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FCC Waives Universal Service Rules for Low-Income Consumers, Schools, Libraries and Rural Health Care Programs During Pandemic

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In response to the COVID-19 pandemic, the FCC has issued two orders waiving rules in its universal service program to ensure continuity of service to low-income families and to facilitate expansion of service to schools, libraries and rural healthcare providers directly affected by the response to COVID-19 and now has extended and expanded the waivers for its low-income program. The orders affect the rules requiring households to demonstrate eligibility for the Lifeline program, which subsidizes service to low-income families and a rule – known as the "gift rule" – prohibiting companies providing services supported under the Schools and Libraries (also known as E-Rate) and Rural Health Care programs from offering free service in addition to the services being purchased under those programs. The waivers will allow all current Lifeline customers to continue to receive service and will allow companies offering subsidized service to schools, libraries and rural healthcare providers to provide additional, reduced price or free service without violating the FCC's rules.

- **Lifeline:** The original order waived for 60 days the recertification and reverification requirements used to ensure that customers are eligible for Lifeline subsidies, effective immediately, and the new order extended that period for 13 additional days. As a result, carriers will not be required to drop Lifeline customers who do not meet the requirements. The new order directs the universal service fund administrator not to de-enroll any customers for failure to respond to a reverification request for subscribers with deadlines falling on or before May 29 and prohibits the administrator from initiating any new reverification requests until after May 29. Any Lifeline subscribers subject to the waiver will have an opportunity to provide eligibility documentation after the waiver ends. The new order also waives two additional rules – one that requires carriers to de-enroll Lifetime subscribers that they believe no longer are eligible for the program and one that requires some Lifeline subscribers to use the service at least once every 45 days – through May 29. The original order waived the March 26 deadline for Lifeline providers' enrollment representatives to register with the administrator before processing transactions in the Lifeline system through May 25, and this waiver remains unchanged.

- **Schools and libraries:** The E-Rate gift rule waiver covers "broadband connections, devices, networking equipment, or other things of value" – including hotspots used for remote instruction – that could be used by schools and libraries to help students, teachers, and patrons affected by closures as a result of COVID-19. The waiver is available only for schools and libraries that are closed or are preparing for closure. While free or reduced-price services will have to be cut off once the waiver ends, it is not clear whether service providers will be required to retrieve equipment that they provide for free or at reduced prices. This waiver is in effect through September 30.

- **Rural health care:** The gift rule waiver for the Rural Health Care program applies only to healthcare providers "involved in the screening and treatment of patients for COVID-19 and for providing services to other patients in an effort to both help mitigate the spread of COVID-19 and devote limited on-site medical resources towards treatment of COVID-19." The FCC also waived the rules requiring healthcare providers to pay the unsubsidized portion of charges for services under the Healthcare Connect Fund program and requiring healthcare providers in the Telecom program to pay the urban rate for the services they receive. These waivers will allow service providers to reduce or eliminate charges during the pandemic. This waiver is in effect through September 30.

The FCC has indicated that it will extend these waivers if necessary.

What does this mean for companies participating in federal universal service programs?

Companies offering Lifeline service can provide subsidies to any customer currently receiving them, including customers who otherwise would be required to recertify between now and May 16.

Companies offering services covered by the Schools and Libraries program or the Rural Health Care program can provide additional services and equipment to customers subsidized by those programs for free or at reduced rates without risking a violation of the FCC's rules. However, they only can provide free or reduced-rate services to healthcare providers that are related to COVID-19 and to schools and libraries that have closed or are preparing to close in response to the pandemic.

Some state universal service programs may take similar actions, but the FCC's waivers do not directly affect state programs.

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