



# PUBLIC NOTICE

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## WIRELINE COMPETITION BUREAU SEEKS COMMENT ON EMERGENCY BROADBAND CONNECTIVITY FUND ASSISTANCE

WC Docket No. 20-445

**Comments Due: January 25, 2021**

**Reply Comments Due: February 16, 2021**

On December 27, 2020, the President signed the Consolidated Appropriations Act, 2021 (Consolidated Appropriations Act or Act).<sup>1</sup> Section 904 of Division N – Additional Coronavirus Response and Relief, Title IX – Broadband Internet Access Service, in the Consolidated Appropriations Act establishes an Emergency Broadband Connectivity Fund of \$3.2 billion and directs the Federal Communications Commission (Commission) to use that fund to establish an Emergency Broadband Benefit 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 such discounts.<sup>2</sup> The Act also directs the Commission to provide a public comment period of 20 days and a public reply comment period of 20 days before establishing the rules for this program.<sup>3</sup> By this public notice, the Wireline Competition Bureau (Bureau) seeks comment on the provision of assistance from the Emergency Broadband Connectivity Fund and through the Emergency Benefit Program and other related matters, consistent with the Congressional directive.

*Emergency Broadband Benefit Program.* Pursuant to the Consolidated Appropriations Act, the Emergency Broadband Benefit Program will use available funding from the Emergency Broadband Connectivity Fund to support participating providers' provision of certain broadband services and connected devices to qualifying households. To participate in the program, a provider must elect to participate and either be designated as an eligible telecommunications carrier or be approved by the Commission.<sup>4</sup> Participating providers will make available to eligible households a monthly discount off the standard rate for an Internet service offering and associated equipment, up to \$50.00 per month. On Tribal lands, the monthly discount may be up to \$75.00 per month.<sup>5</sup> Participating providers will receive reimbursement from the Emergency Broadband Benefit Program for the discounts provided. Participating providers that also supply an eligible household with a laptop, desktop computer, or tablet

<sup>1</sup> Consolidated Appropriations Act, 2021, H.R. 133, 116th Cong. (2020) (enacted), *available at* <https://www.congress.gov/bill/116th-congress/house-bill/133/text> (Consolidated Appropriations Act) (enrolled bill).

<sup>2</sup> Consolidated Appropriations Act, 2021, H.R. 133, div. N, tit. IX, § 904(b)(1) (2020). Section 904 of the Act is reproduced in its entirety in the attached Appendix.

<sup>3</sup> *See id.* § 904(c)(2).

<sup>4</sup> *Id.* § 904(a)(12), (d)(2).

<sup>5</sup> *Id.* § 904(a)(7).

(connected device) for use during the emergency period may receive a single reimbursement of up to \$100.00 for the connected device, if the charge to the eligible household for that device is more than \$10.00 but less than \$50.00. An eligible household may receive only one supported device.<sup>6</sup> Providers must submit certain certifications to the Commission to receive reimbursement from the program,<sup>7</sup> and the Commission is required to adopt audit requirements to ensure provider compliance and prevent waste, fraud, and abuse.<sup>8</sup>

In implementing the Emergency Broadband Benefit Program, the Consolidated Appropriations Act permits the Commission to apply rules contained in part 54 of the Commission's rules,<sup>9</sup> exempts the Commission from certain rulemaking requirements under the Administrative Procedure Act and the Paperwork Reduction Act,<sup>10</sup> and grants the Commission authority to use the services of the Universal Service Administrative Company (USAC) to implement the Emergency Broadband Benefit Program.<sup>11</sup> USAC is an independent, not-for-profit corporation designated as the permanent administrator of the Universal Service Fund by the Commission.<sup>12</sup> We propose to use USAC's services to administer the Emergency Broadband Benefit Program, as described in detail below.

*Participating Providers.* We first seek comment on the eligibility and election process for participating providers. Eligible telecommunications carriers designated pursuant to section 214(e) of the Communications Act may participate in the Emergency Broadband Benefit Program without seeking approval from the Commission. Providers that are not designated as eligible telecommunications carriers must meet the requirements established by and be approved by the Commission to participate in the Emergency Broadband Benefit Program. The Commission is required to establish an expedited process for such approval and "to automatically approve as a participating provider a broadband provider that has an established program as of April 1, 2020, that is widely available and offers internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse."<sup>13</sup> Participation in the program is voluntary, and a provider must affirmatively "elect" to participate.<sup>14</sup>

We propose to require all providers that wish to participate in the Emergency Broadband Benefit Program to submit a notice to USAC indicating their election. We propose that such notice indicate, at least: (1) the states in which it plans to participate, (2) a statement that, in each such state, it was a "broadband provider" within the meaning of the Consolidated Appropriations Act as of December 1, 2020, (3) whether it seeks to participate in each state because it is either a designated eligible telecommunications carrier or is seeking designation by the Commission to participate (or both), (4) whether the provider intends to distribute connected devices in each such state, (5) a description of any Internet service offerings for which it plans to seek reimbursement in each state, and (6) documentation demonstrating the standard rates for the services for which it may claim reimbursement

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<sup>6</sup> *Id.* § 904(b)(5).

<sup>7</sup> *Id.* § 904(b)(6).

<sup>8</sup> *Id.* § 904(b)(7).

<sup>9</sup> *See id.* § 904(f).

<sup>10</sup> *See id.* § 904(h) (establishing that 5 U.S.C. § 553 shall not apply to a regulation promulgated under § 904(c) or a rulemaking proceeding to promulgate such a regulation and that a collection of information conducted or sponsored under the regulations required by § 904(c) shall not constitute a collection of information for the purposes of 44 U.S.C. §§ 3501-3531).

<sup>11</sup> *Id.* § 904(i)(5).

<sup>12</sup> *See* 47 CFR §§ 54.701 *et seq.*

<sup>13</sup> H.R. 133, div. N, tit. IX § 904(d)(2).

<sup>14</sup> *Id.* § 904(a)(12)(B).

from the Emergency Broadband Benefit Program. We expect this information will facilitate USAC's timely processing of election notices as well as administration of the program. We seek comment on this proposal. What other information is necessary in the notice of election to ensure efficient processing of qualifying providers?

The Consolidated Appropriations Act only offers an Emergency Broadband Benefit for an Internet service offering,<sup>15</sup> which the statute defines as a "broadband internet access service provided by [a broadband] provider to a household, offered in the same manner, and on the same terms, as described in any of such provider's offerings for broadband internet access service to such household, as on December 1, 2020."<sup>16</sup> Similarly, the Consolidated Appropriations Act limits the Emergency Broadband Benefit to be "no more than the standard rate" for an Internet service offering (and associated equipment),<sup>17</sup> which it defines as "the monthly retail rate for the applicable tier of broadband internet access service as of December 1, 2020, excluding any taxes or other governmental fees."<sup>18</sup> To avoid processing elections for providers that cannot receive any reimbursement, we construe the statute as limiting participation to broadband providers offering service as of December 1, 2020. Similarly, we believe the submission of documentation demonstrating the standard rates for the services for which a provider may claim reimbursement from the Emergency Broadband Benefit Program will allow USAC to more quickly verify that a broadband provider does in fact qualify to participate and will facilitate the processing of claims. We seek comment on these views.

