephone services, within the context of the significant technological changes that have occurred since the program was created in 1986. Overall, we found that LITAP may not be effective in ensuring that low-income individuals in Colorado have access to basic local telephone service, which is the purpose of the program. Additionally, we found that LITAP has become increasingly obsolete and that, due to federal regulations and the State's lack of jurisdiction over cellular telephones and VoIP providers, the State has limited ability to redesign LITAP to become more relevant to the low-income users of today's telephone technologies. Finally, we found a lack of adequate controls and oversight of LITAP by the State. Specifically, we found:

- **LITAP reaches only about 5 percent of income-eligible households.** As of December 2009, according to the most recent data available, of the approximately 414,000 households at or below 185 percent of the federal poverty level in Colorado, only about 21,000 (5 percent) participated in LITAP.

- **A high percentage of eligible individuals have access to telephone service, even though they do not receive a LITAP subsidy.** Specifically, according to research conducted by the FCC, approximately 96 percent of Colorado’s low-income households have access to some type of telephone, despite the fact that only an estimated 5 percent receive landline telephone subsidies through LITAP. As noted above, the overall trend in telecommunications is an increased reliance on cellular telephones or one of the other technology options for telephone services. Furthermore, according to research from the Public Utility Research Center, this trend is even more pronounced among low-income individuals, who are increasingly choosing cellular telephones over landlines. According to telephone carrier reports submitted to the Public Utilities Commission, the number of residential and business landlines in Colorado has decreased 19 percent since 2005. As discussed in Chapter 1, the LITAP subsidy generally applies to the cost of telephone service through a landline; it typically does not extend to other types of telephone service.
- **A lack of adequate controls and oversight of LITAP operations.** For example, we found that the State has not evaluated the LITAP subsidy amount, which is established in statute, to determine if the subsidy amount is still appropriate. As a result, each year Colorado telephone customers together pay about \$856,000 more in fees than federal law requires for the State to receive the full federal subsidy of \$10 per participant per month. Additionally, we found that the State has not had an effective or efficient process for recertifying the continued eligibility of LITAP participants. As a result, we found that almost half of the individuals receiving the LITAP subsidy may not be eligible for the program, yet these individuals received telephone subsidies totaling \$195,000 each month. Further, we found that the State provides minimal administrative oversight of telephone carriers to independently verify the amount of fees received from telephone customers and subsidies paid to LITAP participants. Finally, we found that fundamental data to evaluate and monitor the effectiveness of the LITAP subsidy are lacking.

These issues, and others discussed later in this chapter, raise questions about whether the State’s Public Utilities Commission (Commission) and Department of Human Services (Department) have ensured that fees collected from telephone customers have been used prudently for the purposes intended by the General Assembly. Furthermore, the concerns we identified related to LITAP’s overall effectiveness in ensuring that low-income individuals have access to a telephone, combined with the program’s emphasis on increasingly outdated technology, raise questions about whether LITAP should continue or be eliminated. To address these questions, as we discuss at the end of the report, the Commission and the Department will need to provide any necessary information to the Legislative

Audit Committee and the General Assembly for their consideration when determining the future of the program. When making this determination, the General Assembly should consider the fact that a federal Lifeline subsidy of \$8.25 will still be available to low-income individuals if the decision is made to eliminate LITAP. If the General Assembly determines that LITAP should continue, the Commission and the Department must take steps to address the concerns discussed throughout this report to ensure the appropriate and effective use of fees collected from telephone customers to meet legislative intent.

The following three sections report our findings related to the State's efforts to (1) monitor the effectiveness of LITAP, (2) manage LITAP eligibility and enrollment, and (3) oversee the financial administration of LITAP. In each section we include recommendations that the Commission and Department will need to implement if the General Assembly decides that LITAP should continue. At the end of the report we provide one alternative for subsidizing telephone services for low-income individuals if the General Assembly decides that LITAP should be eliminated.

## **LITAP Monitoring**

This audit reviewed the Commission's monitoring of LITAP's effectiveness in meeting the legislative intent of the program, which is to provide adequate assistance to low-income individuals to ensure they have access to local telephone service, especially in times of emergency. Overall we found that the Commission has not adequately monitored the effectiveness of LITAP and lacks the mechanisms for doing so. In this section we discuss three findings related to the Commission's monitoring of LITAP. First, we found that the Commission has not monitored the effectiveness of LITAP in ensuring that low-income individuals have access to basic telephone service, as required by statute. Second, we found that the Commission has not monitored the LITAP subsidy amount to assess its continued appropriateness given changes made to the federal Lifeline program since LITAP was first implemented. Third, we found that the Commission has not taken an active role in coordinating and monitoring outreach efforts among participating LITAP telephone carriers. These findings are discussed below.

## **Program Effectiveness**

The Commission is statutorily responsible for monitoring the effectiveness of LITAP and, if necessary, providing annual reports to the FCC [Section 40-3.4-107, C.R.S.]. According to statute, these reports may include information that can be used to monitor the effectiveness of the program, such as:

- A description of the assistance measures used in the program;
- The costs of the program;
- The number of households receiving low-income telephone assistance;
- The number of existing eligible subscribers who switch to low-income telephone assistance from another telephone service;
- The number of new subscribers using low-income telephone assistance; and
- All other available information concerning the effect of the program on eligible subscribership levels.

We evaluated the Commission's monitoring efforts and found that the Commission was unable to provide documentation to demonstrate that it has monitored LITAP's effectiveness in ensuring that low-income individuals have access to basic local telephone service. Specifically, the Commission lacks goals and performance measures for evaluating program effectiveness. In addition, the Commission has not prepared an annual report for LITAP that addresses the factors listed above since 2006. Finally, we found that the Commission does not have the fundamental data it needs to adequately monitor the program. As a result, the Commission does not know the extent to which LITAP has increased low-income individuals' access to basic local telephone service, which is the purpose of the program.

At the time of the audit, we found that the Commission had limited data that could be used to monitor LITAP's effectiveness. Specifically, the Commission could provide data only on the total number of individuals participating in the program each year and on the number of residential and business lines paying the monthly access line fee. In addition, the Commission said it was aware of the approximate number of individuals eligible for the program. However, the Commission did not have comprehensive data on the population being served or not served by LITAP, such as the:

- number of individuals eligible for the program,
- percent of eligible individuals with telephone service,
- program participation rate among the eligible population,
- extent to which LITAP participants had telephone service before participating in the program,
- geographic location of participants,
- qualifying social services programs that participants participated in,
- reasons why participants left the program, or
- reasons why eligible individuals chose not to participate in the program.

These data are consistent with the types of information listed in statute. Without information on the population being served or not served, the Commission cannot take steps to adequately monitor and improve LITAP's effectiveness or inform

the General Assembly of needed changes, including whether the program is still relevant. The importance of collecting and analyzing data to monitor and improve program effectiveness was highlighted by a 2009 report by the Florida Public Service Commission on that state's low-income telephone assistance program. According to the report, after analyzing data on participation rates, factors affecting participation, trends in low-income consumers' preferences, outreach efforts, and enrollment procedures, Florida implemented changes that helped increase the number of program participants by more than 230 percent. These changes included modifying the enrollment process and allowing a large prepaid cellular telephone provider to participate in the Florida program. Florida reported a June 2009 program participation rate of 52 percent of the eligible population.

