

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

In the Matter of )
)
COVID-19 Telehealth Program ) WC Docket No. 20-89
)
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ORDER

Adopted: June 29, 2021

Released: June 29, 2021

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we address the requests of potential applicants seeking additional time to submit applications for the second round of the COVID-19 Telehealth Program (Program)1 by granting, sua sponte, a waiver of the Program’s application filing deadline for potential applicants that meet the conditions described below.2 The Commission accepted applications for the second round of the COVID-19 Telehealth Program from 12:00 PM ET on April 29, 2021, to 12:00 PM ET on May 6, 2021. Potential applicants cited various reasons as to why they could not timely submit their applications, such as circumstances outside the applicant’s control including natural disasters; lack of resources; applicant confusion; the duration of the filing window; and time zone differences.

2. After considering the totality of the circumstances and the public interest, we grant in part the requests for extension of time and waive the application filing deadline. Specifically, we grant a waiver to potential applicants that (1) began and saved a draft application in the COVID-19 Telehealth application filing system before the close of the application filing window at 12:00 PM ET on May 6, 2021; and (2) contacted, in writing, the Universal Service Administrative Company (USAC) or the Commission within two weeks of the filing deadline, that is, by 12:00 PM ET on May 20, 2021, to request additional time to submit their applications. These potential applicants, listed in the Appendix attached to this Order, will be permitted to certify their applications as they currently exist in the Program’s application filing system. Commission staff will submit the certified applications, and we direct USAC to review the submitted applications as part of the Program’s initial commitment phase.3

1 In December 2020, the Consolidated Appropriations Act, 2021 (Consolidated Appropriations Act) was signed into law, appropriating \$249.95 million in additional funding for the Program. Consolidated Appropriations Act, 2021, Pub. L. No: 116-260, Division N-Additional Coronavirus Response and Relief, Title IX-Broadband Internet Access Service, § 903 “FCC COVID-19 Telehealth Program” (2020), available at https://www.congress.gov/bill/116th-congress/house-bill/133/text (Consolidated Appropriations Act).

2 Although the requests for additional time were not formal requests for waiver under § 1.3 of our rules, 47 CFR § 1.3, we treat them as waiver requests and use the term “requests for waiver” in this Order to describe the emailed requests for additional time to submit Program applications.

3 The Commission directed the Universal Service Administrative Company (USAC) to disburse at least \$150 million in the initial commitment phase of the funding commitment process. COVID-19 Telehealth Program; Promoting Telehealth for Low-Income Consumers, WC Docket Nos. 20-89 and 18-213, Report and Order and Order on Reconsideration, FCC 21-39, at 31-32, para. 62 (March 30, 2021) (Second COVID-19 Report and Order).

Potential applicants that are not listed in the attached Appendix will not be provided additional time to certify their applications.

## II. BACKGROUND

3. The Commission established the COVID-19 Telehealth Program in April 2020 pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to administer an initial \$200 million in funding for telehealth and connected care services to eligible health care providers in response to the COVID-19 pandemic.<sup>4</sup> In December 2020, under the Consolidated Appropriations Act, Congress appropriated an additional \$249.95 million in funding to the Commission for the Program.<sup>5</sup> The Consolidated Appropriations Act also required the Commission to consider and make several changes to the Program. The Bureau sought comment on these potential changes and improvements to the Program in January 2021,<sup>6</sup> the Commission adopted a *Report and Order* to expand the responsibilities of USAC to include the Program's administration in February 2021,<sup>7</sup> and, in March 2021, the Commission adopted the *Second COVID-19 Report and Order*, which established the requirements, processes, and procedures for the second round of Program funding appropriated under the Consolidated Appropriations Act (Round 2).<sup>8</sup>

4. To incorporate these changes to the Program, and to improve the quality of the applications submitted for Round 2, both the application and the application filing system were modified. One such modification required applicants to complete certain fields in the application, and only allowed applications that contained the required information in the designated field to be submitted. The information required on the application was discussed in detail in the *Second COVID-19 Report and Order* and all required fields were denoted on the application with an asterisk.<sup>9</sup> Among other things, applicants were required to designate a lead health care provider;<sup>10</sup> provide information on the services and devices for which they were requesting funding, along with supporting documentation such as invoices or vendor quotes;<sup>11</sup> and provide information for the nine objective evaluation metrics that the Commission directed USAC to use to evaluate the applications.<sup>12</sup> Applicants that did not include information in all of the required fields of the application were not able to submit their application and received an error message in the application filing system informing them that their application was

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<sup>4</sup> *Promoting Telehealth for Low-Income Consumers; COVID-19 Telehealth Program*, WC Docket Nos. 18-213, 20-89, Report and Order, 35 FCC Rcd 3366 (2020) (*First COVID-19 Report and Order*); Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No 116-136, 134 Stat. 281 (2020) (CARES Act).