What is the most efficient method for having participating providers submit this standard rate information? We also seek comment on how the Commission should interpret the "standard rate" for supported offerings. For example, how should we address promotional rates that were offered by a participating provider as of December 1, 2020? How should we address contract rates (of varying lengths) in determining the standard rate? We note that an Internet service offering is limited to those "offered in the same manner, and on the same terms, as described in any of such provider's offerings for broadband internet access service to such household";<sup>19</sup> how should we interpret that limitation? For example, what documentation would show that a service at a particular rate was actually offered in a particular state? Should we require documentation demonstrating that a certain number or percentage of the providers' subscribers had purchased service at that rate prior to the creation of the Emergency Broadband Benefit Program? If the standard rates for Internet access service plans offered by the provider are not uniform across all areas it serves, we propose that the provider specify the standard rates for such plans for each area of each state in which it plans to participate and provide supporting documentation. In the event that the provider's standard rates are uniform across the areas it serves, we propose that the provider submit supporting documentation for those rates.

A participating provider will be required to interact with both the Commission and USAC to participate in the program. As such, we expect that a broadband provider will have already registered with the Commission and USAC and received both an FCC Registration Number and a Service Provider Identification Number before filing an election notice. And we propose that a provider will include this information in its election notice. We seek comment on this proposal.

We propose to accept elections on a rolling basis throughout the Emergency Broadband Benefit Program. Should the Commission adopt a specific timeframe for acting on provider elections? Once USAC has reviewed an election notice and verified the broadband provider is eligible to participate, how should it inform applicants of that determination? Should such a determination apply only prospectively,

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<sup>15</sup> *Id.* § 904(a)(7).

<sup>16</sup> *Id.* § 904(a)(9).

<sup>17</sup> *Id.* § 904(b)(6)(A).

<sup>18</sup> *Id.* § 904(a)(13).

<sup>19</sup> *Id.* § 904(a)(9).

or be effective as of the date the election notice was properly and completely filed? What information should USAC disclose to the public about election notices as well as its determinations?

The Consolidated Appropriations Act provides that the Commission “shall expedite the ability of all participating providers to access the Lifeline National Eligibility Verifier (National Verifier) and National Lifeline Accountability Database for the purposes of determining whether a household is an eligible household.”<sup>20</sup> We propose that all participating providers be required to have their agents and other enrollment representatives registered with the Representative Accountability Database, as previously recommended by the Office of the Inspector General for the Lifeline program, as a best practice to minimize waste, fraud, and abuse. Should participating providers be subject to any other Commission regulations or USAC requirements for those databases? Are there any regulations or requirements of those systems that should not apply to participating providers? Commenters, however, should take into consideration that such systems must comply with applicable federal requirements on information privacy and information security. To access the databases, participating providers will be required to accept USAC’s OnePortal Terms and Conditions, agreeing that their access is conditioned on their compliance with federal laws regarding privacy, data security, and breach notification. We propose that once USAC has verified a broadband provider’s election notice, it should expeditiously process and prioritize registrations from such providers and take any other steps needed to facilitate access by participating providers to these databases.

*Designating Broadband Providers Where They Are Not Eligible Telecommunications Carriers.* For a broadband provider that is not designated as an eligible telecommunications carrier in a particular area to participate in the Emergency Broadband Benefit Program, it must “meet[] requirements established by the Commission . . . and [be] approved by the Commission.”<sup>21</sup> The Consolidated Appropriations Act requires the Commission to adopt an “expedited” process to approve such broadband providers,<sup>22</sup> and further requires the Commission to “automatically approve” a broadband provider that has an “established program” as of April 1, 2020, that is “widely available” and offers internet service offerings to eligible households and “maintains verification processes that are sufficient to avoid fraud, waste, and abuse.”<sup>23</sup> We seek comment on how these terms should be interpreted.

We seek comment on how the Commission should implement these provisions. Although the Commission cannot require a broadband provider to become an eligible telecommunications carrier to participate,<sup>24</sup> we do draw on our experience with the Lifeline program to propose two “requirements.” First, we propose that any broadband provider seeking to participate make the Emergency Broadband Benefit available across all of its service areas in each of the states in which it is approved to participate.<sup>25</sup> We seek comment on this proposal and on our authority for such a requirement. Second, we propose that broadband providers adopt a plan to combat waste, fraud, and abuse similar to the compliance plans required of non-facilities-based carriers seeking approval to participate in the Lifeline program.<sup>26</sup> We seek comment on this proposal. Should the Commission require that compliance plans be approved before a provider may begin participating in the program, and how should the Commission balance the

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<sup>20</sup> *Id.* § 904(b)(3).

<sup>21</sup> *Id.* § 904(a)(12)(A)(ii).

<sup>22</sup> *Id.* § 904(d)(2)(A).

<sup>23</sup> *Id.* § 904(d)(2)(B).

<sup>24</sup> *Id.* § 904(a)(12)(B).

<sup>25</sup> For a broadband provider that is designated as an eligible telecommunications carrier in some parts of a state but not others, this would include all such areas where it is not so designated.

<sup>26</sup> See *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, Public Notice, 27 FCC Rcd 2186 (WCB Feb. 29, 2012).

need to ensure that participating providers are equipped to comply with program rules against the Act's requirement that the Commission establish an expedited approval process?<sup>27</sup>

We propose to require broadband providers that wish to participate in the Emergency Broadband Benefit Program in areas where they are not designated as eligible telecommunications carriers to submit an application to the Commission. We propose that such an application may be submitted concurrently with an election notice to USAC. We propose that such notice indicate, at least: (1) the states in which it plans to participate, (2) the service areas in which the provider has the authority, if needed, to operate in each state but has not been designated an eligible telecommunications carrier, (3) documentation of the provider's plan to combat waste, fraud, and abuse, (4) whether it seeks automatic approval because it offers an established program in each state, and (5) if seeking such automatic approval, documentation that the broadband provider has a qualifying established program in such states. We expect that a broadband provider will have already registered with the Commission and received an FCC Registration Number before filing such an application, and we propose that the provider must include such number with its application. We expect this information will facilitate the Commission's timely processing of applications to participate as well as administer the program. We seek comment on this proposal. What other information is necessary in the application to ensure efficient processing of qualified applicants?

We seek specific comment on the processing of applications seeking automatic approval in one or more states. Should the Commission prioritize review of such applications before all others? Should the Commission immediately approve an application to the extent it seeks automatic approval, subject to later verification and potential revocation? If so, we propose that the Commission should complete any such verification before any payments are made to such an applicant. Or should the Commission verify that an applicant qualifies for automatic approval before issuing an approval? In that case, should the Commission make such approval effective as of the date of the application's proper filing? What showing must an applicant make to demonstrate it had a qualifying established plan? At a minimum, we expect the provider to explain the eligibility criteria and other pertinent information about a provider's existing low-income or COVID-19 program<sup>28</sup> including with specificity that it was "widely available" "as of April 1, 2020."<sup>29</sup> How should the Commission assess such filings? Should the Commission pay special attention to established programs that target groups vulnerable during the pandemic, such as low-income households, Americans living in rural or Tribal areas, communities of color, students, veterans, or the newly unemployed? Should a complete and sufficient plan to combat waste, fraud, and abuse (as required for all applicants) suffice to show that an established plan "maintains verification processes that are sufficient to avoid fraud, waste, and abuse" or must an applicant make a separate showing on that point? If the latter, what documentation should be required of such applicants?

