

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: April 29, 2020

Released: April 29, 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 have resulted in the dramatic disruption of many aspects of Americans’ lives, including social distancing measures that have required the closure of businesses across the country for indefinite periods of time. The nation’s economy has suffered as a result, and millions of Americans are newly unemployed.

2. The Wireline Competition Bureau issues this Order to make it easier for those who have lost their employment during the pandemic and who qualify for Lifeline benefits to enroll in the Lifeline program. Specifically, until June 30, 2020, the Bureau waives, on its own motion, the requirement that consumers seeking to demonstrate income-based qualification for the Lifeline program must provide at least three consecutive months of documentation to confirm their income.² We believe that our actions today will help those who may have only recently become eligible for the program successfully complete the Lifeline enrollment process and stay connected to vital broadband and phone services during the COVID-19 crisis. In light of the ongoing pandemic, we also extend our prior waivers of the Lifeline program’s recertification, reverification, general de-enrollment, and usage requirements until June 30, 2020, and we direct the Universal Service Administrative Company (USAC) to pause any involuntary de-enrollment of existing subscribers until that date.³ We will continue to monitor the situation to determine whether any additional extension of these waivers and directives is appropriate.

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

¹ See Centers for Disease Control and Prevention, Coronavirus (COVID-19) (last visited Apr. 28 2020), <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

² See 47 CFR § 54.410(b)(1)(i)(B).

³ See *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Order, DA 20-285 (WCB Mar. 17, 2020) (*First Lifeline Waiver Order*) (temporarily waiving Lifeline recertification and reverification requirements); *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Order, DA 20-354 (WCB Mar. 30, 2020) (*Second Lifeline Waiver Order*) (temporarily waiving Lifeline usage and general de-enrollment requirements and directing USAC to suspend periodic reviews).

communications service.⁴ Under the Federal Communications Commission's rules, Lifeline providers can only claim reimbursement from the Lifeline program for those subscribers who are actual qualifying low-income consumers.⁵

4. A consumer can demonstrate their eligibility for the Lifeline program by either showing that they participate in one of the established qualifying programs, such as Medicaid or the Supplemental Nutrition Assistance Program, or by showing that their household income is at or below 135% of the federal poverty guidelines.⁶ Under Commission rules, if a consumer's income cannot be confirmed by accessing one or more databases containing information regarding the consumer's income, then the consumer must provide documentation to confirm their income-based eligibility.⁷ Such documentation may include, among other options, the prior year's tax return, a social security statement of benefit, or another official document containing income information.⁸ If the documentation provided does not cover a full year, then the prospective subscriber must present documentation covering three consecutive months within the previous twelve months.⁹

III. DISCUSSION

5. The Commission's rules may be waived for good cause shown.¹⁰ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹¹ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy.¹²

6. We find that good cause exists to waive the requirement that consumers seeking to qualify for the Lifeline program based on income must present documentation covering three consecutive months within the previous twelve months.¹³ To combat the spread of the coronavirus, localities, states, and the federal government have implemented shelter-in-place orders and guidelines on social distancing.¹⁴ These efforts have had a significant impact on the ability of businesses to operate during this time, resulting in unprecedented job losses.¹⁵ Millions of newly unemployed individuals may not be able to verify their income-based eligibility for Lifeline with three consecutive months of income

⁴ See *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, 10887, para. 3 (2019) (*2019 Lifeline Order*).

⁵ See 47 CFR § 54.407(a).

⁶ See 47 CFR § 54.409.

⁷ See 47 CFR § 54.410(b)(1)(i).

⁸ 47 CFR § 54.410(b)(1)(i)(B).

⁹ *Id.*

¹⁰ 47 CFR § 1.3.

¹¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹² *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹³ See 47 CFR § 54.410(b)(1)(i)(B).