Because the Commission has not monitored LITAP's effectiveness, we compiled data on the program's participation rate and the percentage of the eligible population with access to telephone service. Specifically, we collected information on the number of people in Colorado meeting LITAP income requirements. As discussed in Chapter 1, to be eligible for LITAP, statute requires that applicants have monthly gross household income at or below 185 percent of the federal poverty level. According to a 2009 Low-Income Energy Assistance Program (LEAP) study prepared for the Department that used the most recent data available at the time, about 414,000 households in Colorado had a monthly gross income at or below 185 percent of the federal poverty level. As of December 2009, approximately 21,000 individuals were participating in LITAP. On the basis of these data, it appears that LITAP is serving only 5 percent (21,000 divided by 414,000) of the individuals who meet program income requirements. Further, even though only an estimated 5 percent of low-income households in Colorado participate in LITAP, according to FCC data, about 96 percent have access to a telephone. These data indicate that low-income households in Colorado are able to afford access to telephone service without LITAP assistance.

According to the Commission, it has more narrowly interpreted the statutory requirement for monitoring LITAP's effectiveness and believes that collecting data on the number of program participants fulfills this requirement. However, to adequately monitor program effectiveness, a comprehensive monitoring process is needed. If LITAP continues, the Commission should establish and implement a process for routinely monitoring the effectiveness of LITAP in ensuring that low-income individuals have access to basic local telephone service. To establish this process, the Commission will first need to develop meaningful program goals and performance measures. At the time of our audit, the Commission had not established any performance-level goals for the program or any performance measures for evaluating LITAP's success in meeting its goals. For example, a program goal could be to increase the number of eligible individuals participating in LITAP. A performance measure related to this goal could be to increase

LITAP participation by 5 percent each year up to a targeted participation rate. We discuss the Commission's responsibilities related to conducting outreach and increasing program participation later in this chapter. Performance measures can help evaluate the impact of a program's actions by providing quantified comparisons between the actual and intended results. Establishing meaningful program goals and performance measures will also provide direction to the Commission on the types of data that should be collected and analyzed to monitor LITAP's effectiveness.

In addition, the Commission will need to develop the mechanisms necessary to collect and analyze sufficient and reliable data to monitor program effectiveness. The Commission should work with the Department of Human Services and telephone carriers to establish roles for collecting and reporting data. The Commission should formalize these roles through a Memorandum of Agreement with the Department and through program rules for the telephone carriers. Much of the data required to monitor and assess LITAP's effectiveness is already collected and maintained by the Department and by telephone carriers. For example, the Department has data on the number of individuals it has determined eligible for the program, their geographic location, and the qualifying social services programs in which they participate. Similarly, telephone carriers have data on the number of eligible individuals who had telephone service prior to participating in LITAP. If the program continues and the Commission determines it lacks resources to implement this recommendation, it should seek the funding needed.

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### **Recommendation No. 1:**

If the Low-Income Telephone Assistance Program (LITAP) continues, the Public Utilities Commission should improve its monitoring of the program by establishing and implementing a process for routinely monitoring the effectiveness of LITAP, as required by statute, and using this information to make program improvements. This process should include:

- a. Establishing meaningful program goals and performance measures for evaluating the effectiveness of the program. At a minimum, the Commission should determine a target participation rate, track progress toward achieving that rate, and if the rates are not achieved, determine the reasons why.
- b. Developing the mechanisms necessary to collect sufficient and reliable data to monitor program effectiveness. This should include working with the Department of Human Services and telephone carriers to establish

roles for collecting and reporting data through a Memorandum of Agreement and program rules.

### **Public Utilities Commission Response:**

Agree. Implementation date: Pending further direction from the General Assembly and appropriate funding.

Based on the Commission's long-standing interpretation of the legislative declaration, which specifies that the program is established to provide "access" to telephone service, the Commission has implemented processes that assure access to the program and track the number of eligible subscribers that participate in LITAP. The Commission has statutory authority to establish rules for the implementation of LITAP and for setting the surcharge fee appropriately. The Commission also monitors the effectiveness of the program within the stated goal.

To the extent that a broader statutory interpretation of the policy goals of the program is requested by the General Assembly, the Commission agrees that new program goals and measures should be established and additional data and monitoring could be established. The Commission does not currently receive any appropriation for the implementation of LITAP. The Commission will require additional resources and funding to comply with this recommendation.

The Commission agrees to work with the Department and telephone carriers to establish roles for collecting and reporting data.

### **Department of Human Services Response:**

b. Agree. Implementation date: Pending Commission implementation.

If LITAP continues, the Department agrees to work with the Commission to assist in establishing roles for collecting and reporting data.

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## **LITAP Subsidy Amount**

In Section 40-3.4-102, C.R.S., "the [G]eneral [A]ssembly declares it to be of vital importance to the public health, safety, and welfare that low-income individuals receive assistance that is *adequate* to [e]nsure access to basic local exchange telecommunications services." [Emphasis added.] Most eligible LITAP

participants receive a subsidy of \$16.50 that is applied to their monthly telephone bills. Of this amount, \$10 comes from the federal Lifeline program and \$6.50 comes from Colorado's LITAP.

The LITAP portion of the subsidy amount (\$6.50) is set by Colorado statute. According to statute [Section 40-3.4-104, C.R.S.], LITAP participants shall receive a state-funded discount on their monthly telephone bills equal to the greater of 25 percent of the cost of basic local telephone service (excluding taxes and surcharges) or the end user common line charge, which the FCC has set at \$6.50 for all carriers in the state. Because the cost of basic local telephone service is, on average, about \$16 per month (excluding taxes and surcharges), 25 percent of that cost would be about \$4 per month. Accordingly, nearly all carriers provide a monthly discount of \$6.50 to LITAP participants. One carrier, with a higher cost of basic local telephone service, provides a monthly discount of \$7.50. This carrier has only one LITAP participant.

We reviewed the LITAP subsidy amount and found that the State has not determined whether that amount is appropriate and necessary to ensure that low-income individuals receive assistance that is *adequate* to obtain access to basic local telephone service, as directed by statute. Under federal regulations, Colorado is required to contribute only \$3.50 in state funds in order for eligible participants to receive the full federal Lifeline subsidy of \$10. As discussed above, however, the current LITAP subsidy is \$6.50, or \$3 more than required for eligible participants to receive the full federal subsidy. In other words, Colorado telephone customers pay fees that are used to fund an additional \$3 in monthly subsidies per LITAP participant, or about \$856,000 more in total subsidies each year, than is required in order for each LITAP participant to receive the \$10 federal Lifeline subsidy. Our review of other state telephone assistance programs found that Colorado's state subsidy amount is one of the highest in the country. The most common subsidy amount contributed by other states and U.S. territories with telephone assistance programs is the \$3.50 required for participants to receive the full federal subsidy, according to data from the Universal Service Administrative Company (USAC).

In addition, we found that the \$16.50 subsidy received by most LITAP participants covers 100 percent of the average cost of basic local telephone service in Colorado, which was about \$16 (excluding taxes and surcharges) in 2009. Although statute does not define "adequate" assistance, it does provide for a discount equal to 25 percent of the cost of basic local telephone service. At the time the statute was enacted, the federal Lifeline program matched the state LITAP subsidy, and the two together provided a total subsidy of 50 percent of the cost of basic local telephone service (excluding taxes and surcharges). In 1986, when the General Assembly established LITAP, the total federal and state subsidy equaled 52 percent of the average cost of basic local telephone service, which was \$7.70 (excluding taxes and surcharges). Therefore, it appears reasonable to

assume that the General Assembly considered a total subsidy of about 50 percent to be “adequate.” This raises the question of whether a total subsidy of 100 percent of the cost of basic local telephone service is necessary, especially given the fact that 96 percent of low-income individuals in Colorado have access to a telephone and only 5 percent of this population receives the LITAP subsidy.

The Commission has not evaluated the statutory LITAP subsidy to determine if the subsidy amount is still appropriate given changes made to the federal Lifeline program and the end user common line charge since 1986. When the LITAP subsidy amount was established in 1986, FCC requirements for the federal Lifeline program differed from current requirements. At that time, states had to establish their own telephone assistance programs and contribute state funds in order for any participants to receive the federal Lifeline subsidy. In 1986 the total subsidy amount for LITAP participants was \$4—of this amount, \$2 was from the federal Lifeline program and \$2 was from LITAP.