We propose to accept applications on a rolling basis throughout the Emergency Broadband Benefit Program. Should the Commission delegate to the Wireline Competition Bureau authority to review and approve (or deny) applications? Should the Commission adopt a specific timeframe for acting on provider applications? Once the Commission has reviewed an application and approved (or denied) an application, how should it inform applicants of that determination? What information should the Commission disclose to the public about applications as well as its determinations?

*Tracking and Verifying Household Eligibility.* The Consolidated Appropriations Act defines the Emergency Broadband Benefit as "a monthly discount for an eligible household applied to the actual amount charged to such household" with certain monetary limits on how much is available per household.<sup>30</sup> In addition, a "participating provider may receive reimbursement for no more than 1

<sup>27</sup> H.R. 133, div. N, tit. IX § 904(d)(2).

<sup>28</sup> *Id.* § 904(a)(6)(E).

<sup>29</sup> *Id.* § 904(d)(2)(B).

<sup>30</sup> *Id.* § 904(a)(7).

connected device per eligible household.”<sup>31</sup> We note that a household that is eligible for the Emergency Broadband Benefit is not disqualified by participating in the Lifeline program and also may receive both benefits, either on the same or different services.<sup>32</sup>

The Consolidated Appropriations Act refers to “eligible households,”<sup>33</sup> but does not define “household.” We seek comment on using the definition of “household” provided in our Lifeline rules<sup>34</sup> for purposes of administering the Emergency Broadband Benefit Program.

To track the eligibility of households and prevent duplicative support, we propose to require all participating providers to track enrollments of eligible households in the Emergency Broadband Benefit Program in the National Lifeline Accountability Database. This proposal would require that the National Lifeline Accountability Database be able to associate a subscriber record with up to two providers—one Lifeline provider and one Emergency Broadband Benefit provider. Should the Commission apply the same processes used for Lifeline participation in the National Lifeline Accountability Database to the Emergency Broadband Benefit Program?<sup>35</sup> Where two or more subscribers reside at the same address, should the Commission require the subscriber to certify that no other person in the subscriber’s economic household is receiving a benefit through the Emergency Broadband Benefit Program?<sup>36</sup> Should there be a limitation on the number of benefits per address regardless of the number of households at that address? Should additional enrollments at a single residential address require a separate, more rigorous verification process? Should eligible households be allowed to receive more than one connected device through the Emergency Broadband Benefit Program, for example, if they change service to a new participating provider? We seek comment on how to identify and prevent duplicative support.

We next seek comment on the verification of eligibility for households. A household may qualify for the Emergency Broadband Benefit if at least one member of the household: (1) meets the qualifications for participation in the Lifeline program;<sup>37</sup> (2) has been approved to receive benefits under the free and reduced price lunch program under the Richard B. Russell National School Lunch Act<sup>38</sup> or the school breakfast program under section 4 of the Child Nutrition Act of 1966;<sup>39</sup> (3) has experienced a substantial loss of income since February 29, 2020;<sup>40</sup> (4) has received a Federal Pell Grant under section

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<sup>31</sup> See *id.* § 904(b)(5).

<sup>32</sup> See *id.* § 904(e) (“Nothing in this section shall affect the collection, distribution, or administration of the Lifeline Assistance Program . . .”). If a household is applying their Lifeline benefit and Emergency Broadband Benefit to the same broadband service, the household is limited to receiving the total price of the service or the combined maximum Lifeline and Emergency Broadband Benefit, whichever is lower.

<sup>33</sup> *Id.* § 904(a)(6).

<sup>34</sup> See 47 CFR § 54.400(h) (“A ‘household’ is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An ‘economic unit’ consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.”).

<sup>35</sup> See 47 CFR § 54.404(b)-(c).

<sup>36</sup> See 47 CFR § 54.410(g).

<sup>37</sup> 47 CFR § 54.409(a)-(b).

<sup>38</sup> See 42 U.S.C. § 1751 *et seq.*

<sup>39</sup> See 42 U.S.C. § 1773.

<sup>40</sup> H.R. 133, div. N, tit. IX § 904(a)(6)(C) (income loss must be “documented by layoff or furlough notice, application for unemployment insurance benefits, or similar . . .”). We seek comment on how to define a

(continued....)

401 of the Higher Education Act of 1965<sup>41</sup> in the current award year; or (5) meets the eligibility criteria for a participating provider's existing low-income or COVID-19 program, subject to approval by the Commission and any other requirements deemed by the Commission to be necessary in the public interest.<sup>42</sup> Participating providers may not disqualify a household because a "member of the household has any past or present arrearages with a broadband provider."<sup>43</sup>

Participating providers must verify the eligibility of a household for the Emergency Broadband Benefit either by: (1) directing applicants to the National Verifier and the National Lifeline Accountability Database, (2) relying on a school to verify participation in the free and reduced price lunch program or the school breakfast program, or (3) using the provider's eligibility verification process if such process is approved by the Commission.<sup>44</sup>

*First*, for providers that seek to use the National Verifier and National Lifeline Accountability Database, we propose to require eligible households to directly interact with the National Verifier to apply for the Emergency Broadband Benefit Program, as is currently required for the Lifeline benefit.

*Second*, for providers that rely on a school to verify eligibility based on participation of a member of the household in the free and reduced price lunch program or the school breakfast program,<sup>45</sup> we propose that a provider identify the school it relied on when enrolling a household in the National Lifeline Accountability Database. What information should such a provider be required to submit or maintain in such a case? For example, should the information submitted about the school be sufficient for USAC to verify that the school is in fact enrolled in that the free and reduced price lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. § 1751 *et seq.*) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. § 1773)? Would a school's participation in the E-Rate program facilitate any needed verification? Should the Commission require the provider to submit or document the name of qualifying student(s) (with express parental consent, if necessary) so that enrollment can be confirmed?<sup>46</sup> The USDA Community Eligibility Provision allows the nation's highest poverty schools and districts to serve breakfast and lunch at no cost to all enrolled students without collecting household applications, thereby effectively qualifying the entire school or school district for these programs. In those schools, the household has not individually applied and been approved for benefits under the programs identified in section 904(a)(6)(B). We seek comment on how households with students in these Community Eligibility Provision schools should be considered eligible households for the Emergency Broadband Benefit Program. More broadly, how can the Commission facilitate the ability of schools to connect with their students for the purposes of remote learning?

*Third*, for providers that use their own alternative verification process,<sup>47</sup> we propose that a provider identify the process used when enrolling a household in the National Lifeline Accountability Database. In order to use such a process, a participating provider must submit information detailing the verification process to the Commission and explain why that process is sufficient to avoid waste, fraud, and abuse. The Commission shall then determine within seven days of receipt of the information whether

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"substantial loss of income since February 29, 2020" and additional types of documentation that would demonstrate such a loss. *Id.* Should households with an income currently above a certain level be excluded from the program even if they have experienced a substantial loss of income? If so, how should that level be defined?

<sup>41</sup> See 20 U.S.C. § 1070a.

<sup>42</sup> H.R. 133, div. N, tit. IX § 904(a)(6).

<sup>43</sup> *Id.* § 904(a)(6).

<sup>44</sup> *Id.* § 904(b)(2).

<sup>45</sup> *Id.* § 904(b)(2)(C).

