

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

In the Matter of)
)
Emergency Broadband Benefit Program) WC Docket No. 20-445

ORDER

Adopted: September 3, 2021

Released: September 3, 2021

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau), on its own motion, grants a limited waiver of the Emergency Broadband Benefit Program (EBB Program) reimbursement rules. Specifically, we grant a limited waiver to participating providers that uploaded their reimbursement claims for discounted service provided in the July 2021 service month by August 16, 2021, but did not certify those claims by the August 16, 2021 claims deadline. The limited waiver will allow the limited number of affected providers to certify such claims by the next claims deadline of September 15, 2021. We conclude that the limited waiver is consistent with the Program's statutory requirements and will serve the public interest.

2. To receive reimbursement under the EBB Program rules, providers must submit certified reimbursement claims through the Lifeline Claims System by the 15th of each month, or the following business day in the event the 15th is a holiday or falls on a weekend.¹ If the participating provider fails to submit a certified reimbursement claim by the deadline for that service month, the reimbursement claim will not be processed.² The Bureau has previously released waivers on June 8, 2021³ and on August 10, 2021⁴ that allowed providers additional time to file reimbursement claims. Despite training and outreach from the Universal Service Administrative Company (USAC), a small group of participating providers uploaded but failed to certify their claims for the July 2021 service month by the August 16, 2021 deadline.

II. DISCUSSION

3. The Bureau, on its own motion, grants a limited waiver to allow those EBB Program providers that uploaded but did not certify their claims for the July service month by the claims deadline

¹ 47 CFR § 54.1608(g).

² *Id.*

³ *Emergency Broadband Benefit Program*, WC Docket No. 20-445, Order, DA 21-671 (WCB 2021), <https://docs.fcc.gov/public/attachments/DA-21-671A1.pdf> (granting all participating providers an additional month, until July 15, 2021, to submit the first reimbursement claim for service provided in May 2021).

⁴ *Emergency Broadband Benefit Program*, WC Docket No. 20-445, Order, DA 21-980 (WCB 2021), <https://docs.fcc.gov/public/attachments/DA-21-980A1.pdf> (granting participating providers that uploaded but did not certify reimbursement claims for the May and/or June 2021 service months by the July 15, 2021 deadline until August 16, 2021 to certify such claims).

additional time to complete the certification process.⁵ Those providers will have until September 15, 2021 to submit certified reimbursement claims for discounts provided in the July service month.

4. The Bureau finds that good cause exists for a limited waiver of the requirement of section 54.1608(g) of the Commission's rules to permit providers that uploaded their reimbursement claims for the July 2021 service by August 16, 2021, but failed to certify those claims by the deadline, until September 15, 2021 to certify such claims. We find that this waiver does not disturb the requirement that reimbursements are only provided to subscribers that were enrolled in NLAD by the snapshot date.⁶ Several of these providers were filing reimbursement claims for the first time. And while some of the affected providers successfully submitted certified EBB Program reimbursement claims in prior months, we recognize that providers are still familiarizing themselves with the USAC systems and filing processes. Preventing these providers from seeking reimbursement for these claims poses a substantial hardship, particularly to the smaller providers. Therefore, we find that it is in the public interest to allow this group of providers the opportunity to complete their reimbursement claims for the July service month.

5. We also find that granting this waiver should neither undermine any program integrity controls, nor invite waste, fraud, and abuse. This waiver is limited to participating providers that successfully uploaded their reimbursement claims for the July service month, but did not certify them, thus ensuring that the providers' claimed subscribers were in fact enrolled in NLAD as of the snapshot date and that the provider had made a good faith effort to claim reimbursement for those subscribers by the deadline. Given that only a small number of providers will need to avail themselves of this waiver, we also find that this waiver will not have a significant impact on EBB Program reporting or forecasting.

6. USAC will continue to work with and provide training for the participating providers that qualify for this waiver before the September 15, 2021 claims deadline. USAC should also continue to devote trained staff to assist with service provider questions to ensure that providers are able to successfully file and certify claims by the filing deadline each month. Further, the Bureau advises providers to be proactive in ensuring they have completed the claims process by the required deadline each month. Claims that have been uploaded and submitted as "Ready to Certify" still require certification pursuant to the EBB Program rules.⁷ Once a company officer completes that step, they will receive a message that the claim was "successfully certified." Service providers can also confirm that claims are certified in the "EBBP Certify Claims" view by selecting the month and year and reviewing the status prior to the filing deadline. A detailed walkthrough of the claims process with screen shots of each step is available on USAC's Webinars and Training page at: <https://www.usac.org/about/emergency-broadband-benefit-program/webinars-and-trainings/>.⁸

⁵ As a general matter, "an agency must adhere to its own rules and regulations." *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008). Although strict application of a rule may be justified "to preserve incentives for compliance and to realize the benefits of easy administration that the rule was designed to achieve," *Mary V. Harris Found. v. FCC*, 776 F.3d 21, 28 (D.C. Cir. 2015), the Commission's rules may be waived for "good cause shown," 47 CFR § 1.3. The Commission may exercise its discretion to waive a rule where special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). The Commission may take into account considerations of hardship, equity, or more effective implementation of policy on an overall basis. *Id.* at 1166; *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

⁶ 47 CFR § 54.1608(a).

⁷ 47 CFR § 54.1608(e).

⁸ In particular, see the slides entitled "EBB Program Claims System – EBB Program Reimbursement" available at: <https://www.usac.org/wp-content/uploads/about/documents/ebb-program/EBB-LCS-training.pdf>.

III. ORDERING CLAUSES

7. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in in Section 904 of Division N, Title IX of the Consolidated Appropriations Act, 2021, Pub. L. No 116-260, 134 Stat. 1182, 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 § 54.1608(g) of the Commission's rules is WAIVED to the limited extent provided herein.

8. 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