The FCC has changed the federal Lifeline program structure considerably since 1986. In 1997 the FCC modified the funding structure for the Lifeline program and made it possible for the program to exist in states that did not contribute any of their own funds. Low-income telephone subscribers can still receive \$8.25 from the federal Lifeline program even if their state does not participate in the program and does not provide a state-funded subsidy. As of June 2009, according to USAC, 10 states and U.S. territories did not participate in the federal Lifeline program, and thus did not contribute any state funds to it. However, if a state chooses to participate in the federal Lifeline program and to contribute state funds, then low-income telephone subscribers can receive up to \$10 in federal funding, as long as the state contributes at least \$3.50. As discussed above, any state contributions above \$3.50 are not matched by the federal Lifeline program. As of June 2009, 46 states and U.S. territories were participating in the federal Lifeline program and contributing between \$1.17 and \$7 in state funds, according to USAC.

In addition to the changes made to the federal Lifeline program structure, the FCC has also incrementally increased the end user common line charge for Colorado telephone carriers from \$2 in 1986 to \$6.50 in 2003. This increase has had a direct impact on Colorado’s LITAP subsidy amount. As discussed above, statute requires that the LITAP subsidy amount not be less than the end user common line charge. As a result, the monthly LITAP subsidy was automatically increased from \$2 per participant to \$6.50 per participant and has stayed at that amount since 2003.

Changes in the federal Lifeline program over the past 20 years and the lack of corresponding changes in state statute have resulted in Colorado paying more than may be necessary to ensure low-income individuals have access to basic local telephone service. Further, approximately 10 years have elapsed without the

Commission bringing to the General Assembly’s attention the fact that Colorado is paying more for the LITAP subsidy than is necessary in order for low-income telephone customers to receive the full federal subsidy. If LITAP continues, the Commission should evaluate the current LITAP subsidy amount to determine whether an amount equal to the end user common line charge is still appropriate and necessary to provide adequate assistance to low-income telephone subscribers in Colorado. The Commission should report the results of its evaluation and make a recommendation to the General Assembly, seeking any necessary statutory changes.

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## **Recommendation No. 2:**

If the Low-Income Telephone Assistance Program (LITAP) continues, the Public Utilities Commission (Commission) should evaluate the statutory subsidy amount to determine whether it is still appropriate and necessary to provide adequate assistance to ensure access to basic local telephone service. The Commission should report the results of its evaluation and make a recommendation to the General Assembly as to whether the LITAP subsidy amount should be adjusted. The Commission should seek any necessary statutory changes.

### **Public Utilities Commission Response:**

Partially agree. Implementation date: Pending further direction from the General Assembly and appropriate funding.

The Commission agrees to provide currently available data to the Legislative Audit Committee and the General Assembly concerning the subsidy amount.

The combined federal and state subsidy amounts are not isolated “stand-alone” programs but are viewed as integral components of universal service. As further explained in the response to Recommendation No. 8, many intertwined factors drive the complicated concept of universal service.

If any additional data or assessment is required by the Legislative Audit Committee and the General Assembly, the Commission agrees to provide it, based on availability of resources and funding.

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## Program Outreach

An outreach program that increases public awareness and participation is essential to ensuring a telephone assistance program achieves the intent of serving the target population. According to FCC rules, telephone carriers are responsible for conducting outreach for the Lifeline program in all states. This outreach includes publicizing the availability of the federal Lifeline subsidy in a way that reaches those who likely qualify for the program, including households that do not have telephone service. FCC rules also grant states that have implemented their own telephone assistance programs, like Colorado, the flexibility to determine the most appropriate outreach mechanisms for consumers in their state. As the agency responsible for promulgating rules and regulations for LITAP and for monitoring its effectiveness, the Commission is responsible for overseeing outreach efforts for LITAP.

We reviewed the outreach conducted by the Commission and telephone carriers for LITAP and found that outreach does not adequately publicize the availability of the program to those individuals who will likely meet eligibility criteria, particularly potentially eligible individuals who do not currently have telephone service. For example, we found that the Commission does not conduct any outreach beyond posting information about LITAP on its website. In addition, we found that Qwest, which provides telephone services to 95 percent of LITAP participants, conducts outreach only by including information on LITAP in bill inserts once a year. This limited approach does not publicize the availability of LITAP to households that do not already have telephone service, as recommended by the FCC. In addition, the extent to which smaller telephone carriers in rural areas conduct outreach is unclear because the Commission was not able to provide comprehensive information on the types or effectiveness of the outreach conducted by all telephone carriers statewide. We contacted three of the smaller telephone carriers to determine what types of outreach they perform. Each of these three carriers indicated that it performs some type of outreach, such as advertising in local newspapers or putting up posters at local social services agencies. However, we were unable to determine whether all telephone carriers in the state perform some type of outreach.

As discussed previously, participation rates among the LITAP-eligible population are very low. According to the most recent data available, only an estimated 5 percent of the State's income-eligible households (i.e., with monthly gross income at or below 185 percent of the federal poverty level) participate in LITAP. In addition, although 88 telephone carriers collected the \$0.07 per month access line fee from their residential and business customers during Calendar Year 2009, only 33 of these carriers offered residential service and provided the LITAP subsidy to eligible participants. Low participation rates likely result from a lack of public awareness about the program, according to research from the Public

Utility Research Center on telephone assistance programs. In turn, more aggressive and targeted marketing of the program would likely increase knowledge of and participation in the program. The FCC recommends posting notices at public transportation sites, running public service announcements, and working with social services agencies and community organizations to reach those who do not currently have telephone service.

The Commission has not taken an active role in coordinating and monitoring outreach efforts among participating LITAP telephone carriers. For example, the Commission has not developed a written outreach plan or guidelines for the program, nor has it established and enforced outreach requirements for telephone carriers. Further, the Commission has not enforced its own rule requiring telephone carriers to submit documentation of their outreach efforts for the Commission's review. According to Commission staff, the Commission has waived its rule since 2007; therefore, for the past three years, the Commission has not obtained information on the outreach performed by telephone carriers. The one action the Commission took to increase participation in LITAP was to require that all telephone carriers that provide residential and business landlines participate in LITAP. Although this requirement significantly increased the number of telephone carriers participating in LITAP, the number of LITAP participants has continued to decrease. This decrease is likely due, at least in part, to the fact that the Commission did not also require these carriers to perform outreach to inform their customers of LITAP's availability.

If LITAP continues, the Commission should improve and expand its outreach efforts to ensure that potentially eligible individuals are aware of the program and the subsidy they could receive. These efforts should include development of a written outreach plan for LITAP that is designed to reach program goals. In developing its outreach plan, the Commission should work with the Department and telephone carriers to determine each entity's role with respect to outreach. The Department is in the best position to reach LITAP-eligible individuals because it has established relationships with these individuals through other social services programs. Prior to the implementation of the Colorado Benefits Management System (CBMS) in 2004, the Department sent letters to participants in Old Age Pension, Aid to the Blind, Aid to the Needy Disabled, and Supplemental Security Income notifying these individuals that they were also eligible for LITAP. However, following the implementation of CBMS, the Department stopped sending these letters and has not since engaged in any outreach activities for LITAP. Two of the other states we contacted with telephone assistance programs (Utah and Nebraska) use social services agencies, energy assistance programs, and local community agencies to reach those who are likely eligible for telephone assistance in their states. In addition, telephone carriers are in the best position to reach individuals with existing telephone service to notify them of the LITAP subsidy and the eligibility requirements for participating in the program. This discussion with the Department and telephone

carriers could be facilitated through the LITAP Task Force, which was convened by the Department in August 2009 and meets periodically to discuss issues related to LITAP. The Task Force is composed of representatives from the Department, Commission, Department of Regulatory Agencies, Office of Information Technology, Qwest Corporation, and CenturyTel of Colorado. Once the Commission has clearly defined the roles of various entities with respect to outreach, the Commission should establish these roles through a Memorandum of Agreement with the Department and through the rulemaking process for telephone carriers. Finally, the Commission should monitor the implementation of its outreach plan and assess the effectiveness of outreach efforts.