<sup>5</sup> Consolidated Appropriations Act.

<sup>6</sup> *Wireline Competition Bureau Seeks Comment on COVID-19 Telehealth Program Application Evaluation Metrics*, WC Docket No. 20-89, Public Notice, 36 FCC Rcd 55 (WCB 2021) (*January 6<sup>th</sup> Public Notice*).

<sup>7</sup> *COVID-19 Telehealth Program*, WC Docket No. 20-89, Report and Order, 36 FCC Rcd 1613 (2021) (*USAC Delegation Order*).

<sup>8</sup> *Second COVID-19 Report and Order*.

<sup>9</sup> *Id.* at 48, Appendix C (“Application Process Guidance”).

<sup>10</sup> *Id.* at 11, 48, para. 23, Appendix C.

<sup>11</sup> *Id.* at 28, 51, para. 55, Appendix C.

<sup>12</sup> The evaluation metrics which will be used to prioritize applications during Round 2 of the Program include: (i) location in an area hardest hit by the pandemic; (ii) location in a low income area; (iii) Round 1 unfunded applicants; (iv) location on Tribal lands; (v) designation as a Critical Access Hospital; (vi) designation as a Federally Qualified Health Center, a Federally Qualified Health Center Look-Alike, or a Disproportionate Share Hospital; (vii) location in a Healthcare Provider Shortage Area; (viii) new Round 2 applicants that did not apply for funding during Round 1; and (ix) location in a rural area. See *Second COVID-19 Report and Order* at 17-27, 49-51, paras. 38-51, Appendix C.

incomplete and directing them to the incomplete field(s). Similarly, applicants were not able to certify or submit applications after the close of the application filing window.

5. The Commission established a one-week application filing window for Round 2 of the Program.<sup>13</sup> The application filing window was announced on April 15, 2021, two weeks before the application filing window opened.<sup>14</sup> The application filing window was open from 12:00 PM ET on April 29, 2021, to 12:00 PM ET on May 6, 2021.<sup>15</sup> At the close of the application filing window, over 1,800 applications had been submitted, with applications from all 50 states, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

6. Immediately before and just after the close of the filing window, multiple potential applicants contacted USAC or Commission staff to request additional time to submit their applications. Some had not started applications at all; others had otherwise completed applications but for various reasons were unable to submit them. Wireline Competition Bureau staff reviewed over 180 inquiries from potential applicants, as well as any corresponding draft applications in the application filing system. Staff determined that many potential applicants were unable to timely submit their applications due to a combination of: (1) delays due to circumstances outside of the applicant's control, such as natural disasters; (2) lack of resources; (3) applicant confusion that lead to incomplete applications or other errors in filling out the application; (3) duration of the filing window; and (4) time zone differences, e.g., applicants not allotting enough time to complete the application. Staff have not identified any global issues or system failures in the application filing system that would have prevented applicants from timely submitting complete applications. Nonetheless, because Congress directed funding to this Program on an emergency basis and given ongoing challenges that health care providers face due to the COVID-19 pandemic, we find it appropriate to provide relief to those applicants that made good faith efforts to comply with Program policies, procedures, and requirements and made timely extension requests. Accordingly, we provide relief to applicants who reasonably attempted to meet the deadline but were unable to do so and who also, within a reasonable amount of time after the application window closed, requested additional time within which to submit an application.<sup>16</sup>

### III. DISCUSSION

7. In this Order, we *sua sponte* grant a waiver of the application filing deadline to the potential applicants identified in the Appendix attached to this Order.<sup>17</sup> We afford relief only to those potential applicants who both (1) began and saved an application before 12:00 PM ET on May 6, 2021, and (2) contacted USAC or the Commission, in writing, by 12:00 PM ET on May 20, 2021, to request additional time to submit their application.<sup>18</sup>

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<sup>13</sup> *Second COVID-19 Report and Order* at 8, para. 16; *Wireline Competition Bureau Announces Application Filing Window for Round 2 of Covid-19 Telehealth Program Will Open April 29, 2021*, WC Docket No. 20-89, Public Notice, DA 21-431 (WCB April 15, 2021) (*Application Filing Window Public Notice*).

<sup>14</sup> *Application Filing Window Public Notice*.

<sup>15</sup> *Application Filing Window Public Notice*.

