

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

In the Matter of)
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities) CG Docket No. 03-123
Structure and Practices of the Video Relay Service Program) CG Docket No. 10-51

ORDER

Adopted: April 3, 2020

Released: April 3, 2020

By the Chief, Consumer and Governmental Affairs Bureau:

1. In light of the national COVID-19 emergency,1 on our own motion, the Consumer and Government Affairs Bureau (Bureau) of the Federal Communications Commission (Commission) grants a temporary, limited waiver2 of the Commission’s rule restricting providers of video relay service (VRS) from contracting for video interpretation services with an entity that is not itself an eligible provider.3 The temporary waiver granted herein is effective upon release of this order and, like the emergency waivers granted in our order of March 16, 2020, will continue until May 15, 2020.4

2. To ensure the uninterrupted availability of VRS during these extraordinary circumstances, which severely challenge VRS providers’ ability to answer and process all TRS calls, we find good cause to temporarily waive the restriction on contracting for interpretation services. We emphasize that this waiver applies only to contracting for additional interpretation services and does not relieve VRS

1 See Executive Office of the President, Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (Mar. 13, 2020), https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.

2 See 47 CFR § 1.3 (providing for suspension, amendment, or waiver of Commission rules, in whole or in part, for good cause shown). Good cause may be found if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest. Northeast Cellular Tel. Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990); NetworkIP, LLC v. FCC, 548 F.3d 116, 125-128 (D.C. Cir. 2008); see also WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).

3 “An eligible VRS provider may not contract with or otherwise authorize any third party to provide interpretation services . . . on its behalf, unless that authorized third party also is an eligible provider.” 47 CFR § 64.604(c)(5)(iii)(N)(I)(iii). VRS is a form of telecommunications relay service (TRS) that allows persons who use sign language to communicate with voice telephone users over a video broadband connection through a communications assistant who relays the conversation back and forth. 47 CFR § 64.601(a)(47).

4 See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program, CG Docket Nos. 03-123 and 10-51, DA 20-281, at 1, para. 1 (CGB Mar. 16, 2020) (March 16 TRS Waiver Order) (citing guidance from the Center for Disease Control and Prevention).

providers from the rule's restriction on contracting for the provision of call center functions.⁵ With increased VRS traffic levels and employee absences due to health concerns, school closures, and other restrictions imposed by state and local authorities, VRS providers continue to face a shortage of interpreters able to work as communications assistants.⁶ Allowing VRS providers additional flexibility to contract for qualified American Sign Language (ASL) interpreting from other entities, such as providers of video remote interpreting, will help alleviate this shortage.⁷

3. We remind VRS providers that they are responsible for ensuring that all handling of VRS calls by communications assistants, whether employed directly or through contracts with other entities, is in compliance with applicable, non-waived TRS standards. To ensure that this grant of a short-term waiver to meet the present emergency does not undermine the purpose of the rule to ensure effective Commission oversight of VRS,⁸ we require that any provider contracting for interpretation services pursuant to this waiver file a report, no later than 30 days after the end of the waiver period, identifying each entity with which it has contracted for interpretation services and the number of conversation minutes handled by each.

4. We remain committed to the integrity of the TRS program, to guarding against waste, fraud, and abuse, and to ensuring that funds disbursed through the TRS program are used for appropriate purposes. We find that the public interest in ensuring the continued availability of VRS services during this national emergency justifies grant of this temporary waiver. The Bureau will continue to monitor this emergency situation and will consider and take additional actions as warranted. Further, in the event that the circumstances described in this Order appear likely to persist beyond the expiration of the current waiver period, we will address in a further order any necessary extension of any of the waivers granted in the *March 16 TRS Waiver Order* and this Order.

5. *People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

6. *Additional Information.* For further information regarding this item, please contact William Wallace, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202-418-2716 or by e-mail to William.Wallace@fcc.gov.

7. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, and sections 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.3, section 64.604(c)(5)(iii)(N)(I)(iii) of the Commission's rules is WAIVED to the extent described herein.

⁵ See 47 CFR § 64.604(c)(5)(iii)(N)(I)(iii) (also prohibiting a VRS provider from contracting with or authorizing another entity (other than an eligible provider) to provide "call center functions (including call distribution, call routing, call setup, mapping, call features, billing, and registration) on its behalf").

⁶ See *March 16 TRS Waiver Order*, at 1, para. 2.

⁷ See 47 CFR § 64.604(c)(5)(iii) (requiring that VRS communications assistants be "qualified interpreters," i.e., "able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary").

⁸ See *Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 10-51, 26 FCC Rcd 5545, 5574, para. 58 (2011) (Adopting the contracting prohibition to prevent delegation of responsibility for the core components of VRS to entities not subject to direct Commission supervision).

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

FEDERAL COMMUNICATIONS COMMISSION

Patrick Webre, Chief
Consumer and Governmental Affairs Bureau