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### **Recommendation No. 3:**

If the Low-Income Telephone Assistance Program continues, the Public Utilities Commission should improve its outreach efforts for the program by:

- a. Developing a formal outreach plan designed to reach program goals.
- b. Working with the Department of Human Services and telephone carriers to clearly define each entity's role with respect to outreach through a Memorandum of Agreement and program rules.
- c. Monitoring the implementation of the outreach plan developed in part (a) and assessing the effectiveness of outreach efforts.

### **Public Utilities Commission Response:**

Partially agree. Implementation date: Pending further direction from the General Assembly and appropriate funding.

- a. Outreach for this program is not contemplated in the statute. The General Assembly has not directed nor appropriated funds to the Commission to conduct outreach for LITAP.

If the General Assembly requests that the Commission take on a broader role, the Commission can develop and implement an outreach plan, subject to additional resources and funding. The LITAP Task Force may be the appropriate collaborative group to develop an outreach plan if funds are made available.

***Auditor's Addendum:***

***As stated in the report, statute has charged the Commission with monitoring the effectiveness of LITAP in ensuring that low-income individuals have access to basic telephone service. An outreach program that increases public awareness and participation is essential to an effective telephone assistance program.***

- b. As stated above, the General Assembly has not directed the Commission to conduct outreach for LITAP. However, the Commission can, in a cooperative manner, team with the Department and telephone carriers to clearly define each entity's outreach efforts for LITAP, with the understanding that the Commission lacks authority over the Department as well as taking into account any statutory directives and limitations.
- c. The Commission can monitor changes in participation rates and may be able to extrapolate the effect of these outreach efforts using these data, but does not have the staffing to conduct surveys in order to determine if any changes are directly contributable to the outreach efforts.

**Department of Human Services Response:**

- b. Agree. Implementation date: Pending Commission implementation.

If LITAP continues, the Department agrees to work with the Commission to assist in defining roles for conducting outreach.

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## **LITAP Eligibility and Enrollment**

Statute charges the Department with determining individuals' initial eligibility for LITAP and for periodically recertifying these individuals' continuing eligibility. Accordingly, the Department must have in place sound processes for certifying that LITAP applicants meet the eligibility criteria and for recertifying the continued eligibility of LITAP participants. By statute, as discussed in Chapter 1, to be eligible for LITAP, individuals must be (1) certified by the Department, (2) a current or prospective telephone subscriber, (3) a U.S. citizen or legal resident and a Colorado resident, and (4) part of a household with gross monthly income at or below 185 percent of the federal poverty level. In addition, statute [Section 40-3.4-109, C.R.S.] mandates that the LITAP subsidy shall only be provided for a single telephone line at the principal residence of eligible subscribers.

In November 2009 the Department implemented a new automated telephone system that is used to initially certify and recertify applicants' eligibility for LITAP. Applicants call this automated system, which instantly determines eligibility on the basis of information the applicants enter into the system. Prior to implementing the new automated system, Department staff manually determined eligibility. We reviewed the Department's process for determining and recertifying individuals' eligibility for LITAP. Although we found that the Department's new automated process is more efficient and has stronger controls than the prior manual process, we identified areas in which key controls are still lacking. Specifically, we found that the Department does not require that the applicant be a current or prospective telephone subscriber (i.e., that the applicant's name be on the household's telephone bill). As a result, ineligible individuals may be receiving LITAP subsidies, and some individuals or households may be receiving multiple subsidies, contrary to statutory requirements. In addition, we found that the Department excludes some individuals who meet all of the statutory eligibility criteria from receiving the LITAP subsidy. Finally, we found that the Department has not documented its recertification process or its results, and so it cannot demonstrate that the process is reasonable and accurate. These issues are discussed in the next two sections.

## **Eligibility Determination Process**

The Department's process for certifying an individual's eligibility for LITAP requires that applicants call the Department's automated telephone system and enter their Social Security number and the Social Security number of the telephone subscriber, if they are not the same person. The automated LITAP system then matches the applicant's Social Security number against Social Security numbers maintained in CBMS. The purpose of the match is to verify that the applicant is participating in at least one of five assistance programs designated in statute: Old Age Pension, Aid to the Needy Disabled, Aid to the Blind, Supplemental Social Security Disability Benefits, and Colorado Works Assistance. CBMS houses the eligibility determination information for these five programs. In addition, the automated LITAP system matches the applicant's Social Security number against Social Security numbers maintained in the Department's LEAP database, which is separate from CBMS, to determine if the applicant is participating in LEAP. Although the LITAP statute does not specifically name LEAP, the Department's policy is to certify LEAP participants as eligible for LITAP because both programs have the same income, citizenship, and residency requirements. If the automated LITAP system finds a match, it considers the applicant qualified for LITAP, and the system adds the applicant's name, address, and telephone number to an automated list of telephone accounts that are eligible for the LITAP subsidy. This list is submitted monthly to telephone carriers, who are responsible for crediting the qualified accounts with the subsidy. If the automated system cannot match the applicant's Social Security

number with a number associated with one of the five designated programs or LEAP, then the system informs the applicant that he or she is not eligible to receive the LITAP subsidy. In addition, the automated system checks to see if the applicant's and subscriber's Social Security numbers have already been approved to receive the LITAP subsidy. If so, the applicant will be notified by the system that he or she is already receiving the subsidy.

We reviewed the Department's eligibility determination process and found that it does not ensure that a LITAP applicant meets the statutory criteria for eligibility. Specifically, we found that the Department's automated eligibility determination process is flawed in two ways. First, the process does not ensure that the LITAP applicant is the same individual whose name is associated with the telephone account (i.e., the subscriber), as required by statute. Instead, the automated system allows the applicant to enter the Social Security number of the subscriber, if the eligible person and the subscriber are not the same person. As a result of this practice, ineligible subscribers may receive the LITAP subsidy. For example, if a telephone subscriber's elderly parent lived with him or her and the parent was participating in the Old Age Pension Program, then the parent would qualify for LITAP under the Department's eligibility determination process. In this example, the LITAP subsidy would be credited to the subscriber's telephone bill even if the subscriber did not meet any or all of the eligibility criteria contained in the statute.

This flaw in the Department's eligibility determination process also increases the risk of fraud and abuse. For example, the automated system matches only the applicant's Social Security number with the CBMS and LEAP databases to determine eligibility. However, in instances where the applicant is someone other than the subscriber, the automated system does not check to see if a LITAP subsidy is already associated with the subscriber's name or address. Consequently, individuals or households could be receiving more than one subsidy, contrary to statute.

To reduce the risk of fraud and abuse, the federal Lifeline program and other states require that the LITAP applicant and the telephone subscriber be the same person. In a 1997 order, the FCC required that the telephone subscriber in a federal default state also be the qualifying participant. This requirement, according to the order, was "in the interest of administrative ease and avoiding fraud, waste, and abuse." Similarly, to reduce the risk of fraud and abuse and simplify program administration, six of the seven states we contacted with state-administered programs require the telephone subscriber to be the qualifying participant.

