

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Lifeline and Link Up Reform and Modernization) WC Docket No. 11-42
)

ORDER

Adopted: March 17, 2020

Released: March 17, 2020

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. The coronavirus COVID-19 pandemic is an outbreak of a respiratory illness that has spread throughout the United States.¹ Efforts to slow the spread of the disease and mitigate strain on the nation’s healthcare system have resulted in the dramatic disruption of many aspects of Americans’ lives, including social distancing measures to prevent person-to-person transmission that require the closure of schools and workplaces. Across the country, people are turning to telemedicine, telework, and online learning to enable social distancing measures, which has only increased the importance of access to affordable communications services for low-income households.

2. In this Order, in response to the public health emergency associated with the coronavirus COVID-19 pandemic, the Wireline Competition Bureau (Bureau) temporarily waives, on its own motion,² the Lifeline program’s recertification and reverification requirements for 60 days.³ We also temporarily waive for 60 days, on our own motion, the *2019 Lifeline Order*’s requirement that all eligible telecommunications carrier (ETC) enrollment representatives register with the Universal Service Administrative Company (USAC).⁴ Based on the record before us, we find that good cause exists to temporarily waive these rules and deadlines, as provided herein, to assist Lifeline program participants potentially affected by the coronavirus and community efforts to slow its spread.⁵ We will continue to monitor the situation to determine whether any additional waiver of these rules and deadlines is needed.

II. BACKGROUND

3. The Lifeline program provides qualifying low-income consumers discounts on voice or broadband Internet access service to help ensure that all Americans have access to affordable communications service.⁶ Under the Federal Communications Commission’s (Commission’s) rules,

¹ See Centers for Disease Control and Prevention, Coronavirus (COVID-19) (last visited Mar. 15, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

² 47 CFR § 1.3.

³ 47 CFR § 54.410(f).

⁴ *Bridging the Digital Divide for Low-Income Consumers*, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 34 FCC Rcd 10886, 10918, para. 78 (2019) (*2019 Lifeline Order*).

⁵ See 47 CFR §§ 54.405(e)(4) and 54.410(f).

⁶ See *2019 Lifeline Order*, 34 FCC Rcd at 10887, para. 3.

Lifeline subscribers' eligibility for the program must be recertified every twelve months.⁷ In states where the Lifeline National Eligibility Verifier (National Verifier) has launched, the recertification requirement is fulfilled via a one-time reverification process, in which the National Verifier confirms the eligibility of existing subscribers, including collecting subscriber eligibility documentation as necessary.⁸ During the recertification and reverification process, when a subscriber's eligibility cannot be verified using automated data sources, the subscriber is given 60 days to demonstrate his or her continued eligibility.⁹

4. Consistent with the Commission's goal to reduce waste, fraud, and abuse in the Lifeline Program, in the *2019 Lifeline Order*, the Commission also adopted a requirement that all eligible telecommunications carrier (ETC) enrollment representatives register with USAC to access USAC's Lifeline systems in the process of Lifeline enrollment, benefit transfers, subscriber information updates, recertification, and de-enrollment.¹⁰ That requirement is scheduled to become effective on March 26, 2020.¹¹

III. DISCUSSION

5. Generally, the Commission's rules may be waived for good cause shown.¹² The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹³ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an overall basis.¹⁴

6. Based on the record before us, we find that good cause exists to waive for 60 days sections 54.405(e)(4) and 54.410(f) of the Commission's rules, which require Lifeline subscribers to demonstrate continued eligibility for the program. This waiver will prevent the de-enrollment of any Lifeline subscribers who would otherwise have been required to certify their continued eligibility to the National Verifier over the next 60 days.¹⁵ Because the National Verifier sends recertification notices to subscribers 90 days prior to their anniversary dates, this waiver will impact Lifeline subscribers with anniversary dates that fall on or between April 14, 2020 and August 14, 2020.¹⁶ Similarly, USAC also conducts a one-time reverification of eligibility for each existing Lifeline subscriber around the time the National Verifier is hard launched in a state or territory. We direct USAC to not de-enroll any Lifeline subscriber for failure to successfully respond to a reverification documentation request for those subscribers with documentation deadlines falling on or before May 16, 2020. We also direct USAC to not open any new reverification documentation requests until after May 16, 2020 and to provide impacted subscribers a new opportunity to provide any necessary eligibility documentation after the end of the waiver period.