<sup>16</sup> See *Rural Health Care Support Mechanism; Promoting Telehealth in Rural America*, CC Docket No. 02-60, 17-310, Order, DA 21-394, at 11, para. 27-28 (WCB Apr. 8, 2021) (waiving certain RHC Program deadlines for participants who attempted to meet the deadline but were unable to due to the COVID-19 pandemic) (*2021 RHC Waiver Order*).

<sup>17</sup> See *infra*, Appendix, List of Potential Applicants Afforded Relief.

<sup>18</sup> *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.*, CC Docket No. 02-60, Order, 25 FCC Rcd 9256, 9258, 9261-2, paras. 2, 13 (2010) (*Academy of Math and Science Waiver Order*) (“technical malfunctions, school reorganizations, a misunderstanding related to the filing deadline, personal staff emergencies, inadvertent errors, or circumstances beyond [applicants’] control, including inclement weather,” could constitute special circumstances that would warrant a waiver); *Requests for Waiver and*

(continued....)

8. Generally, the Commission's rules may be waived or suspended for good cause shown.<sup>19</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>20</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>21</sup> Waiver of the Commission's rules is appropriate only if both (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest.<sup>22</sup>

9. After a careful review, we conclude that both conditions are met here. First, we conclude that the disruption caused by the ongoing COVID-19 pandemic and the burdens that health care providers have faced in response to the pandemic constitute special circumstances that justify this limited waiver.<sup>23</sup> Second, we conclude that this limited waiver will serve the public interest by providing an opportunity to obtain Program funding to a greater number of eligible and worthy health care providers during the ongoing pandemic.

10. There is a general presumption that deadlines for Commission programs may not be waived absent special circumstances;<sup>24</sup> however, we conclude that special circumstances are present here.<sup>25</sup> The unprecedented nature of the COVID-19 pandemic, which has placed an extraordinary strain on health care providers, caused many providers to struggle to complete their applications by the application filing deadline while still providing health care to their vulnerable patient populations. Additionally, the emergency nature of the Program and the changes implemented for Round 2 meant that all potential applicants were unfamiliar with the application and application filing system requirements, which made it more difficult for many applicants to complete their applications before the filing deadline.

11. Granting a limited waiver in this instance will serve the public interest by allowing additional health care providers the opportunity to obtain Program funding. In the *Second COVID-19 Report and Order*, in accordance with Congressional directives, the Commission adopted a set of objective evaluation metrics that will be used to identify the applications that would provide funding to communities that need the most support.<sup>26</sup> By granting this limited waiver, we allow the potential applicants an opportunity to have their applications considered for Round 2 funding, which serves the Commission's goal of ensuring that Program funding is used to fund eligible health care providers that will benefit most from the telehealth program funding.<sup>27</sup>

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*Review of Decisions of the Universal Service Administrator by Acorn Public Library*, CC Docket No. 02-6, Order, 23 FCC Rcd 15474, 15475, para. 3 (WCB 2008) (same).

<sup>19</sup> 47 CFR § 1.3.

<sup>20</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

<sup>21</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

<sup>22</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>23</sup> See *Rural Health Care Support Mechanism; Promoting Telehealth in Rural America*, WC Docket No. 02-60, 17-310, Order, DA 21-394, at 11, para. 28 (WCB Apr. 8, 2021) (finding that the extensive and ongoing disruptions to health care providers caused by the persistent and prolonged COVID-19 crisis, the emergence and quick spreading of the more contagious new variants, and the overwhelming burden placed on health care providers in administering COVID-19 testing and vaccines present compelling and unique circumstances that merit waivers of our rules and additional relief).

<sup>24</sup> See *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008).

<sup>25</sup> See *2021 RHC Waiver Order* at 11, para. 28.

<sup>26</sup> *Second COVID-19 Report and Order* at 16, para. 37.

<sup>27</sup> *Id.*

12. We conclude that this limited waiver is only appropriate for potential applicants who both began their application before the application deadline and who submitted a written request for additional time to submit their applications within two weeks of the close of the application filing window. We find that potential applicants who took both these steps have displayed a good faith effort to apply for Round 2 and to comply with Program requirements. Accordingly, we find it appropriate to provide relief to this discrete set of potential applicants, so that they are afforded the opportunity to have their existing applications considered using the objective application evaluation metrics set out in the *Second COVID-19 Report and Order*.