The second flaw in the automated LITAP system is that it excludes from LITAP individuals who meet all the statutory criteria but do not participate in one of the five assistance programs named in statute or in LEAP. In other words, in practice the LITAP automated system employs more restrictive eligibility criteria than

provided in statute. As discussed above, if an applicant participates in one of the five designated programs or in LEAP, the automated system will deem the applicant eligible for LITAP. All of these programs have citizenship, residency, and income requirements comparable to those for LITAP. However, this process does not allow an individual to participate in LITAP, even if the individual meets all of the statutory eligibility criteria, if the individual does not participate in one of the five designated programs or in LEAP. As discussed previously, a 2009 LEAP study using the most recent data available at that time, found that about 414,000 households in Colorado had a monthly gross income at or below 185 percent of the federal poverty level. Currently about 260,000 individuals participate in one of the five designated programs or in LEAP. Accordingly, an estimated 154,000 (414,000 minus 260,000) additional individuals might be eligible for LITAP, based on their household income, but these individuals would be deemed ineligible by the Department's automated system because they do not participate in one of the five designated programs or in LEAP.

The issues we identified with the Department's eligibility determination process have resulted largely from changes made to the LITAP eligibility statute in 2008 through House Bill 08-1227, the Commission's sunset review bill. Prior to the bill's passage, statute required that individuals participate in Old Age Pension, Aid to the Needy Disabled, Aid to the Blind, or Supplemental Security Income to receive the LITAP subsidy. With the implementation of House Bill 08-1227, however, participation in one of these programs is no longer the basis for determining LITAP eligibility. Instead, as discussed above, the bill requires that eligibility be determined based on whether the applicant is (1) certified by the Department, (2) a current or prospective telephone subscriber, (3) a U.S. citizen or legal resident and a Colorado resident, and (4) part of a household with a monthly gross income at or below 185 percent of the federal poverty level. In addition, the plain language of the bill requires the applicant to be a telephone subscriber. As a result of these changes, the Department's current eligibility determination process, which establishes eligibility solely based on participation in one of the five designated programs or in LEAP and which allows the telephone subscriber to be someone in the applicant's household, is not consistent with statutory requirements.

According to staff, the Commission proposed the eligibility criteria changes implemented through House Bill 08-1227 to allow individuals participating in LEAP, which has the same income, citizenship, and residency requirements as LITAP, to automatically qualify for LITAP as well. However, the bill does not specifically identify LEAP as a qualifying program. Instead, the bill broadens the eligibility criteria to allow any individual in a household with income at or below 185 percent of the federal poverty level to be eligible for the LITAP subsidy, regardless of whether the individual participates in one of the designated programs or in LEAP.

According to the Department, its current eligibility determination process was established based on the Commission's stated intention of expanding LITAP eligibility to LEAP. Further, the Department reports that it lacks the resources to verify each LITAP applicant's citizenship and income eligibility in accordance with the statutory criteria; the Department currently has an appropriation of 1.1 FTE to administer the LITAP eligibility process. Consequently, the Department uses LITAP applicants' participation in the other assistance programs, including LEAP, as a proxy. The Department relies on the other programs to have verified that their participants meet the eligibility requirements regarding citizenship, residency, and income. If so, these participants would be eligible for LITAP as well. In addition, the Department reports that its eligibility determination process is based on the Department's interpretation of statute, which is to allow the telephone subscriber to be either the applicant or someone in the applicant's household. However, according to the Department, statute is not clear with respect to this issue.

If LITAP continues, it is important that the Department determine program eligibility in accordance with statutory criteria. The Department should assess LITAP eligibility criteria to determine if they are clearly defined and appropriate and if it is cost-effective to determine eligibility in accordance with these criteria. If the Department determines that the criteria are not clearly defined and appropriate and/or that it is not cost-effective to apply them, then the Department should seek statutory changes to the eligibility criteria, as necessary. Once any statutory changes are made, the Department should implement changes to its eligibility determination process, as necessary, to ensure that it is certifying LITAP eligibility in accordance with the criteria specified in statute. These changes should include modifying the Department's eligibility policies and procedures to ensure that only one LITAP subsidy is credited to a household, name, and telephone number. If the Department determines that it needs additional funding to carry out the revised eligibility determination process, it should seek additional resources.

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#### **Recommendation No. 4:**

If the Low-Income Telephone Assistance Program (LITAP) continues, the Department of Human Services should ensure that it determines eligibility in accordance with statutory criteria and limits participation in the program to only those individuals eligible to receive the subsidy by:

- a. Assessing LITAP eligibility criteria to determine if they are clearly defined and appropriate and if it is cost-effective to determine eligibility in accordance with these criteria. If the Department determines that the criteria are not clearly defined and appropriate or if it is not cost-effective

to apply these criteria, the Department should seek statutory changes to the criteria, as necessary.

- b. Once any statutory changes are made, modifying the eligibility determination process as necessary to ensure that LITAP applicants' eligibility is assessed against the criteria specified in the statute. This should include implementing changes to the eligibility policies and procedures to ensure that only one LITAP subsidy is credited to an address and name. The Department should seek additional resources as needed to carry out this modified process.

### **Department of Human Services Response:**

- a. Agree. Implementation date: July 2011. If LITAP continues, the Department agrees that statutory changes are necessary to clarify eligibility criteria and will seek these changes with the assistance of the General Assembly.
- b. Agree. Implementation date: October 2011. Once statutory changes are made, the Department will ensure that LITAP eligibility is assessed through its certification and recertification processes in accordance with these criteria.

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## **Eligibility Recertification Process**

In addition to determining applicants' initial eligibility for LITAP, the Department is required by statute to periodically recertify LITAP participants' eligibility. In March 2009 the Department began a recertification process for all LITAP participants served by Qwest Corporation (Qwest). As discussed in Chapter 1, Qwest serves approximately 95 percent of all LITAP participants. Through this recertification process, the Department identified approximately 9,800 (41 percent) of the total 24,000 Qwest LITAP participants whose eligibility was questioned. At the completion of the recertification process, about 1,400 of the 9,800 (14 percent) potentially ineligible participants were recertified as eligible for LITAP. The 8,400 participants who were not recertified were either found to be ineligible for LITAP or did not request to be recertified.

We reviewed the Department's recertification process and found that the process does not ensure that only eligible individuals continue to receive the LITAP subsidy. Specifically, we reviewed the same 24,000 Qwest LITAP participants the Department had reviewed, and we applied the Department's current eligibility criteria. Applying the Department's criteria, we identified approximately 11,800 Qwest accounts (49 percent of 24,000 total Qwest LITAP participants) that were

potentially ineligible for LITAP. This number of potentially ineligible accounts was about 2,000 higher than the number identified by the Department. These additional 2,000 potentially ineligible accounts fell into two groups: (1) accounts in which the subscribers' Social Security numbers did not match the CBMS or LEAP databases and (2) accounts in which the subscribers' Social Security numbers were either invalid or duplicates associated with multiple accounts. Each of these groups is discussed below.

- **Nonmatching Social Security Numbers.** We identified approximately 330 of the additional 2,000 potentially ineligible accounts in which the subscribers' Social Security numbers did not match Social Security numbers in the CBMS or LEAP databases. In other words, the individuals named on these accounts were not participating in one or more of the five designated programs or in LEAP.
- **Invalid or Duplicate Social Security Numbers.** We identified approximately 1,670 accounts where the subscribers' Social Security numbers associated with the Qwest accounts were either invalid or were associated with more than one account. Specifically, for about 1,450 accounts, a valid Social Security number was not associated with the Qwest account. For example, these accounts showed Social Security numbers such as 123-45-6789 or 999-99-9999. For the remaining 220 accounts, which listed Social Security numbers that appeared to be valid, the numbers were associated with multiple Qwest accounts. Consequently, a valid Social Security number may have been used to receive multiple LITAP subsidies. According to statute [Section 40-3.4-109, C.R.S.], the LITAP subsidy shall be provided for only a single telephone line at the principal residence of the eligible subscriber.