<sup>46</sup> See 47 CFR § 54.409(a)(2) (permitting a consumer's dependent to qualify the household).

<sup>47</sup> H.R. 133, div. N, tit. IX § 904(b)(2)(B).

the proposed process is sufficient. What information should be provided to the Commission?<sup>48</sup> We propose to allow alternative verification methods that are at least as stringent as the methods used by the National Verifier. What criteria should the Commission consider in determining whether a provider's proposal is sufficient to avoid waste, fraud, and abuse in the Emergency Broadband Benefit Program?<sup>49</sup> We propose to periodically review the alternative process to determine whether the participating provider is abiding by the representations it has made about this process. What other measures should the Commission take both before and after an alternative verification process has been approved to avoid waste, fraud, and abuse? What documentation and records should providers be required to keep to allow the Commission and Office of Inspector General to audit the providers' eligibility determinations? Should the Commission delegate to the Wireline Competition Bureau authority to review and approve (or deny) proposed alternative verification processes?

*Covered Services and Devices.* The Consolidated Appropriations Act defines "internet service offering"<sup>50</sup> and defines "broadband Internet access service" as eligible for reimbursement with the meaning given to that term in section 8.1(b) of the Commission's rules.<sup>51</sup> We seek comment on whether the Commission should provide any further clarity regarding services that are eligible for reimbursement in the Emergency Broadband Benefit Program. We seek comment on whether the Commission should provide any further clarity on Internet service offerings and associated equipment<sup>52</sup> that are eligible for reimbursement in the Emergency Broadband Benefit Program. Would associated equipment include, for example, the monthly rental costs for modems and/or routers that are offered as part and parcel of an Internet service offering? Is there other customer-premises equipment that should be eligible for reimbursement?

The Consolidated Appropriations Act defines a "connected device" eligible for reimbursement as "a laptop or desktop computer or tablet."<sup>53</sup> We seek comment on whether the Commission should provide any further clarity regarding devices that are eligible for reimbursement in the Emergency Broadband Benefit Program. In particular, is there a commonly understood definition of tablet to ensure that the available funds are directed toward their intended purpose? Alternatively, are there end user devices, such as mobile phones, that plainly are excluded as a connected device in the program? How would we distinguish between smaller tablets and larger mobile phones?

We recognize that as a result of the COVID-19 pandemic, Americans are continuing to rely on telework, telemedicine, and virtual learning in order to comply with social distancing measures.<sup>54</sup> Participating in these activities requires not only a broadband connection but also a device that can support video conferencing platforms, particularly for households with students. Because the Act provides that a member of a household that participates in the free and reduced price lunch or the school breakfast programs, or is the recipient of a Pell grant in the current award year qualifies a household for

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<sup>48</sup> *Id.* § 904(b)(2)(B).

<sup>49</sup> See GAO-15-593SP, *A Framework for Managing Fraud Risks in Federal Programs* (2015); see also *Payment Integrity Information Act of 2019*, Pub. L. No. 116-117, 134 Stat. 133 (Mar. 2, 2020); GAO-14-704G (2014), *Standards for Internal Control in the Federal Government* (2014).

<sup>50</sup> H.R. 133, div. N, tit. IX § 904(a)(9).

<sup>51</sup> See *id.* § 904(a)(1) (citing 47 CFR § 8.1(b)).

<sup>52</sup> See *id.* § 904(a)(7).

<sup>53</sup> See *id.* § 904(a)(4).

<sup>54</sup> See *Lifeline and Link Up Reform and Modernization*, Order, 35 FCC Rcd 2729 (WCB Mar. 17, 2020) (temporarily waiving Lifeline recertification and reverification requirements); *Lifeline and Link Up Reform and Modernization*, Order, 35 FCC Rcd 2954 (WCB Nov. 16, 2020) (extending waiver of Lifeline recertification and reverification requirements to February 28, 2021).



participation in the program,<sup>55</sup> we conclude that the Emergency Broadband Benefit Program is, in part, designed to ensure that program beneficiaries are able to meaningfully access and participate in remote learning during the COVID-19 pandemic. To ensure that eligible households with students are able to use their benefit to participate in such activities, we propose that a connected device provided through the Emergency Broadband Benefit Program should be expected to support video conferencing platforms and other software essential to ensure full participation in online learning. We seek comment on whether the Commission should impose minimum system requirements for connected devices supported by this program and, if so, what those system requirements should be.

*Reimbursement.* We propose to provide reimbursement for discounted services and connected devices provided once a provider has elected to participate in the Emergency Broadband Benefit Program.<sup>56</sup> We propose that participating providers be reimbursed through the Lifeline Claims System administered by USAC, and subject to all the requirements of the Lifeline Claims System.<sup>57</sup> In submitting claims, we propose the providers include sufficient detail so that USAC and the Commission can verify that each claimed household has been appropriately enrolled in the National Lifeline Accountability Database and that the discount does not exceed the standard rate for the applicable service tier (or \$100 for a connected device). Such information would facilitate the swift verification that claims are valid and meet the requirements of the statute.<sup>58</sup> We seek comment on these proposals.

The Consolidated Appropriations Act also requires that a participating provider, when seeking reimbursement, submit a certification that: the amounts they are seeking are not more than the standard rate;<sup>59</sup> each household for which the provider is seeking reimbursements will not be charged for an offering if the standard rate is less than or equal to the broadband benefit or will not be charged more than the difference between the standard rate and the broadband benefit;<sup>60</sup> the household will not be charged an early termination fee if it later terminates a contract;<sup>61</sup> each household was not subject to a mandatory waiting period;<sup>62</sup> and each household will be subject to a participating provider's generally applicable terms and conditions.<sup>63</sup> We propose that these certifications accompany each request for reimbursement, in addition to an annual certification by participating providers. We propose to require each certification be submitted under penalty of perjury. What other certifications should be added as a prerequisite to reimbursement?

We seek comment whether a participating provider should be required to submit additional documentation to receive reimbursement for a connected device provided to the household. The

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<sup>55</sup> H.R. 133, div. N, tit. IX § 904(b)(6)(B) & (D).

<sup>56</sup> We note that the Consolidated Appropriations Act established the Emergency Broadband Connectivity Fund in the United States Treasury and, unless exempted, the fund is subject to government-wide statutes governing the administration of federal funds. *See, e.g.*, 31 U.S.C. § 3301 *et seq.*

<sup>57</sup> *Wireline Competition Bureau Provides Guidance on the Lifeline Reimbursement Payment Process Based on NLAD Data*, Public Notice, 33 FCC Rcd 128 (WCB Jan. 10, 2018). Providers are required to submit a reimbursement request based on the number of subscribers enrolled in National Lifeline Accountability Database on the snapshot date. Providers must review the snapshot report, validate the subscribers for which they are requesting reimbursement, indicate a reason for any unclaimed subscribers, and review, correct, and certify the requested reimbursement amount. Further information on the Lifeline Claims System can be found on USAC's website at <https://www.usac.org/lifeline/reimbursement/lifeline-claims-system/>.

<sup>58</sup> H.R. 133, div. N, tit. IX § 904(b)(4)-(5).

<sup>59</sup> *Id.* § 904(b)(6)(A).

<sup>60</sup> *Id.* § 904(b)(6)(B)(i).

<sup>61</sup> *Id.* § 904(b)(6)(B)(ii).

