

FCC Adopts Order Setting Rules for COVID-19 Telehealth Funding

April 6, 2020

The Federal Communications Commission (FCC) has [released an order](#) implementing the CARES Act appropriation of \$200 million for telehealth through a new program called the COVID-19 Telehealth Program and adopting a new Connected Care Pilot Program. The Connected Care Pilot Program will make an additional \$100 million in federal universal service funds available for telehealth over the next three years.

Both programs will make funding available across the country, in urban and rural areas. The funding windows for both programs are likely to be very tight, and all applicants must satisfy a qualification process prior to being approved for funding. **Any eligible healthcare provider that is not a current participant in FCC universal service programs that wishes to apply for funding from the COVID-19 Telehealth Program or the Connected Care Pilot Program should begin the qualification process immediately.**

COVID-19 Telehealth Program

- Funding under the COVID-19 Telehealth Program will be available to healthcare providers anywhere in the country and can be used to buy telecommunications services, information services (such as internet access) and connected medical devices (such as real-time monitors) to provide connected care services in response to the pandemic. Monitoring devices will be covered only if they are intended to operate in real time when connected; this program will not fund devices that are connected only to share data collected by patients offline.
- The COVID-19 Telehealth Program will provide full funding for eligible services and devices, but the FCC expects to limit funding to \$1 million per successful applicant. While the awards will be based on the information provided in applications, funding may be used to purchase any eligible service or connected device. **Funding will be awarded on a rolling basis until all \$200 million is awarded.**
- Eligibility for funding under the COVID-19 Telehealth Program is limited to the following types of nonprofit and public healthcare providers that would already be eligible for funding from the federal Universal Service Fund:
 - 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; and
 - Consortia of healthcare providers consisting of one or more entities falling into the other categories.

Healthcare providers that have not already been found to be eligible for an existing FCC program can obtain an eligibility determination by filing [FCC Form 460](#) with the Universal Service Administrative Company. **This form should be filed as soon as**

possible.

The application for the COVID-19 Telehealth Program is not yet available. The order indicates that the following information will be required in the application:

- Information on the healthcare provider or providers seeking funding and the lead healthcare provider for applications involving multiple healthcare providers, as well as contact information for the individual who will be responsible for the application.
- A description of the anticipated telehealth services to be provided, the conditions to be treated and the goals and objectives. This should include a brief description of how COVID- 19 has impacted the area, the patient population and the approximate number of patients that could be treated by the healthcare provider's connected care services during the COVID- 19 pandemic. Applicants that intend to use the COVID-19 Telehealth Program funding to treat patients without COVID-19 must describe how the funding would free up resources to treat COVID-19 and/or how the services would otherwise prevent, prepare for or respond to the disease.
- Description of the telecommunications services, information services or devices requested. If requesting funding for devices, providers must include a description of the devices, how the devices are integral to patient care and whether the devices are for patient use or for the healthcare provider's use.
- The total amount of funding requested, as well as the total monthly amount of funding requested for each eligible item.
- Supporting documentation for the costs indicated in the application, such as a vendor or service provider quote, invoice or similar information.
- A timeline for deployment of the proposed service(s) and a summary of the factors the applicant will use to measure the impact of supported services and devices.

Applicants will be required to certify that they will comply with Health Insurance Portability and Accountability Act and other applicable privacy and reimbursement requirements and all COVID-19 Telehealth Program requirements (including record retention). They also will be required to certify that they are not receiving any other federal or state funding for the exact services and devices requested through the COVID-19 Telehealth Program.