If the 11,800 questionable accounts we identified do in fact represent ineligible program participants, then the State has been unnecessarily paying about \$920,000 a year in public funds to ineligible individuals. Additionally, the State is at risk of having to repay about \$1.4 million to the federal government for Lifeline subsidies paid to ineligible individuals for each year they were ineligible. As discussed previously, LITAP participants receive a \$16.50 credit on their telephone bill each month; this includes \$10 from the federal Lifeline program and \$6.50 from the State's LITAP. Therefore, the 11,800 questionable accounts that we identified received, in total, about \$195,000 per month in subsidies—about \$118,000 from Lifeline and about \$77,000 from LITAP. If the individuals listed on these accounts did not meet the eligibility criteria, then they should not have received the subsidies. Further, because the Department is responsible for determining participant eligibility in Colorado for both the LITAP and Lifeline subsidies, the State may be at risk of having to repay the federal government for the federal portion of any subsidies paid to ineligible individuals, even though the federal subsidies did not flow through the State. According to FCC officials,

further review is needed to determine if the federal government would require the State to repay these amounts.

If LITAP continues, the Department must have in place an effective, efficient, documented process for recertifying the continued eligibility of LITAP participants. At the time of our audit, the Department had not developed a standard process for recertifying eligibility on an ongoing basis. Although it appears that the Department had conducted at least one recertification prior to March 2009, the Department was unable to provide documentation to show when the recertification had occurred and what it included. Further, the March 2009 recertification process, which took more than a year to complete, was not effective because it did not identify nearly 2,000 LITAP participants who were potentially ineligible for the program. According to the Department, it now plans to perform the recertification process annually and will standardize the process once our audit has been completed. To do so, the Department will need to incorporate mechanisms into the recertification process to make it timely. This could include ensuring, to the extent possible, that all LITAP accounts are associated with the valid Social Security number of the participant. Doing so would result in a more efficient process for matching LITAP participants' Social Security numbers with Social Security numbers in the CBMS and LEAP databases. The Department will also need to investigate the additional 2,000 potentially ineligible LITAP participants we identified to determine if these individuals are eligible for the subsidy and to verify with Qwest that it has discontinued providing the LITAP subsidy to participants who have not been recertified.

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### **Recommendation No. 5:**

If the Low-Income Telephone Assistance Program (LITAP) continues, the Department of Human Services should ensure that it has an effective, efficient, documented process for recertifying the continued eligibility of program participants by:

- a. Developing and implementing an eligibility recertification process in accordance with statute that includes all participating telephone carriers and standardizing this process through written policies and procedures.
- b. Incorporating mechanisms into the recertification process to ensure that recertification occurs timely. This could include ensuring, to the extent possible, that LITAP accounts are linked to a valid Social Security number for the program participant.

- c. Investigating the approximately 2,000 questionable Qwest Corporation accounts identified in the audit to verify the eligibility of the LITAP participants.
- d. Verifying with Qwest Corporation that it has discontinued providing the LITAP subsidy to participants who have not been recertified.

### **Department of Human Services Response:**

- a. and b. Agree. Implementation date: December 2010. Upon passage of House Bill 08-1227, the Department committed to an annual recertification process and initiated it in March 2009. The Department remains committed to a process that is in accordance with statute, is timely, documented, and includes all participating telephone carriers. There are written policies and procedures currently in place but the Department acknowledges that these can be better documented based on lessons learned as a result of last year's recertification process and with the new automated eligibility system.
- c. Agree. Implementation date: July 2010. The Department agrees to work with Qwest Corporation to investigate the approximately 2,000 questionable accounts, most of which are questionable due to duplicate Social Security numbers.
- d. Agree. Implementation date: July 2010. The Department will work with Qwest Corporation to verify that LITAP benefits have been discontinued for participants that have not been recertified.

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## **Financial Administration**

LITAP is funded through a fee levied on all residential and business telephone access lines in the state. According to statute [Section 40-3.4-108(1), C.R.S.], the Commission is responsible for establishing the access line fee each fiscal year. The Commission set the current access line fee at \$0.07 per line per month, effective June 2009. In total, the 88 telephone carriers participating in LITAP collect about \$160,000 per month in LITAP access line fees from approximately 2.3 million access lines.

Telephone carriers use the access line fees collected to credit the LITAP subsidy amount to eligible customers' accounts. Carriers also use the fee to reimburse themselves for their administrative costs associated with the program. However, statute [Section 40-3.4-108(1), C.R.S.] prohibits telephone carriers from profiting

from the collection of the access line fee. After crediting the subsidy to their LITAP customers and covering administrative costs, telephone carriers must remit any excess funds to the Commission at the end of each fiscal quarter, according to Commission rules. The Commission deposits the money into the LITAP Fund and records the amount in the State's accounting system as program revenue. If a telephone carrier's access line fee collections are less than the amount of subsidies credited to LITAP-eligible customers and the carrier's administrative costs, the Commission is required to reimburse the carrier for the costs that were not covered by fee collections. These reimbursements are made from the LITAP Fund at the end of each calendar year. The Commission records telephone carrier reimbursements in the State's accounting system as program expenditures.

As discussed previously, the Commission is statutorily required to oversee the effectiveness of the program and provide oversight of the telephone carriers. We reviewed the Commission's financial administration and oversight of LITAP and identified concerns with the Commission's procedures for verifying the amount of fees collected and the subsidies provided to LITAP participants. We also identified concerns with the Commission's management of the LITAP monthly access line fee.

## **Verification of Fee Collections and Subsidies**

Telephone carriers submit a quarterly report to the Commission that includes the number of residential and business telephone access lines with the carrier, the dollar amount of access line fees collected by the carrier during the quarter, the number and dollar amount of subsidies credited to the carrier's LITAP participants, and the carrier's monthly administrative costs. As explained previously, if a carrier collects more in fees for the quarter than it credits in LITAP subsidies or uses for administrative costs, the carrier is required to remit the excess fees to the Commission for deposit into the LITAP Fund. According to the Commission, it relies on the information in the quarterly reports to monitor LITAP and ensure that telephone carriers are managing LITAP finances appropriately.

We reviewed the Commission's process for verifying the accuracy of the LITAP data included in the telephone carriers' quarterly reports. We found that the Commission does not have sufficient controls in place to ensure that telephone carriers accurately collect and record the access line fee from all residential and business customers, provide the full LITAP subsidy to all eligible participants, and remit all excess collections to the State. Specifically, the Commission does not have a process in place to independently verify the fee and subsidy information reported by telephone carriers. Instead, the Commission's primary

method for verifying the accuracy of the data reported by telephone carriers is to compare current quarterly reports with past quarterly reports and to compare quarterly report data with annual report data. Although staff report that they follow up with telephone carriers when they identify possible issues through these reviews, we identified several concerns with the Commission's approach. First, the Commission's approach assumes that past reports were accurate, which may not be true. If the number of LITAP participants for a carrier was inaccurate in the past, historical data cannot provide a reasonable comparison for the current number of participants. Second, by relying primarily on historical data, Commission staff may only be able to identify significant discrepancies in the data rather than problems that are offsetting or only result in incremental changes. A carrier that inaccurately reported slight decreases in the amount of fees collected would be less likely to be identified in the Commission's reviews. Third, historical data from carriers become irrelevant when significant changes occur in the number of access lines paying the fee or in the amount of subsidies paid to participants. As discussed in Recommendation No. 5, the Department's recent recertification process has resulted in the removal of a large number of LITAP participants from the program. This considerable decrease in current participants makes a comparison with the number of past participants of limited value.