<sup>62</sup> *Id.* § 904(b)(6)(B)(iii).

<sup>63</sup> *Id.* § 904(b)(6)(B)(iv).

Consolidated Appropriations Act requires the eligible household to make a financial contribution between \$10 and \$50 to the cost of the connected device in order for the participating provider to receive reimbursement. In order to receive reimbursement for a connected device, we propose to require that a participating provider certify that the household receiving the device has received the emergency broadband benefit from the provider and has made a financial contribution between \$10 and \$50 for such a device.<sup>64</sup> We also propose that such providers retain documentation proving that the eligible household made a financial contribution towards the cost of the connected device, as well as the amount thereof.<sup>65</sup>

Finally, the Consolidated Appropriations Act permits reimbursement of up to \$100 for the connected device but does not limit such reimbursement to a “standard rate” as it does for Internet service offerings. Should the Commission also require a participating provider to demonstrate the retail value or the costs of connected devices to prevent waste?

*Benefits for those on Tribal lands.* The Act provides that eligible households on Tribal lands may receive a discount of no more than \$75 for Internet access service provided through this benefit.<sup>66</sup> For efficiency, we propose to use the same definition of Tribal lands as used in the Lifeline program,<sup>67</sup> and to allow members of households on such Tribal lands to use their participation in the same Tribal programs permitted under the Lifeline program to qualify for the Emergency Broadband Benefit Program, in addition to other permitted means of qualifying.<sup>68</sup> Moreover, for purposes of determining whether a household resides on Tribal lands, we propose using the processes USAC has in place for identifying the location of a consumer’s residence within the Lifeline program.

We seek comment on applying the definition of Tribal lands and using existing USAC processes for verifying that an eligible household lives on Tribal lands and is therefore eligible to receive the increased monthly discount. Moreover, we seek comment on our proposal to rely on a household’s participation in the Tribal-specific assistance programs. Are there other accommodations the Commission should consider to ensure that eligible households on Tribal lands and the providers that serve them are able to participate in the Emergency Broadband Benefit Program?

*Promoting Awareness.* We next seek comment on the best methods to publicize the availability of the services and connected devices supported by the Emergency Broadband Benefit Program. Should participating providers have any obligation under the program’s rules to publicize the availability of the benefit? What are the most effective means of publicizing this benefit to the communities most in need? We seek comment on this idea and on best practices employed by providers with existing low-income broadband plans to reach low-income households. We also seek comment on whether the Commission or USAC should also take steps to publicize the program to supplement the outreach of the participating providers. Should USAC conduct outreach to current Lifeline subscribers? What outreach activities

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<sup>64</sup> *Id.* § 904(b)(5), (6)(C).

<sup>65</sup> *Id.* § 904(b)(6)(C).

<sup>66</sup> *Id.* § 904(a)(7).

<sup>67</sup> Tribal lands include “any federally recognized Indian tribe’s reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688); Indian allotments; Hawaiian Home Lands - areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920 July 9, 1921, 42 Stat. 108, et. seq., as amended; and any land designated as such by the Commission for purposes of this subpart pursuant to the designation process in § 54.412.” 47 CFR § 54.400(e).

<sup>68</sup> 47 CFR § 54.409(b). A consumer residing on Tribal lands can qualify for Lifeline if they participate, a dependent or someone else in their household participates in certain in Tribal-specific assistance programs, including: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations.

conducted by the Commission or USAC would most effectively promote awareness among potentially eligible households?

Finally, we seek comment on using other civic entities to publicize the availability of these funds. Are there measures schools, libraries and other local institutions can take to encourage participation in this program? Should the Commission or USAC promote the availability of these funds to other universal service program participants? We seek comment on these ideas in an effort to identify the most efficient way to broadcast the awareness of this program to potential recipients.

*Auditing.* The Consolidated Appropriations Act provides that the Commission shall adopt audit requirements to ensure that participating providers are in compliance with the program requirements and to prevent waste, fraud, and abuse in the Emergency Broadband Benefit Program.<sup>69</sup> Moreover, within one year of the date of the enactment of the Act, the Commission’s Office of Inspector General must conduct an audit of the disbursements made to a representative sample of participating providers.<sup>70</sup>

We seek comment on the audit requirements the Commission should impose on providers participating in the Emergency Broadband Benefit Program. We propose to direct USAC to conduct audits, in addition to any audits conducted by the Commission’s Office of Inspector General. Should the Commission use the same or similar audit procedures currently used for Lifeline providers to audit compliance with the rules of the Emergency Broadband Benefit Program? What documentation should the Commission require participating providers to retain to permit auditors to assess compliance with the program rules? What documentation retention policies should the Commission place on providers? How long should participating providers retain documentation after the end of the program? We propose implementing the same documentation requirements as are in the Lifeline program, including a requirement that participating providers retain records for as long as the subscriber receives support from the Emergency Broadband Connectivity Fund, but no less than the three full preceding calendar years, and to provide that documentation to the Commission or USAC upon request.<sup>71</sup> We seek comment on that proposal as well as whether the Commission needs to add any other documentation retention requirements. What steps should the Commission take, and what guidance should the Commission provide USAC with, to ensure integrity in the Emergency Broadband Benefit Program during the duration of the program?

*Enforcement.* We next seek comment on the ability of the Commission to impose administrative forfeitures and other penalties on program participants found to be in violation of the program rules and requirements. The Consolidated Appropriations Act declares that a violation of this section or any regulation promulgated under this section “shall be treated as a violation of the Communications Act of 1934 or a regulation promulgated under such Act.”<sup>72</sup> Moreover, the Commission is compelled to enforce this section and the associated regulations “in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Communications Act

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<sup>69</sup> H.R. 133, div. N, tit. IX § 904(b)(7). The Act also specifies that a finding of waste, fraud, abuse, or an improper payment (as such term is defined in section 2(d) of the Improper Payments Information Act of 2002 (31 U.S.C. § 3321 note))” identify a) the participating provider; b) the amount of funding disbursed to the participating provider; c) the amount of disbursements identified as an improper payment; d) the extent to which the funding identified as an improper payment was reimbursement for a connected device or reimbursement for an internet service offering; e) whether, in the case of a connected device, such device, or the value thereof, has been recovered; f) whether funds from the Emergency Broadband Connectivity Fund were made available by the participating provider to a person outside of the eligible household; and g) whether any funds from the Emergency Broadband Connectivity Fund were made available to reimburse a participating provider for an emergency broadband benefit made available to an eligible household in which all members of such household necessary to satisfy the eligibility requirements described in subsection (a)(6) were deceased. *Id.*

<sup>70</sup> *Id.* § 904(b)(8).

<sup>71</sup> See 47 CFR § 54.417(a).

