

FCC Adopts New Programs to Help Telehealth Services Combat COVID-19

Update 04.10.2020: The FCC has launched an online [portal](#) explaining the application process for grants from the \$200 million in funding to support telehealth services described in this client update. The FCC will begin accepting applications for grants on Monday, April 13, 2020, which will be granted on a rolling basis. The FCC expects to make no individual grant greater than one million dollars. The portions of the FCC Order described in this client update recently became final on an expedited basis following recent OMB approval and its publication in the Federal Register.

COVID-19 Telehealth Program

In response to the ongoing public health emergency, the Federal Communications Commission released a [Report and Order](#) (Order) on April 2 establishing a COVID-19 Telehealth Program, along with a broader Connected Care Pilot Program (pilot program), to support connected care services and devices. These recent actions are designed to expand the availability and affordability of telehealth services for Americans in need of such services both during and after the COVID-19 crisis.

Last month, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which, among other things, appropriated \$200 million to the FCC to bolster healthcare providers' use of telehealth services during the coronavirus pandemic. With these funds, the FCC established a \$200 million emergency COVID-19 Telehealth Program to fulfill its charge under the CARES Act to give eligible healthcare providers support to purchase telecommunications services, information services, and connected devices in order to provide connected care services.

As implemented by the Order, participation in the COVID-19 Telehealth Program is limited to the following categories of healthcare providers:

- Post-secondary educational institutions offering healthcare instruction, teaching hospitals, and medical schools
- Community health centers or health centers providing healthcare to migrants
- Local health departments or agencies
- Community mental health centers
- Not-for-profit hospitals
- Rural health clinics
- Skilled nursing facilities
- Consortia of healthcare providers consisting of one or more entities falling into the first seven categories

Eligible healthcare providers must submit an application to the Wireline Competition Bureau detailing, among other information, the anticipated connected-care services to be provided; the conditions to be treated; the types of telecommunications services, information services, or connected devices requested; a timeline for the deployment of the proposed services or devices; and the amount of funding requested. Applicants will also need to provide supporting documentation for the costs identified in their applications. Eligible healthcare providers that do not already have an eligibility determination from the Universal Service Administrative Company can obtain one by filing an FCC Form 460 with USAC. Note, however, that applications for the COVID-19

Telehealth Program can still be submitted while an FCC Form 460 is pending.

The Order directs the Bureau to review applications for the COVID-19 Telehealth Program, select participants, and make funding awards on a rolling basis until the funding is exhausted or until the current pandemic has ended, consistent with the criteria outlined in the Order. Applications for the program will be accepted by the Bureau after publication of the Order and notice of approval of the program's information collection requirements in the Federal Register. Applicants who are selected for the program may later submit applications to participate in the pilot program, but may not request funding for the same exact services from both programs at the same time.

Due to the unprecedented nature of the coronavirus pandemic and the need to distribute funds to eligible healthcare providers quickly, the FCC invoked the good cause exception under the Administrative Procedure Act in order to waive standard notice-and-comment procedures with respect to the COVID-19 Telehealth Program. The part of the Order related to the COVID-19 Telehealth Program will become effective immediately upon publication of the Order in the Federal Register, except for certain portions subject to approval by the Office of Management and Budget.

Connected Care Pilot Program

While the COVID-19 Telehealth Program responds to the immediate need for connected care services during the coronavirus pandemic, the Connected Care Pilot Program represents the culmination of a years-long rulemaking proceeding focused on telehealth access and is intended to facilitate longer-term telehealth solutions. The pilot program, which is funded by the Universal Service Fund, will provide up to \$100 million over three years for selected pilot projects to help healthcare providers improve health outcomes and reduce healthcare costs via connected care initiatives.

The same set of healthcare providers who are eligible for the COVID-19 Telehealth Program (described above) will also be eligible for the pilot program, and pilot program support will be available to healthcare providers located in both rural and non-rural areas. To participate in the pilot program, a prospective healthcare provider must first obtain an eligibility determination from USAC. After confirming eligibility for the pilot program, applicants must submit its pilot project proposal to the FCC describing its proposed pilot project, estimating project costs, and providing other information. In selecting pilot projects, the FCC will have a strong preference for healthcare providers that have either (1) experience with providing telehealth or connected care services to patients (e.g., remote patient monitoring, store-and-forward imaging, or video conferencing) beyond using electronic health records or (2) a partnership with another healthcare provider, government agency, or designated telehealth resource center with such experience that will work with the healthcare provider to implement its proposed pilot project. Pilot projects that target low-income and veteran populations will also be prioritized.

Pilot program applications will be due 45 days from the effective date of the pilot program rules or 120 days from the release date of the order (i.e., July 31, 2020), whichever is later. Unlike the COVID-19 Telehealth Program, the pilot program is not targeted solely to address the COVID-19 pandemic, so the FCC did not invoke the good cause exception to the notice and comment requirements for implementing that program. As a result, the rules pertaining to the pilot program will become effective 30 days after publication of the Order in the Federal Register (subject to any portions requiring OMB approval).

Significance

The coronavirus pandemic has made the availability of telehealth and connected services paramount for many Americans. The demand for such services is unlikely to abate even after the pandemic subsides. The COVID-19 Telehealth Program is intended to give healthcare providers the necessary tools to be able to deliver quality healthcare services during the ongoing crisis while also reducing the potential risk of contracting the virus from or spreading the virus to their patients. But the pilot program promises to generate a host of innovative solutions over the course of the next three years that will provide the FCC with valuable data on how USF funds can improve healthcare delivery and health outcomes, particularly for those in vulnerable populations. These programs will also boost demand for the wide array of telecommunications services, information services, and connected devices on which telehealth services rely, and the FCC's recent efforts to free up more spectrum for flexible 5G use will ensure that the underlying system architecture necessary to maintain reliable connected care services remains strong.

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