By relying primarily on historical reports to verify the accuracy of telephone carriers' quarterly reports, the Commission cannot ensure that carriers are accurately reporting the amount of access line fees collected and crediting subsidies to LITAP-eligible accounts. In addition, the Commission cannot ensure that telephone carriers are remitting all excess access line fees after retaining their administrative costs, as required by statute and Commission rules. Overall, the Commission has not implemented sufficient controls to ensure that carriers are appropriately managing LITAP revenue and expenditures and are reporting reliable information to the Commission. For example, at the time of our audit the Commission did not compare Department data on the number of eligible LITAP participants with the number reported by telephone carriers in their quarterly reports. Such a comparison would inform the Commission of any significant discrepancies between the information reported by the telephone carriers and that reported by the Department.

In addition, the Commission does not routinely review a sample of carriers and require those carriers to provide documentation to support the fee and subsidy amounts included in their quarterly reports. According to the Commission, it requests that telephone carriers provide documentation only if staff have identified a discrepancy through their review of the quarterly reports. Routinely reviewing a sample of carriers and their supporting documentation would allow the Commission to independently verify the information reported by the carriers. The Commission could select its sample using a risk-based approach and apply risk factors such as significant differences in the amount of fees collected or the

amount of subsidies paid from one quarter to the next. Alternatively, the Commission could select a random sample of carriers. USAC, the agency responsible for administering the federal Lifeline program for the FCC, uses this approach to monitor the accuracy of information provided by telephone carriers in federal default states. According to USAC, it selects a sample of telephone carriers on both a random and targeted basis. USAC requests that these carriers provide information such as billing system reports that list all program recipients and a sample of subscriber bills to ensure the federal subsidy is passed on to eligible customers and fees are assessed properly.

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### **Recommendation No. 6:**

If the Low-Income Telephone Assistance Program (LITAP) continues, the Public Utilities Commission should establish and implement sufficient controls to ensure that telephone carriers accurately collect the access line fee, distribute the subsidy to eligible participants, and remit all collections in excess of administrative costs to the State. Controls may include:

- a. Comparing Department of Human Services data on the number of eligible LITAP participants with the number reported by carriers in their quarterly reports.
- b. Using a risk-based or random approach to select a sample of carriers to review and requiring the carriers selected to provide documentation to support the information included their quarterly reports.

### **Public Utilities Commission Response:**

- a. Agree. Implementation date: July 2010. The Commission agrees with this recommendation and will ask the Department to provide the number of eligible subscribers linked to each telephone carrier and will compare those numbers with the data submitted by the telephone carriers in their reporting to the Commission. These efforts will be undertaken to ensure and improve accuracy in fee assessment, collection, and distribution.
  - b. Agree. Implementation date: Pending further direction from the General Assembly and appropriate funding. The Commission has always used historical trending as a cost-efficient means for telephone carriers and the State to manage the reporting process. The Commission agrees to do additional reporting analysis and auditing, pending additional resources and funding.
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## Access Line Fee

As discussed above, LITAP is funded through a fee collected from each business and residential telephone landline in the state. According to statute [Section 40-3.4-108(1), C.R.S.], the Commission should establish an access line fee each fiscal year that is sufficient to pay for the LITAP subsidy for all eligible participants and the program's administrative costs. The Commission establishes the access line fee at the beginning of each fiscal year based on telephone carriers' estimates of the number of lines from which they will collect the fee and the number of LITAP customers they anticipate serving during the next year. Any fees collected in excess of the amount credited for subsidies and administrative costs are to be remitted to the Commission for deposit into the LITAP Fund. Statute [Section 40-3.4-108(2)(b), C.R.S.] limits the amount of uncommitted reserves in the LITAP Fund to \$250,000, as of the end of each fiscal year. If the LITAP Fund maintains uncommitted reserves from previous years, statute [Section 40-3.4-108(1), C.R.S.] instructs the Commission to consider this amount when establishing the access line fee.

We reviewed the amount of uncommitted reserves in the LITAP Fund during the past five fiscal years and found that the Fund exceeded the statutory limit on uncommitted reserves in two of the five years. In Fiscal Year 2005 the LITAP Fund exceeded the uncommitted reserve limit by approximately \$350,000, and in Fiscal Year 2006 the Fund again exceeded the limit by approximately \$775,000. The Fund did not exceed the uncommitted reserve limit during Fiscal Years 2007 through 2009 because the Commission did not collect an access line fee between April 2006 and May 2009. During this period the Commission used the accumulated uncommitted reserves and a \$5.5 million unrelated settlement with Qwest to pay for the program. This allowed the Commission to eliminate the uncommitted reserve balance by the end of Fiscal Year 2007 and then transfer money from the settlement fund to the LITAP Fund as needed. The Commission reinstated the access line fee in June 2009 and set the fee at \$0.07 per month.

The amount of uncommitted reserves in the LITAP Fund exceeded the statutory limit because the Commission did not actively monitor program changes and their effect on the amount of fees being collected or make timely adjustments to the access line fee to compensate for these changes. In January 2005 the Commission began requiring all telephone carriers in the state to participate in LITAP, in part due to concerns over steadily decreasing program revenue. At the time, the Commission estimated that this change would increase the number of access lines paying the fee each month by 160,000 lines. However, the Commission did not adjust the access line fee at the same time to reflect the significant increase in the number of landlines contributing to LITAP. In fact, the Commission did not reduce the access line fee from \$0.12 to \$0.07 per month until six months later.

During this six-month period, the LITAP Fund collected approximately \$770,000 in excess fees.

The General Assembly places restrictions on uncommitted reserves to help establish limits on state spending and to ensure that fee-funded programs do not collect more money from the public than is necessary. When the LITAP Fund is at risk of exceeding its \$250,000 uncommitted reserve limit, the access line fee should be adjusted downward. Therefore, it is important that the Commission actively monitor the LITAP Fund fund balance, as well as any changes in the number of access lines required to pay the monthly fee and in the number of LITAP participants, to determine when and how much the fee should be adjusted. This will be especially important during Fiscal Year 2010 because the Department's recertification process has resulted in a significant decrease in the number of eligible LITAP participants. The Commission set the current access line fee of \$0.07 per month in June 2009 based on the assumption that there would be approximately 25,500 LITAP participants. As discussed in Recommendation No. 5, however, with the Department's 2009 recertification process, about 8,400 of the 24,000 (35 percent) Qwest LITAP participants at the time of the recertification were removed from the program. If the Commission does not adjust the access line fee to account for this reduction in the number of LITAP participants, telephone carriers will collect approximately \$55,000 more in fees each month than is necessary to pay for program expenses. At this rate, the LITAP Fund will exceed the \$250,000 statutory limit on uncommitted reserves in about five months.

If LITAP continues, the Commission should improve its management of the access line fee to ensure that the LITAP Fund does not exceed its statutory limit. Specifically, the Commission should actively monitor and evaluate the amount of the access line fee compared with the LITAP Fund balance and projected program revenues and expenses. When necessary, the Commission should adjust the access line fee in a timely manner.

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### **Recommendation No. 7:**

If the Low-Income Telephone Assistance Program (LITAP) continues, the Public Utilities Commission should improve its management of the access line fee to ensure that the LITAP Fund does not exceed the statutory limit on uncommitted reserves by:

- a. Actively monitoring and evaluating the access line fee relative to the fund balance, the number of LITAP participants, and the number of access lines paying the monthly fee.
- b. Making necessary adjustments to the access line fee in a timely manner.

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## **Public Utilities Commission Response:**

Agree. Implementation date: Ongoing.

- a. The Commission agrees and already acted to improve its fund balance management in the years since 2005 and 2006. It does actively monitor the access line fee, the fund balance, the number of participants, and the number of access lines. While the two previous years discussed by the auditors both included unique circumstances, maintenance of the fund balance within the statutory maximum is a critical function that the Commission agrees it must approach with diligence.
- b. The Commission agrees with this recommendation, and this strategy has been the focus of fund balance management. The Commission will continue to strive to make surcharge rate adjustments in a timely manner.