<sup>72</sup> H.R. 133, div. N, tit. IX § 904(g).

of 1934 were incorporated into and made a part of this section.”<sup>73</sup> Consistent with this statutory direction, we propose to use the Commission’s existing, statutorily permitted enforcement powers to, for example, initiate investigations and impose administrative forfeitures. We also propose to withhold program funds from participants found to be in violation of the Emergency Broadband Benefit Program rules. We seek comment on these proposals. Should we also withhold program funding from participants found to be in violation of other Commission rules, particularly those Commission rules pertaining to the Commission’s universal service fund programs? We also seek comment on the application of the Commission’s suspension and debarment rules to program participants. Should the Commission make this new program subject to its existing suspension and debarment rules,<sup>74</sup> and would doing so be consistent with the statutory scheme?<sup>75</sup>

The Consolidated Appropriations Act also provides a safe harbor provision stating that the Commission may not enforce a violation of this section 904 using section 501, 502, or 503 of the Communications Act of 1934, or any rules of the Commission promulgated under such sections, if a participating provider demonstrates that it relied in good faith on information provided to such provider to make any verification required by subsection 904(b)(2).<sup>76</sup> Section 904(b)(2) imposes a duty on participating providers to verify whether a household is eligible to receive the service and devices supported by this program. Considering that section 904(b)(2) requires providers to verify household eligibility but also permits them, among other measures, to rely upon an unspecified alternative verification process, how will the Commission determine good faith reliance required by this exception? What should constitute good faith reliance? We seek comment on this safe harbor provision.

*Application of Part 54 Regulations.* In addition to the specific instances identified above, we seek comment on applying the regulations contained in subpart E of part 54 to the Emergency Broadband Benefit Program, to the extent that those rules do not conflict with the Emergency Broadband Benefit Program parameters established by the Act.

We propose to use the authority granted by the Consolidated Appropriations Act to use USAC’s services to implement the Emergency Broadband Benefit Program,<sup>77</sup> including administering approvals and elections of participating providers, determinations of household eligibility, including whether a household resides on Tribal lands, by relying upon the USAC-administered National Verifier, National Lifeline Accountability Database, Representative Accountability Database, and Lifeline Claims System for the provider reimbursement process, call centers for program support, provider and consumer outreach, and conducting program audits. We seek comment on this approach. Are there other functions of the program that should be administered by USAC? We also seek comment on whether some of the regulations contained in subpart H of the Commission’s rules, which pertain to USAC’s functions as administrator of the Universal Service Fund, should be applied to the Emergency Broadband Benefit program. For example, we propose to apply sections 54.702(c) of the Commission’s rules (prohibiting USAC from making policy, interpreting unclear provisions of the statute or rules, or interpreting the intent of Congress). Should other rules pertaining to audits (e.g. sections 54.707 and 54.717) and Commission review of USAC decisions (sections 54.719-54.725) apply to the Emergency Broadband Benefit program? We seek comment on which provisions of Subpart H would, if applied, facilitate effective administration of the program. We also propose to reimburse USAC for its costs in performing

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<sup>73</sup> *Id.*

<sup>74</sup> See 47 CFR § 54.8 (rules regarding suspension and debarment).

<sup>75</sup> See H.R. 133, div. N, tit. IX § 904(f) (“Nothing in this section shall be construed to prevent the Commission from providing that the regulations in part 54 of title 47, Code 15 of Federal Regulations, or any successor regulation, shall apply in whole or in part to the Emergency Broadband Benefit Program, shall not apply in whole or in part to such Program, or shall be modified in whole or in part for purposes of application to such Program.”).

<sup>76</sup> *Id.* § 904(j).

<sup>77</sup> *Id.* § 904(i)(5).

these functions, within the cap placed on administrative expenses provided by the Act, and seek comment on that proposal.<sup>78</sup>

We also seek comment on whether the Commission should apply any additional rules to the Emergency Broadband Benefit Program. For example, for subscribers who do not pay an end-user fee for their supported service, should the participating provider be required to measure data usage to ensure the benefit is actually being used? Alternatively, what other measures may the participating provider use to ensure the benefit for which they are reimbursed is actually used or the beneficiary wishes to continue to receive the service (such as an affirmative response to a written communication)? Additionally, how can the Commission ensure that subscribers who receive the Emergency Broadband Benefit are able to discontinue their monthly benefit or transfer their benefit to a different participating provider? Should the Commission enable subscribers to initiate those de-enrollments or transfers directly with USAC, in addition to the procedures required in the Commission's Lifeline rules?<sup>79</sup>

*Program Reporting and Conclusion.* The Consolidated Appropriations Act provides that “[a]t the conclusion of the Emergency Broadband Benefit Program, any participating eligible households shall be subject to a participating provider’s generally applicable terms and conditions.”<sup>80</sup> The Emergency Broadband Benefit Program will conclude at the end of the emergency period<sup>81</sup> or when the amount appropriated to the Emergency Broadband Connectivity Fund is expended,<sup>82</sup> whichever is sooner. In light of this statutory language, how should providers be required to explain these terms and conditions to eligible households prior to or upon initial enrollment? Is there other information that should be provided to eligible households before enrollment or while the service is being supported by the program to ensure eligible households understand the scope of the program and the impact of fund exhaustion on the program discount?

The FCC is subject to both general government-wide reporting obligations and reporting obligations in the Consolidated Appropriations Act specific to pandemic relief legislation. In particular, we note that the CARES Act oversight provisions have been incorporated by reference in the Consolidated Appropriations Act by expanding the definition of “covered funds” found in the CARES Act appropriation riders.<sup>83</sup> As such, commenters should take into consideration the information requirements and reporting obligations associated with such oversight provisions. In addition to such requirements (which include public disclosures of spending), how should the Commission keep stakeholders informed during the duration of the program regarding the funds remaining in the Emergency Broadband Connectivity Fund? We seek comment on the information the Commission should share about disbursements made from the Fund and at what intervals. We also seek comment on how the Commission should administer the conclusion of the program. What notice should the Commission give to participating providers? How should participating providers give notice to eligible households that their benefit will conclude after a certain date? What precipitating events should trigger such notice, and what information should be included in that notice?

*Filing Requirements.* Pursuant to section 1.419 of the Commission’s rules, 47 CFR § 1.419, interested parties may file comments on or before **January 25, 2021**, and reply comments on or before

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<sup>78</sup> See *id.* § 904(i)(3) (“Amounts in the Emergency Broadband Connectivity Fund shall be available to the Commission for reimbursements from participating providers under this section, and the Commission may not use more than 2 percent of such amounts to administer the Emergency Broadband Benefit Program.”).

<sup>79</sup> See 47 CFR § 54.405(e).

<sup>80</sup> See H.R. 133, div. N, tit. IX § 904(b)(10).

<sup>81</sup> See *id.* § 904(a)(8).

<sup>82</sup> See *id.* § 904(i)(2).

<sup>83</sup> See Consolidated Appropriations Act, 2021, H.R. 133, div. O, tit. VIII—*Pandemic Response Accountability Committee Amendments* § 801, *Amendment to the Pandemic Response Accountability Committee* (2020).

**February 16, 2021.**<sup>84</sup> All filings should refer to WC Docket No. 20-445. Filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Comments may be filed by paper or by using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments and replies may be filed electronically via ECFS: <http://www.fcc.gov/ecfs>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail.
  - Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.<sup>85</sup>
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L St, NE, Washington, DC 20554.

*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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (tty).

*Ex Parte Rules.* Proceedings in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>86</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in these proceedings should familiarize themselves with the Commission's *ex parte* rules.

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<sup>84</sup> See 47 CFR § 1.4(j) (filing dates that would otherwise fall on a holiday shall be filed on the next business day).

<sup>85</sup> In response to the COVID-19 pandemic, the FCC has closed its current hand-delivery filing location at FCC Headquarters. We encourage outside parties to take full advantage of the Commission's electronic filing system. Any party that is unable to meet the filing deadline due to the building closure may request a waiver of the comment or reply comment deadline, to the extent permitted by law. *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, DA 20-304 (rel. Mar. 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

<sup>86</sup> See 47 CFR §§ 1.1200(a), 1.1206.