13. For the purposes of this Order, we will judge an entity to have begun an application before the deadline if its application was successfully saved within the application filing system. Entities that did not save and/or do not have a draft application in the system are not eligible for this relief because, absent evidence of a draft application, we cannot verify that the entity began an application prior to the deadline.<sup>28</sup> We decline to grant a waiver to entities without draft applications in the system or those who have not reached out in writing to request additional time to submit their applications.<sup>29</sup> By limiting this relief to potential applicants who both began their applications before the application deadline and requested additional time to complete their applications, we support the Commission's intent to facilitate an "efficient and equitable application review process,"<sup>30</sup> enable the timely distribution of this emergency funding to health care providers, and ensure that some entities are not afforded more time to complete their applications than others. As noted below, the relief provided today only allows potential applicants the opportunity to certify their applications; it does not allow potential applicants to make additional changes to their applications.<sup>31</sup>

14. Accordingly, we grant a waiver to potential applicants that (1) began and saved an application before 12:00 PM ET on May 6, 2021, and (2) contacted USAC or the Commission, within two weeks, that is, by 12:00 PM ET on May 20, 2021, requesting additional time to submit their application in writing. To avail themselves of this waiver grant, the potential applicants listed in the Appendix must log into their account in the application filing system, available here: <https://bit.ly/3zRdUe8>, within seven (7) days from the release of this Order and certify their application. Potential applicants may not add or alter other information on their applications. Commission staff will submit any applications certified by 11:59 PM ET on July 6, 2021.

15. Applicants that have questions about how to certify their applications should contact USAC by email at [Round2TelehealthApplicationSupport@usac.org](mailto:Round2TelehealthApplicationSupport@usac.org) or should call USAC's support center at 833-832-7086.

#### IV. ORDERING CLAUSES

16. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and

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<sup>28</sup> If an applicant started an application, but did not save it prior to the deadline, the unsaved draft would not have registered in the Commission system.

<sup>29</sup> See *2021 RHC Waiver Order* at 14, para. 32 (declining to automatically extend a deadline for all interested parties, and instead requiring an individualized request for relief); *Academy of Math and Science Waiver Order*, 25 FCC Rcd at 9261-62, para. 13 (denying requests for waiver to applicants that did not provide evidence of special circumstances to meet the waiver standard).

<sup>30</sup> *Second COVID-19 Report and Order* at 7, para. 11.

<sup>31</sup> Consistent with USAC's review of all applications, entities that did not complete their applications fully will be contacted by USAC during their review of these applications to obtain additional information about funding details, lead health care providers, and details about any evaluation metrics that have been claimed on the application. See generally *Second COVID-19 Report and Order* at 46-51, Appendix C. Applicants will be able to supplement applications that do not score highly enough to receive funding awards after the initial commitment phase has concluded. See *Second COVID-19 Report and Order* at 32-33, paras. 65-66.

pursuant to sections 0.91, 0.291, 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the application filing deadline for Round 2 of the COVID-19 Telehealth Program is waived to the limited extent provided herein.

17. IT IS FURTHER ORDERED that, pursuant to the authority delegated in 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

**APPENDIX  
LIST OF POTENTIAL APPLICANTS AFFORDED RELIEF**

<b>Application Number</b>	<b>Name of Applicant Institution</b>
GRA0013648	Su Clinica Familiar
GRA0010475	Westbrook Health Services, Inc.
GRA0010477	East Texas Border Health Clinic d/b/a Genesis PrimeCare
GRA0010572	Willamette Family, Inc.
GRA0010672	Weill Cornell Medical College of Cornell University
GRA0010737	Rehabilitation Institute of Chicago d/b/a Shirley Ryan AbilityLab
GRA0010886	Houlton Regional Hospital
GRA0010931	St. Tammany Parish Hospital
GRA0010944	Kahuku Medical Center
GRA0010976	Castle Family Health Centers
GRA0011079	Family Recovery Services
GRA0011129	Lexington Center for Recovery, Inc.
GRA0011140	Douglas County Hospital d/b/a Alomere Health
GRA0011156	Operation Samahan, Inc. d/b/a Samahan Health Centers
GRA0011194	Parker Jewish Institute for Health Care and Rehabilitation
GRA0011237	Preventative Care Health Services d/b/a Presidio County Health Services
GRA0011245	Apex Community Care, Inc.
GRA0011275	St. Luke Community Healthcare
GRA0011371	Borrego Community Health Foundation
GRA0011377	CORE Health
GRA0011422	Geisinger Clinic
GRA0011463	Opportunities Industrialization Center, Inc. d/b/a OIC Family Medical Center
GRA0011469	Masonic Charity Foundation of New Jersey
GRA0011495	Claridge Court
GRA0011496	Services to Enhance Potential
GRA0011557	Innovative Resources for Independence, Inc.
GRA0011632	Southern Trinity Health Services, Inc.
GRA0011683	OptiMed Hospitalists PLLC
GRA0011767	Los Barrios Unidos Community Clinic
GRA0011780	CAMC - Charleston Area Medical Center
GRA0011784	Visiting Nurse Association of Central Jersey Community Health Center
GRA0011862	Children's Health System of Texas
GRA0011897	Place of Hope, Inc.
GRA0012047	St. Cloud State University
GRA0012077	South County Hospital Healthcare System
GRA0012099	Northwestern Mental Health Center, Inc.
GRA0012107	DuBois Regional Medical Center d/b/a Penn Highlands DuBois
GRA0012179	Community Health Center of St. Mary's Healthcare and Nathan Littauer Hospital
GRA0012217	Shawnee Health Service
GRA0012235	Aitkin Community Hospital d/b/a Riverwood Healthcare Center