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## **Future of the Program**

Throughout this report, we have identified serious concerns with the overall management of LITAP and the effectiveness of the program in ensuring that low-income individuals have access to a telephone. Our concerns raise questions about whether the Commission and the Department have ensured that fees collected from telephone customers have been used prudently for the purposes intended by the General Assembly. These concerns include the Commission's lack of oversight and management with respect to monitoring the effectiveness of LITAP as required by statute, evaluating the continued appropriateness of the LITAP subsidy amount, and coordinating and monitoring the outreach conducted for the program. As a result of the Commission's lack of oversight and management, Colorado telephone customers have paid about \$856,000 more in telephone subsidies each year than federal law requires for the State to receive the full federal subsidy of \$10 per participant per month. Our concerns also include the Department's ineffective processes for determining and recertifying participants' eligibility for the LITAP subsidy. As a result of these processes, we found that almost half of the individuals receiving the LITAP subsidy were potentially ineligible for the program. As discussed in Recommendation No. 5, if all of these individuals were in fact ineligible program participants, the State has paid about \$920,000 a year to ineligible individuals and is at risk for repaying nearly \$1.4 million to the federal government for Lifeline subsidies paid to ineligible individuals. Finally, our concerns include the Commission's lack of sufficient financial administration with respect to verifying program revenue and

expenses and monitoring the LITAP Fund fund balance. Overall, these concerns indicate significant deficiencies in the controls and oversight of LITAP provided by the State.

In addition, we found that neither the Commission nor the Department has allocated sufficient resources to LITAP to adequately oversee and manage the program. The Commission does not have any FTE assigned to overseeing LITAP, although Commission staff stated that they dedicate about 0.1 FTE of time to the program. The Department has 1.1 FTE appropriated to LITAP for determining eligibility. According to the Department, its limited resources have caused some of the concerns we identified related to eligibility determinations and recertifications.

Further, we found minimal evidence that LITAP is effective in ensuring that low-income individuals in Colorado have access to basic local telephone service, which is the premise of the program. As discussed previously, only an estimated 5 percent of the State's households with monthly gross income at or below 185 percent of the federal poverty level participate in LITAP. However, the FCC reports that about 96 percent of low-income households in Colorado have access to a telephone. In fact, Colorado has one of the highest penetration rates of telephone service among low-income households in the country. These data indicate that most low-income households are able to afford access to telephone service without LITAP assistance.

Additionally, changes in technology and trends in preferred methods of communication may further reduce LITAP's relevance in ensuring access to basic telephone service. The overall trend in telecommunications is a decrease in the number of households with landlines and an increase in the number of households relying on cellular telephones and VoIP for telephone service. A report issued by the FCC in August 2008 shows that the number of landlines in the United States has decreased steadily since 2000. According to the quarterly reports submitted by telephone carriers, the number of residential and business landlines in Colorado has decreased 19 percent since 2005. As discussed previously, LITAP is funded through an access line fee imposed on all residential and business lines in Colorado. Therefore, a decrease in the number of Colorado landlines will continue to result in a corresponding decrease in LITAP revenue. This will mean that the fee charged to each landline may need to increase to ensure sufficient revenue is collected to fund the program. The Commission does not currently have the authority to impose an access line fee on cellular telephone or VoIP service providers unless the providers choose to participate in the program. We identified only two active cellular telephone carriers and one active VoIP provider that have chosen to participate in LITAP.

The trend of moving from landlines to cellular telephones is even more pronounced among low-income individuals. According to research conducted by

the Public Utility Research Center, low-income individuals are increasingly choosing cellular telephones over landlines because these individuals tend to move more frequently than do individuals with higher incomes. Individuals can move cellular telephone lines with them without incurring the additional installation charges associated with landlines. Additionally, prepaid cellular telephones make it easier for low-income individuals to manage telephone expenditures by providing them the flexibility to choose the amount spent on telephone services each month. Currently the LITAP subsidy can be applied only to the cost of basic telephone service through a landline or through one of the two active cellular telephone carriers that has chosen to participate in the program. The significant changes in technology since 1986 when LITAP was first implemented, together with the lack of corresponding changes in either the federal Lifeline program or LITAP, have likely caused both of these programs to become increasingly obsolete and irrelevant to the low-income users of today's telephone technology.

Issues related to the overall lack of effectiveness of LITAP, combined with the program's emphasis on increasingly outdated technology, raise questions about whether LITAP should continue or be eliminated. The General Assembly has essentially two options to consider in determining the future of LITAP.

- The first option is to eliminate LITAP. As discussed previously, the State can choose to discontinue LITAP and not participate in the telephone assistance program. If LITAP is eliminated, low-income telephone subscribers can still receive up to \$8.25 per month from the federal Lifeline program. The \$8.25 would cover half of the average cost of basic telephone service in Colorado, which was \$16 (excluding taxes and surcharges) in 2009. Currently 10 states and U.S. territories do not provide any state funding or oversight for the telephone assistance program in their state. In these states, USAC works directly with the telephone carriers to determine Lifeline eligibility based upon federal criteria. Eliminating LITAP would save telephone customers approximately \$1.9 million each year in telephone fees. If the decision is made to eliminate LITAP, the Commission and Department should seek statutory changes, as necessary.
- The second option is for LITAP to continue. Under this option the Commission and Department would need to improve program operations by addressing the concerns discussed throughout this report to ensure the effective and prudent use of fees collected from telephone customers. Implementing adequate controls over the program will likely increase administrative costs considerably for both the Commission and Department. The Commission and Department would need to provide the Legislative Audit Committee and General Assembly with any necessary information on these costs and suggested improvements to the program to

assist with the decision-making process. These costs could be funded through the access line fee assessed to telephone customers.

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## **Recommendation No. 8:**

The Public Utilities Commission (Commission) should work with the Department of Human Services (Department) to provide any necessary information to the Legislative Audit Committee and the General Assembly to assist with determining whether LITAP should continue or be eliminated. If the decision is made to eliminate the program, the Commission and Department should work with the Legislative Audit Committee and the General Assembly to seek statutory change, as appropriate. If the decision is made to continue LITAP, the Commission and Department should structure an efficient and effective program for overseeing and monitoring LITAP.

### **Public Utilities Commission Response:**

Agree. Implementation date: Pending further direction from the General Assembly and appropriate funding.

Currently on the federal level, at least two significant measures are being undertaken that may materially impact the Universal Service Fund, the Lifeline program, and therefore the need for LITAP support at its current or a revised level. One is that the FCC is reviewing its Lifeline and Link-up universal service programs and asking a federal and state joint board to recommend any changes to these programs (FCC 10-72). Also, a proceeding (FCC 10-58) has been opened to look at the federal Universal Service Fund (USF) and the Intercarrier Compensation system as part of a comprehensive reform under the National Broadband Plan.

The Commission believes that it would be prudent to monitor the results of these proceedings. However, if in the meantime, the General Assembly decides to reduce the subsidy amount, decides that the program should not exist at all, or decides to make other changes to the program, the Commission would implement such changes.

The Commission agrees to work with the Department to provide any information to the Legislative Audit Committee and General Assembly, if feasible within existing resources and available data, to assist with determining whether LITAP should continue or be eliminated.

If the General Assembly decides LITAP should continue, the Commission agrees to make changes for overseeing and monitoring LITAP, pending additional resources and funding.

### **Department of Human Services Response:**

Agree. Implementation date: Pending further direction from the General Assembly.

The Department agrees to work with the Commission to provide any information to the Legislative Audit Committee and General Assembly, if feasible within existing resources and available data, to assist with determining whether LITAP should continue or be eliminated.

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