For further information, please contact Eric Wu, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-1543 or by email at [Eric.Wu@fcc.gov](mailto:Eric.Wu@fcc.gov).

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## APPENDIX

## CONSOLIDATED APPROPRIATIONS ACT, 2021

## DIVISION N—ADDITIONAL CORONAVIRUS RESPONSE AND RELIEF

## TITLE IX—BROADBAND INTERNET ACCESS SERVICE

## SEC. 904. BENEFIT FOR BROADBAND SERVICE DURING EMERGENCY PERIOD RELATING TO COVID-19.

## (a) DEFINITIONS.—In this section:

- (1) BROADBAND INTERNET ACCESS SERVICE.—The term “broadband internet access service” has the meaning given such term in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation.
- (2) BROADBAND PROVIDER.—The term “broadband provider” means a provider of broadband internet access service.
- (3) COMMISSION.—The term “Commission” means the Federal Communications Commission.
- (4) CONNECTED DEVICE.—The term “connected device” means a laptop or desktop computer or a tablet.
- (5) DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER.—The term “designated as an eligible telecommunications carrier”, with respect to a broadband provider, means the broadband provider is designated as an eligible telecommunications carrier under section 214(e) of the Communications Act of 1934 (47 U.S.C. 214(e)).
- (6) ELIGIBLE HOUSEHOLD.—The term “eligible household” means, regardless of whether the household or any member of the household receives support under subpart E of part 54 of title 47, Code of Federal Regulations (or any successor regulation), and regardless of whether any member of the household has any past or present arrearages with a broadband provider, a household in which—
  - (A) at least one member of the household meets the qualifications in subsection (a) or (b) of section 54.409 of title 47, Code of Federal Regulations (or any successor regulation);
  - (B) at least one member of the household has applied for and been approved to receive benefits under the free and reduced price lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);
  - (C) at least one member of the household has experienced a substantial loss of income since February 29, 2020, that is documented by layoff or furlough notice, application for unemployment insurance benefits, or similar documentation or that is otherwise verifiable through the National Verifier or National Lifeline Accountability Database;
  - (D) at least one member of the household has received a Federal Pell Grant under section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) in the current award year, if such award is verifiable through the National Verifier or National Lifeline Accountability Database or the participating provider verifies eligibility under subsection (a)(2)(B); or
  - (E) at least one member of the household meets the eligibility criteria for a participating provider’s existing low-income or COVID-19 program, subject to the requirements of subsection (a)(2)(B) and any other eligibility requirements the Commission may consider necessary for the public interest.



(7) **EMERGENCY BROADBAND BENEFIT.**—The term “emergency broadband benefit” means a monthly discount for an eligible household applied to the actual amount charged to such household, which shall be no more than the standard rate for an internet service offering and associated equipment, in an amount equal to such amount charged, but not more than \$50, or, if an internet service offering is provided to an eligible household on Tribal land, not more than \$75.

(8) **EMERGENCY PERIOD.**—The term “emergency period” means the period that—

(A) begins on the date of the enactment of this Act; and

(B) ends on the date that is 6 months after the date on which the determination by the Secretary of Health and Human Services pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d) that a public health emergency exists as a result of COVID–19, including any renewal thereof, terminates.

(9) **INTERNET SERVICE OFFERING.**—The term “internet service offering” means, with respect to a broadband provider, broadband internet access service provided by such provider to a household, offered in the same manner, and on the same terms, as described in any of such provider’s offerings for broadband internet access service to such household, as on December 1, 2020.

(10) **NATIONAL LIFELINE ACCOUNTABILITY DATABASE.**—The term “National Lifeline Accountability Database” has the meaning given such term in section 54.400 of title 47, Code of Federal Regulations (or any successor regulation).

(11) **NATIONAL VERIFIER.**—The term “National Verifier” has the meaning given such term in section 54.400 of title 47, Code of Federal Regulations, or any successor regulation.

(12) **PARTICIPATING PROVIDER.**—The term “participating provider” means a broadband provider that—

(A)

(i) is designated as an eligible telecommunications carrier; or

(ii) meets requirements established by the Commission for participation in the Emergency Broadband Benefit Program and is approved by the Commission under subsection (d)(2); and

(B) elects to participate in the Emergency Broadband Benefit Program.

(13) **STANDARD RATE.**—The term “standard rate” means the monthly retail rate for the applicable tier of broadband internet access service as of December 1, 2020, excluding any taxes or other governmental fees.

(b) **EMERGENCY BROADBAND BENEFIT PROGRAM.**—

(1) **ESTABLISHMENT.**—The Commission shall establish a program, to be known as the “Emergency Broadband Benefit Program”, under which the Commission shall, in accordance with this section, reimburse, using funds from the Emergency Broadband Connectivity Fund established in subsection (i), a participating provider for an emergency broadband benefit, or an emergency broadband benefit and a connected device, provided to an eligible household during the emergency period.

(2) **VERIFICATION OF ELIGIBILITY.**—To verify whether a household is an eligible household, a participating provider shall—

(A) use the National Verifier or National Lifeline Accountability Database;

(B) rely upon an alternative verification process of the participating provider, if—

(i) the participating provider submits information as required by the Commission regarding the alternative verification process prior to seeking reimbursement; and

(ii) not later than 7 days after receiving the information required under clause (i), the Commission—

(I) determines that the alternative verification process will be sufficient to avoid waste, fraud, and abuse; and

(II) notifies the participating provider of the determination under subclause (I); or

(C) rely on a school to verify the eligibility of a household based on the participation of the household in the free and reduced price lunch program or the school breakfast program described in subsection (a)(6)(B).

**(3) USE OF NATIONAL VERIFIER AND NATIONAL LIFELINE ACCOUNTABILITY DATABASE.—**The Commission shall—

(A) expedite the ability of all participating providers to access the National Verifier and National Lifeline Accountability Database for purposes of determining whether a household is an eligible household, without regard to whether a participating provider is designated as an eligible telecommunications carrier; and

(B) ensure that the National Verifier and National Lifeline Accountability Database approve an eligible household to receive the emergency broadband benefit not later than 2 days after the date of the submission of information necessary to determine if such household is an eligible household.

**(4) REIMBURSEMENT.—**From the Emergency Broadband Connectivity Fund established in subsection (i), the Commission shall reimburse a participating provider in an amount equal to the emergency broadband benefit with respect to an eligible household that receives such benefit from such participating provider during the emergency period.

**(5) REIMBURSEMENT FOR CONNECTED DEVICE.—**A participating provider that, during the emergency period, in addition to providing the emergency broadband benefit to an eligible household, supplies such household with a connected device may be reimbursed up to \$100 from the Emergency Broadband Connectivity Fund established in subsection (i) for such connected device, if the charge to such eligible household is more than \$10 but less than \$50 for such connected device, except that a participating provider may receive reimbursement for no more than 1 connected device per eligible household.

**(6) CERTIFICATION REQUIRED.—**To receive a reimbursement under paragraph (4) or (5), a participating provider shall certify to the Commission the following:

(A) That the amount for which the participating provider is seeking reimbursement from the Emergency Broadband Connectivity Fund established in subsection (i) for providing an internet service offering to an eligible household is not more than the standard rate.