- The order indicates that the factors the FCC will consider in reviewing applications will include whether the funding is targeted toward areas that have been hardest hit by COVID-19; whether the funding will assist high-risk and vulnerable patients; and whether the funding will alleviate pre-existing strain, such as large underserved or low-income populations, limited broadband access or hospital closures. Applications should demonstrate how the proposed funding would affect an institution's ability to respond to the pandemic or will help prevent the spread of the disease. The FCC also will consider the amount of funding requested, as it will seek to assist as many applicants as possible.
- Awardees will not be required to conduct competitive bidding to purchase eligible services and devices, in an effort to speed the use of the funds. Healthcare providers receiving funding from the COVID-19 Telehealth Program also are not prohibited from receiving discounted services, devices, equipment or other things of value from vendors providing services or devices under the program.
- Participants in the COVID-19 Telehealth Program will be required to report to the FCC on the effect of the program on outcomes, treatment, facility administration and other relevant aspects of the pandemic.
- The FCC will begin accepting applications for COVID-19 Telehealth Program as soon as notice of the April 2 decision is published in the Federal Register and the federal Office of Management and Budget (OMB) approves the information collection requirements in the decision. OMB is in control of the timing of approval of the information collection, so it likely will be expedited. Applications will be required to use a form that the FCC will release after OMB approval is received. Applications will be submitted through the FCC's electronic comment filing system. If funding remains after the initial round of applications, applicants may request additional support.

Connected Care Pilot Program

- The Connected Care Pilot Program is focused on subsidizing the costs of providing connected care services to low-income consumers and veterans. Successful applicants will receive funding to cover 85% of their costs for broadband, network equipment and information services necessary to provide connected care services to the target patient population. This program is not restricted to proposals that respond to the COVID-19 pandemic.
- The Connected Care Pilot Program will fund telehealth services that use broadband internet access service-enabled technologies to deliver directly to patients remote medical, diagnostic and treatment-related services – specifically to patients at their mobile location or residence – which are known as connected care services. Connected care services can be provided by doctors, nurses or other healthcare professionals.
- A total of \$100 million in funding will be available over a three-year period. This funding will be in addition to other programs under the federal Universal Service Fund. Although applicants will be required to pay 15% of their costs, the FCC has not limited the funding for any individual applicant or specified how many applications will be granted. Each project will be funded for three years, as well as for transition periods of up to six months before and after the funding period to put services in place and phase them out.
- All healthcare providers eligible for the COVID-19 Telehealth Program will also be eligible for the Connected Care Pilot Program. Funding will be available to both rural and non-rural providers. Healthcare providers that have not already been found to be eligible for an existing FCC program can obtain an eligibility determination by filing [FCC Form 460](#) with the Universal Service Administrative Company. **This form should be filed as soon as possible.**
- The services eligible for support are broadband services for both the providers and their patients, other connected care information services and equipment used in the provider's network, such as routers (but not medical or monitoring devices used by patients).
- In selecting projects, the FCC will have a strong preference for providers that have experience in providing telehealth or connected care services or that have partnered with entities that have such experience. It also will have a strong preference for projects targeted to low-income or veteran populations and will require successful applicants to document their success in reaching such patients. The order indicates that the FCC intends to target Connected Care Pilot Program funding toward treating public health epidemics, opioid dependency, mental health conditions, high-risk pregnancy or chronic or recurring conditions that typically require at least several months to treat. Unlike the funding for the COVID-19 Telehealth Program, funding for the Connected Care Pilot Program will not be issued on a rolling basis but rather will be determined after all applications are received and reviewed by the FCC.
- With limited exceptions, successful applicants will be required to seek competitive bids for the services and equipment they purchase.
- Applications for the Connected Care Pilot Program will be accepted starting on the effective date of the program rules, which will be announced by the FCC. No applications will be accepted before that date. The deadline for applying will be 45 days after the effective date (which will be 30 days after the order is published in the Federal Register) or 120 days after the decision was released, whichever is later. Applications will be filed in the FCC's electronic comment filing system. There will not be a separate application form, but the requirements for the application are described in detail in the order. While providers can file applications for both the COVID-19 Telehealth Program and the Connected Care Pilot Program, they cannot obtain funding from both programs for the same activities.

Providers that wish to participate in either program should begin preparing applications as soon as possible and, as noted above, **should prepare and file FCC Form 460 immediately if they have not already qualified to participate in FCC universal service programs.** Lawyers in Cooley's communications practice can assist in preparation of applications and related materials.

[Coronavirus resource hub](#)

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It

is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our [legal notices](#).

Key Contacts

Christy Burrow Washington, DC	cburrow@cooley.com +1 202 776 2687
J.G. Harrington Washington, DC	jgharrington@cooley.com +1 202 776 2818
Robert M. McDowell Washington, DC	rmcdowell@cooley.com +1 202 842 7862

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.