



PUBLIC NOTICE

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WIRELINER COMPETITION BUREAU ANNOUNCES ADDITIONAL PROGRAM INTEGRITY MEASURES FOR EMERGENCY BENEFIT PROGRAM ENROLLMENTS BASED ON THE COMMUNITY ELIGIBILITY PROVISION

WC Docket No. 20-445

In this Public Notice, the Wireline Competition Bureau (Bureau) announces that it is implementing additional measures to strengthen program integrity surrounding the enrollment of households in the Emergency Broadband Benefit Program (EBB Program) based on the U.S. Department of Agriculture Community Eligibility Provision (CEP).¹ These measures are consistent with the Commission's rules governing the EBB Program and strike an appropriate balance between strengthening program integrity and continuing to allow households to qualify for the EBB Program based on a household member's enrollment in a school or school district that participates in the CEP.

On December 27, 2020, the Consolidated Appropriations Act of 2021 (Consolidated Appropriations Act) became law² and established an Emergency Broadband Connectivity Fund of \$3.2 billion in the United States Treasury to help Americans afford internet service during the COVID-19 pandemic.³ The Act directed the Federal Communications Commission (Commission) to use that fund to establish the EBB Program, under which eligible households may receive a discount off the cost of broadband service and certain connected devices during an emergency period relating to the COVID-19 pandemic, and participating providers can receive a reimbursement for providing such discounts.⁴ The EBB Program was designed to be a temporary, emergency program that would conclude when the fund is expended or six months after the end of the public health emergency.⁵ On November 15, 2021, the President signed the Infrastructure Investment and Jobs Act, which modifies and extends the EBB Program to a longer-term broadband affordability program to be called the Affordable Connectivity Program.⁶ In the public notice seeking comment on the implementation of the Affordable Connectivity

¹ USDA, Food and Nutrition Service, Child Nutrition Programs, Community Eligibility Provision, <https://www.fns.usda.gov/cn/community-eligibility-provision>.

² Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020), *available at* <https://www.congress.gov/bill/116th-congress/house-bill/133/text> (Consolidated Appropriations Act).

³ Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. IX, § 904(i), 134 Stat. 2130, 2135.

⁴ *Id.* § 904(b)(1), (4) & (5).

⁵ *Id.*

⁶ Infrastructure Investment and Jobs Act, Public Law No. 117-58 (2021), *available at* <https://www.govinfo.gov/content/pkg/BILLS-117hr3684enr/pdf/BILLS-117hr3684enr.pdf> (Infrastructure Act).

Program, the Bureau stated that pursuant to the Infrastructure Act, on December 31, 2021, the EBB Program will end and the Affordable Connectivity Program will be effective.⁷

The Consolidated Appropriations Act outlines specific eligibility criteria for the EBB Program,⁸ including, but not limited to, a household member's participation in a free or reduced price school lunch or breakfast program.⁹ In the *EBB Program Order*, the Commission concluded that households with a student enrolled in a school or school district participating in the Community Eligibility Provision could qualify for the EBB Program.¹⁰ The Commission recognized that because participation in the Community Eligibility Provision allows the highest-poverty schools and school districts to serve breakfast and lunch at no cost to all enrolled students without needing to collect applications from students, households with a member that attends a CEP school would not have submitted an application to qualify for free or reduced price school breakfast or lunch.¹¹ Accordingly, the Commission directed the Universal Service Administrative Company (USAC) to allow households that participate in the Community Eligibility Provision to qualify for the EBB Program by providing the name of the CEP school or school district.¹² However, to guard against potential waste, fraud and abuse, the Commission directed USAC to conduct program integrity reviews of households that enrolled based on the CEP.¹³ USAC's program integrity reviews are ongoing.

On November 22, 2021, the FCC's Office of Inspector General (OIG) issued an advisory raising concerns about potential waste, fraud and abuse with respect to EBB Program enrollments based on the CEP.¹⁴ Specifically, the advisory observes and describes certain problems associated with the CEP enrollment process. The OIG, the Bureau and USAC have been and are committed to continuing to work collaboratively on this matter, by sharing information and program data and taking any additional necessary steps to combat waste, fraud, and abuse in the EBB and Affordable Connectivity Programs. The Bureau is committed to ensuring the integrity of the EBB Program and addressing potential waste, fraud, or abuse using the full range of the Commission's authority and available tools, including audit and investigatory procedures, and in cooperation with the FCC OIG and law enforcement agencies. Accordingly, the Bureau is taking immediate additional steps to modify the procedures with respect to EBB Program enrollments based on the CEP.

First, households seeking to qualify for the EBB Program through the National Verifier based on the CEP must now identify both the school name and provide official school documentation demonstrating that the household has a child or dependent (referred to on the application as the benefit qualifying person) enrolled at the CEP school. To implement this measure, USAC modified the EBB Program application to require applicants seeking to qualify based on enrollment at a CEP school to submit school enrollment documentation in addition to providing the name of the CEP school. The

⁷ *Wireline Competition Bureau Seeks Comment on the Implementation of the Affordable Connectivity Program*, WC Docket No. 21-450, Public Notice, DA 21-1453, at 1, para 3 (WCB Nov. 18, 2021) (*Affordable Connectivity Program Public Notice*).