(B) That each eligible household for which the participating provider is seeking reimbursement for providing an internet service offering discounted by the emergency broadband benefit—

(i) has not been and will not be charged—

(I) for such offering, if the standard rate for such offering is less than or equal to the amount of the emergency broadband benefit for such household; or

(II) more for such offering than the difference between the standard rate for such offering and the amount of the emergency broadband benefit for such household;

(ii) will not be required to pay an early termination fee if such eligible household elects to enter into a contract to receive such internet service offering if such household later terminates such contract;

(iii) was not, after the date of the enactment of this Act, subject to a mandatory waiting period

for such internet service offering based on having previously received broadband internet access service from such participating provider; and

(iv) will otherwise be subject to the participating provider's generally applicable terms and conditions as applied to other customers.

(C) That each eligible household for which the participating provider is seeking reimbursement for supplying such household with a connected device has not been and will not be charged \$10 or less or \$50 or more for such device.

(D) A description of the process used by the participating provider to verify that a household is an eligible household, if the provider elects an alternative verification process under paragraph (2)(B), and that such verification process was designed to avoid waste, fraud, and abuse.

(7) **AUDIT REQUIREMENTS.**—The Commission shall adopt audit requirements to ensure that participating providers are in compliance with the requirements of this section and to prevent waste, fraud, and abuse in the Emergency Broadband Benefit Program. A finding of waste, fraud, or abuse or an improper payment (as such term is defined in section 2(d) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note)) identified by the Commission or the Inspector General of the Commission shall include the following:

(A) The name of the participating provider.

(B) The amount of funding made available from the Emergency Broadband Connectivity Fund to the participating provider.

(C) The amount of funding determined to be an improper payment to a participating provider.

(D) A description of to what extent funding made available from the Emergency Broadband Connectivity Fund that was an improper payment was used for a reimbursement for a connected device or a reimbursement for an internet service offering.

(E) Whether, in the case of a connected device, such device, or the value thereof, has been recovered.

(F) Whether any funding from the Emergency Broadband Connectivity Fund was made available to a participating provider for an emergency broadband benefit for a person outside the eligible household.

(G) Whether any funding from the Emergency Broadband Connectivity Fund was made available to reimburse a participating provider for an emergency broadband benefit made available to an eligible household in which all members of such household necessary to satisfy the eligibility requirements described in subsection (a)(6) were deceased.

(8) **RANDOM AUDIT REQUIRED.**—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Commission shall conduct an audit of a representative sample of participating providers receiving reimbursements under the Emergency Broadband Benefit Program.

(9) **NOTIFICATION OF AUDIT FINDINGS.**—Not later than 7 days after a finding made by the Commission under the requirements of paragraph (7), the Commission shall notify the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate with any information described in such paragraph that the Commission has obtained.

(10) **EXPIRATION OF PROGRAM.**—At the conclusion of the Emergency Broadband Benefit Program, any participating eligible households shall be subject to a participating provider's generally applicable terms and conditions.

(c) **REGULATIONS REQUIRED.**—

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- (1) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, the Commission shall promulgate regulations to implement this section.
- (2) **COMMENT PERIODS.**—As part of the rulemaking under paragraph (1), the Commission shall—
- (A) provide a 20-day public comment period that begins not later than 5 days after the date of the enactment of this Act;
  - (B) provide a 20-day public reply comment period that immediately follows the period under subparagraph (A); and
  - (C) during the comment periods under subparagraphs (A) and (B), seek comment on—
    - (i) the provision of assistance from the Emergency Broadband Connectivity Fund established in subsection (i) consistent with this section; and
    - (ii) other related matters.
- (d) **ELIGIBILITY OF PROVIDERS.**—
- (1) **RELATION TO ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION.**—The Commission may not require a broadband provider to be designated as an eligible telecommunications carrier in order to be a participating provider.
- (2) **EXPEDITED APPROVAL PROCESS.**—
- (A) **IN GENERAL.**—The Commission shall establish an expedited process by which the Commission approves as participating providers broadband providers that are not designated as eligible telecommunications carriers and elect to participate in the Emergency Broadband Benefit Program.
  - (B) **EXCEPTION.**—Notwithstanding subparagraph (A), the Commission shall automatically approve as a participating provider a broadband provider that has an established program as of April 1, 2020, that is widely available and offers internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse.
- (e) **RULE OF CONSTRUCTION.**—Nothing in this section shall affect the collection, distribution, or administration of the Lifeline Assistance Program governed by the rules set forth in subpart E of part 54 of title 47, Code of Federal Regulations (or any successor regulation).
- (f) **PART 54 REGULATIONS.**—Nothing in this section shall be construed to prevent the Commission from providing that the regulations in part 54 of title 47, Code of Federal Regulations, or any successor regulation, shall apply in whole or in part to the Emergency Broadband Benefit Program, shall not apply in whole or in part to such Program, or shall be modified in whole or in part for purposes of application to such Program.
- (g) **ENFORCEMENT.**—A violation of this section or a regulation promulgated under this section shall be treated as a violation of the Communications Act of 1934 (47 U.S.C. 151 et seq.) or a regulation promulgated under such Act. The Commission shall enforce this section and the regulations promulgated under this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Communications Act of 1934 were incorporated into and made a part of this section.

(h) EXEMPTIONS.—

(1) CERTAIN RULEMAKING REQUIREMENTS.—Section 553 of title 5, United States Code, shall not apply to a regulation promulgated under subsection (c) or a rulemaking proceeding to promulgate such a regulation.

(2) PAPERWORK REDUCTION ACT REQUIREMENTS.—A collection of information conducted or sponsored under the regulations required by subsection (c) shall not constitute a collection of information for the purposes of subchapter I of chapter 35 of title 44, United States Code (commonly referred to as the Paperwork Reduction Act).

(i) EMERGENCY BROADBAND CONNECTIVITY FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Emergency Broadband Connectivity Fund.

(2) APPROPRIATION.—There is appropriated to the Emergency Broadband Connectivity Fund, out of any money in the Treasury not otherwise appropriated, \$3,200,000,000 for fiscal year 2021, to remain available until expended.

(3) USE OF FUNDS.—Amounts in the Emergency Broadband Connectivity Fund shall be available to the Commission for reimbursements to participating providers under this section, and the Commission may use not more than 2 percent of such amounts to administer the Emergency Broadband Benefit Program.

(4) RELATIONSHIP TO UNIVERSAL SERVICE CONTRIBUTIONS.—Reimbursements provided under this section shall be provided from amounts made available under this subsection and not from contributions under section 254(d) of the Communications Act of 1934 (47 U.S.C. 254(d)).

(5) USE OF UNIVERSAL SERVICE ADMINISTRATIVE COMPANY PERMITTED.—The Commission shall have the authority to avail itself of the services of the Universal Service Administrative Company to implement the Emergency Broadband Benefit Program, including developing and processing reimbursements and distributing funds to participating providers.

(j) SAFE HARBOR.—The Commission may not enforce a violation of this section under section 501, 502, or 503 of the Communications Act of 1934 (47 U.S.C. 501; 502; 503), or any rules of the Commission promulgated under such sections of such Act, if a participating provider demonstrates to the Commission that such provider relied in good faith on information provided to such provider to make the verification required by subsection (b)(2).