⁷ 47 CFR § 54.410(f).

⁸ See *Lifeline and Link Up Reform and Modernization*, Order, 32 FCC Rcd 10353, 10353-54, para. 3 (WCB 2017).

⁹ See 47 CFR § 54.405(e)(4).

¹⁰ See *2019 Lifeline Order*, 34 FCC Rcd at 10918-22, paras. 78-86 (codified at 47 CFR § 54.406(a)).

¹¹ *Bridging the Digital Divide for Low-Income Consumers*, 84 Fed. Reg. 71308.

¹² 47 CFR § 1.3.

¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁴ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹⁵ See 47 CFR § 54.405(e)(4) (requiring 60 days' notice to subscribers to respond to recertification efforts prior to de-enrollment). In the states of California, Oregon, and Texas, where the state administrator conducts the recertification process, we encourage the state administrator to pause and extend recertification deadlines for subscribers in those states as quickly as possible.

¹⁶ Any subscriber with an anniversary date prior to April 14, 2020 has already completed their 60-day recertification notice period prior to the adoption of this Order.

7. We find that, in light of the coronavirus pandemic and community efforts to slow its spread, requiring Lifeline subscribers to respond to recertification or reverification efforts over the next 60 days would be an unreasonable burden on low-income households. Because we recognize the importance of connectivity for all Americans during this pandemic, we do not believe that the public interest would be served by de-enrolling Lifeline subscribers who are unable to complete the recertification process or reverification process over the next 60 days. We will continue to monitor the situation to determine whether any additional waiver of these rules and deadlines is needed beyond the 60-day waiver period and will otherwise direct USAC to promptly send or re-send recertification and reverification notices, as needed, to subscribers impacted by the waiver at the end of the 60-day waiver period.

8. We also waive for 60 days from its scheduled effective date of March 26, 2020, section 54.406(a) of the Commission's rules, which states that Lifeline providers must require all enrollment representatives to register with USAC, via USAC's Representative Accountability Database, before processing transactions in USAC's Lifeline systems. During the coronavirus pandemic, we believe that all communications service providers, including Lifeline providers, must prioritize helping their subscribers with getting connected and staying connected to voice and broadband services. To that end, we will reduce the burdens that Lifeline providers will face over the next 60 days by allowing additional time before all enrollment representatives are required to register with USAC, so these representatives can instead focus their efforts on assisting customers.¹⁷ At the expiration of the waiver period on May 25, 2020, all enrollment representatives will be required to register with USAC pursuant to section 54.406(a) of the Commission's rules unless otherwise notified by the Bureau.

9. *Preventing Waste, Fraud, and Abuse.* We are committed to guarding against waste, fraud, and abuse in the Universal Service Fund (USF) programs. Although we grant the limited waivers described herein, service providers remain otherwise subject to audits and investigations to determine compliance with Lifeline program rules and requirements. We will require USAC to recover funds that we discover were not used properly through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the USF programs and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. Additionally, in the event we discover any improper activity resulting from our action today, we will subject the offending party to all available penalties at our disposal, and will direct USAC to recover funds, assess retroactive fees and/or interest, or both. We remain committed to ensuring the integrity of the Lifeline program and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

¹⁷ We note that the Representative Accountability Database is already active and available on a voluntary basis to carriers now, and it will remain active during this waiver period. Thus, enrollment representatives who are already enrolled in that database will have their RepID attached to transactions processed in the National Verifier or National Lifeline Accountability Database.

IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that sections 47 CFR §§ 54.405(e)(4), 54.406(a), and 54.410(f), of the Commission's rules are waived to the limited extent provided herein.

11. IT IS FURTHER ORDERED, that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief
Wireline Competition Bureau