¹⁴ See, e.g., Centers for Disease Control and Prevention, *How To Protect Yourself* <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html>; Sarah Mervosh, Denise Lu, and Vanessa Swales, *See Which States and Cities Have Told Residents to Stay at Home* (Apr. 20, 2020), <https://www.nytimes.com/interactive/2020/us/coronavirus-stay-at-home-order.html> (stating that as of April 20, at least 316 million people in 42 states, three counties, 10 cities, the District of Columbia and Puerto Rico are being urged to stay at home).

¹⁵ See Heather Long, *U.S. Now has 22 Million Unemployed, Wiping out a Decade of Job Gains* (Apr. 16, 2020), <https://www.washingtonpost.com/business/2020/04/16/unemployment-claims-coronavirus/>.

documentation because their unemployment and related decrease in income began so recently. Accordingly, we waive this requirement until June 30, 2020 to allow consumers seeking to qualify for the Lifeline program via the income-based eligibility requirements to do so by presenting an official document that confirms their current income information. Today's waiver better serves the public interest by ensuring that the Lifeline program effectively reaches those consumers that may have only recently met the income-based qualification requirements due to the pandemic.

7. We direct the Universal Service Administrative Company (USAC), which administers the Lifeline program, to develop guidance for documentation that would allow a consumer to confirm their income-based eligibility.¹⁶ Such guidance must be comprised of only official documents that contain income information and may include a notice of unemployment benefit payments or notice of a successfully submitted application for unemployment benefits. Consumers pursuing income-based qualification for the Lifeline program must still meet the 135% of federal poverty guidelines per household threshold,¹⁷ but our action today will give greater flexibility to the many consumers who have only recently found themselves in need of assistance from the Lifeline program to apply for new jobs, pursue remote learning, or seek medical care via telehealth.

8. Finally, we also extend our recent waivers of the Lifeline program's recertification, reverification, general de-enrollment, and usage requirements until June 30, 2020.¹⁸ The circumstances necessitating those prior waivers have not changed, and we therefore find that this extension is warranted to ensure that no Lifeline subscribers are involuntarily de-enrolled from the Lifeline program during this unprecedented national pandemic.

9. Extension of the waiver of the recertification and reverification rules will prevent the de-enrollment of any Lifeline subscribers who would otherwise have been required to certify their continued eligibility to the National Verifier during the waiver period. 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 September 28, 2020. Similarly, USAC also conducts a one-time reverification of eligibility for each existing Lifeline subscriber around the time that 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 June 30, 2020. We also direct USAC to not open any new reverification documentation requests until after June 30, 2020 and to provide impacted subscribers a new opportunity to provide any necessary eligibility documentation after the end of the waiver period.

10. For the same reasons set forth in our *Second Lifeline Waiver Order*, we similarly extend, until June 30, 2020, our direction to USAC to pause its periodic, targeted reviews to identify and de-enroll ineligible subscribers.¹⁹ USAC should not voluntarily de-enroll any subscriber nor seek additional documentation from an eligible telecommunications carrier or subscriber as part of those reviews until that date.

11. *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 waiver

¹⁶ In California, Oregon, and Texas, where a state administrator determines the eligibility of Lifeline applicants, we direct Lifeline providers to continue to follow the rules and guidance established by those state administrators, and encourage the state administrators to implement the flexibility discussed in this waiver for those demonstrating eligibility through income.

¹⁷ See 47 CFR § 54.409(a)(1); USAC, *Income Eligibility*, <https://www.usac.org/lifeline/eligibility/customer-eligibility/income-eligibility/> (last visited Apr. 28, 2020).

¹⁸ See *Second Lifeline Waiver Order*, at 3-5, paras. 7-11.

¹⁹ See *id.* at 4, para. 12.

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. Finally, we direct USAC to include demonstration of eligibility under this waiver in its risk-based sampling for USAC's periodic, targeted reviews after this waiver expires and USAC resumes such reviews.

IV. ORDERING CLAUSES

12. 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 section 47 CFR §§ 54.405(e)(1), 54.405(e)(3), 54.405(e)(4), 54.407(c)(2), 54.410(b)(1)(i)(B), and 54.410(f) of the Commission's rules are waived to the limited extent provided herein.

13. 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