<b>Application Number</b>	<b>Name of Applicant Institution</b>
GRA0012269	Cincinnati Children's Hospital
GRA0012281	Integrated Services for Behavioral Health
GRA0012308	Spectrum Human Services
GRA0012344	Mountain Valley Child and Family Services, Inc.
GRA0012355	Blessing Corporate Services
GRA0012367	Avera Health
GRA0012447	Community Health Centers of South Central Texas, Inc.
GRA0012448	Mental Health Association of Nassau County
GRA0012470	University of Rhode Island
GRA0012474	Richmond Behavioral Health Authority
GRA0012561	Ibn Sina Foundation
GRA0012589	Sociedad de Educacion y Rehabilitacion (SER) de Puerto Rico, Inc.
GRA0012625	Olathe Community Clinic, Inc. d/b/a River Valley Family Health Centers
GRA0012629	SHIELDS for Families
GRA0012666	University of Colorado Denver
GRA0012696	DeKalb Community Service Board
GRA0012761	University Physicians of Brooklyn, Inc.
GRA0012791	Henderson Health Care
GRA0012802	Illinois College of Optometry
GRA0012821	Heart City Health
GRA0012834	Clayton Center Community Services Board
GRA0012842	Internal Medicine of the Rockies
GRA0012855	Kinston Community Health Center, Inc.
GRA0012869	Community Counseling Centers of Chicago
GRA0012934	Eastern Rio Blanco County Health Service District d/b/a Pioneers Medical Center
GRA0012953	NO/AIDS Task Force d/b/a CrescentCare
GRA0012962	Mobile County Board of Health
GRA0012985	Brooklyn Plaza Medical Center, Inc.
GRA0013010	David Raines Community Health Center, Inc.
GRA0013011	Summit Healthcare Association
GRA0013017	Fort Defiance Indian Hospital Board, Inc.
GRA0013029	Turning Point Community Programs
GRA0013098	Mid Coast Health Net
GRA0013113	United Memorial Medical Center
GRA0013119	Aunt Martha's Health and Wellness, Inc.
GRA0013123	Community Health Care, Inc.
GRA0013132	The Human Service Center
GRA0013156	Global Executive Council Services
GRA0013260	Burnett Medical Center
GRA0013325	University of South Alabama (USA) Health System
GRA0013345	Seven Acres Jewish Senior Care Services
GRA0013370	Advance Care Alliance
GRA0013383	Florida Community Health Centers, Inc.



<b>Application Number</b>	<b>Name of Applicant Institution</b>
GRA0013400	North Oklahoma County Mental Health Center
GRA0013435	Sacred Heart
GRA0013439	Suburban Adult Services, Inc.
GRA0013491	Community Health & Emergency Services, Inc.
GRA0013555	Upper Peninsula Health Care Solutions & Health Information Exchange
GRA0013561	San Bernardino County Superintendent of Schools - CAHELP
GRA0013563	Center for Evaluation and Counseling
GRA0013567	New York State Office of Mental Health
GRA0013600	Midwest Christian Villages, Inc. d/b/a Christian Horizons
GRA0013646	Valley Children's Hospital
GRA0013689	CHRISTUS Health
GRA0013699	Restaurando la Fe y Esperanza
GRA0013716	The SAFE Alliance
GRA0013728	Mobile Medical Care, Inc.
GRA0013878	Augusta University
GRA0013910	Desert Physicians Medical Group Health
GRA0013925	Community Transformers Foundation
GRA0013936	Riverdale Mental Health Association
GRA0013969	Salud Integral en la Montaña, Inc.
GRA0013991	Compass Memorial Healthcare
GRA0014008	Primary Care Health Services, Inc.
GRA0014018	Henry Mayo Newhall Hospital
GRA0014026	Nueces County Mental Health Mental Retardation Community Center
GRA0014034	Farnham Family Services
GRA0014036	Winslow Indian Health Care Center
GRA0014042	Artesia General Hospital
GRA0014051	LSU Healthcare Network