⁸ Consolidated Appropriations Act, 2021, div. N., tit. IX, § 904(a)(6)(A-E).

⁹ *Id.* § 904(a)(6)(B).

¹⁰ *Emergency Broadband Benefit Program*, WC Docket No. 20-445, Report and Order, 36 FCC Rcd 4612, 4638-39, paras. 55-56 (2021) (*EBB Program Order*).

¹¹ *EBB Program Order*, 36 FCC Rcd at 4638, para. 55.

¹² *Id.* at 4639, para. 56.

¹³ *Id.*

¹⁴ See generally *Advisory Regarding Fraudulent EBB Enrollments Based on USDA National School Lunch Program Community Eligibility Provision* (FCC OIG Nov. 22, 2021), <https://www.fcc.gov/document/fcc-inspector-general-advisory-regarding-ebb-enrollment-fraud> (*OIG Advisory*).

school enrollment documentation must at a minimum include the school name, the name of the student, and information sufficient to demonstrate that the student is enrolled in a CEP school. Examples of documentation sufficient to satisfy this requirement include a letter from the school confirming the benefit qualifying person's enrollment at the school, or a report card identifying the benefit qualifying person's name and the school name. Generic school notices that do not include the benefit qualifying person's name would not be sufficient to enroll in the EBB Program based on the CEP. Consistent with the EBB Program rules, the benefit qualifying person must have been enrolled in the CEP school during the 2019-2020, 2020-2021, or 2021-2022 school year, and the provided documentation must coincide with one of those school years.¹⁵ Households submitting a paper application that seek to qualify based on the CEP also need to provide official school documentation demonstrating the enrollment of the benefit qualifying person in a CEP school. USAC will continue to use the available resources to verify whether the identified school participates in the CEP. This measure will prevent households from enrolling in the EBB Program based on the CEP if a member of the household does not actually attend the indicated CEP school. The Bureau also reminds program participants that they must inform their EBB service provider if they are no longer eligible for the EBB Program, such as if no member of the household attends school.¹⁶

Second, given the nature of the issues raised in the FCC OIG Advisory and USAC's implementation of program integrity reviews in this area pursuant to the Commission's directives, we are requiring EBB Program households that are currently enrolled based on the CEP to confirm their eligibility for the EBB Program. USAC will conduct the necessary outreach to confirm the eligibility of these EBB Program households, and will notify participating service providers of their respective EBB-Program households that will be asked to confirm their eligibility. Under the Commission's rules, impacted EBB-Program households must provide documentation demonstrating that the benefit qualifying person was enrolled in a school that participates in the CEP during the 2019-2020, 2020-2021, or 2021-2022 school year. These households may confirm eligibility through the National Verifier via the online portal or by mailing a paper form, and will be required to identify the CEP school name and provide official school documentation demonstrating the benefit qualifying person's enrollment in that school. Impacted households can also confirm their eligibility based on a non-CEP qualifying program or qualifying income level. Impacted EBB Program households that fail to timely confirm their eligibility will be de-enrolled from the EBB Program.¹⁷ This effort will ensure that existing EBB Program households that enrolled based on the CEP have demonstrated that a household member attends a CEP school.

The immediate measures we describe in this Public Notice strike an appropriate balance between strengthening program integrity with respect to EBB Program enrollments based on the CEP, and maintaining the ability of households to enroll in the EBB Program based on the CEP. These measures are also necessary to protect the integrity of the EBB Program by limiting opportunities for waste, fraud and abuse. In addition to these measures, we remind participating service providers of their obligation to implement policies and procedures for ensuring that their EBB Program households are eligible to receive the EBB Program benefit.¹⁸ In addition to these immediate steps, the Bureau is also looking ahead to the Affordable Connectivity Program and is seeking comment in the *Affordable Connectivity Program Public Notice* on the continued use of the CEP for enrollment and associated documentation requirements.¹⁹

¹⁵ *Wireline Competition Bureau Expands Emergency Benefit Broadband Program Eligibility*, WC Docket No. 20-445, Public Notice, DA 21-1119 (WCB 2021).

¹⁶ 47 CFR § 54.1605; *see also EBB Program Order*, 36 FCC Rcd at 4680, para. 146.

¹⁷ 47 CFR § 54.1609(a).

¹⁸ *EBB Program Order*, 36 FCC Rcd at 4680, para. 146; 47 CFR § 54.1606(b).

¹⁹ *Affordable Connectivity Program Public Notice*, at 14, 16, paras. 31, 34.

For further information, please contact Rashann Duvall of the Wireline Competition Bureau's Telecommunication Access Policy Division at 202-418-1438 or Rashann.Duvall@fcc.gov.

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