



# PUBLIC NOTICE

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## **WIRELINE COMPETITION BUREAU AND OFFICE OF THE MANAGING DIRECTOR ANNOUNCE WIND DOWN OF COVID-19 TELEHEALTH PROGRAM**

### **WC Docket No. 20-89**

The Wireline Competition Bureau (Bureau) and Office of the Managing Director offer guidance to participants in the COVID-19 Telehealth Program on the expected expiration of the National Emergency and Public Health Emergency on May 11, 2023. Pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, all payments from health care providers to vendors must be completed and all supported services must be received before the emergency period ends.

In the CARES Act, Congress appropriated \$200 million to the Federal Communications Commission (Commission) “to prevent, prepare for, and respond to” COVID-19, “including to support efforts of health care providers to address coronavirus by providing telecommunications services, information services, and devices necessary to enable the provision of telehealth services during an emergency period as defined in Section 1135(g)(1) of the Social Security Act.”<sup>1</sup> In the Consolidated Appropriations Act, 2021, Congress appropriated an additional \$249.95 million for the COVID-19 Telehealth Program, which the Commission created under the authority provided by the CARES Act.<sup>2</sup> The Social Security Act defines an “emergency period” as the period during which there exists “(i) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and (ii) a public health emergency declared by the Secretary (of Health and Human Services) pursuant to section 319 of the Public Health Service Act.”<sup>3</sup>

On January 31, 2020, the Department of Health and Human Services declared that a public health emergency exists and has existed since January 27, 2020.<sup>4</sup> On March 13, 2020, President Trump declared

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<sup>1</sup> CARES Act, Pub. L. No. 116-136, 134 Stat. 28, 531 (2020). This bill is available at Library of Congress, *Congress.gov*, <https://www.congress.gov/bill/116th-congress/house-bill/748?q=%7B%22search%22%3A%5B%22cite%3APL116-136%22%5D%7D&s=1&r=1> (last visited Mar. 16, 2023).

<sup>2</sup> 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* Library of Congress, *Congress.gov*, <https://www.congress.gov/bill/116th-congress/house-bill/133/text> (*Consolidated Appropriations Act, 2021*): (“(b) ADDITIONAL APPROPRIATION.—Out of amounts in the Treasury not otherwise appropriated, there is appropriated \$249,950,000 in additional funds for the COVID–19 Telehealth Program, of which \$50,000 shall be transferred by the Commission to the Inspector General of the Commission for oversight of the COVID–19 Telehealth Program.”) (capitalization in original).

<sup>3</sup> See 42 U.S.C. § 1320b-5(g)(1)(A).

<sup>4</sup> Department of Health and Human Services, Administration for Strategic Preparedness & Response, *Determination That A Public Health Emergency Exists* (Jan. 31, 2020) <https://aspr.hhs.gov/legal/PHE/Pages/2019-nCoV.aspx>.

a national emergency, based on powers granted in the National Emergencies Act.<sup>5</sup> Both declarations have been extended several times since those dates.<sup>6</sup> In his February 10, 2023, statement extending the national emergency, President Biden stated that he anticipated terminating the emergency period on May 11, 2023.<sup>7</sup> The Department of Health and Human Services expects to allow the Public Health Emergency to expire at the end of the day on May 11, 2023.<sup>8</sup> The emergency period applicable to the COVID-19 Telehealth Program under the CARES Act is tied to the existence of both the National Emergency and the Public Health Emergency. Thus, we anticipate that the emergency period for purposes of the COVID-19 Telehealth program would correspondingly end on May 11, 2023.<sup>9</sup>

Pursuant to the CARES Act and program rules, the COVID-19 Telehealth Program may reimburse only for eligible telehealth expenses incurred by health care providers from March 13, 2020, through May 11, 2023. Below is a summary of upcoming<sup>10</sup> Program deadlines:

- **Purchase/implementation deadline:** The deadline to purchase and implement services supported by the COVID-19 Telehealth Program has already passed, so the expiration of the emergency period will not impact this deadline. For most awardees, the deadline to purchase services was October 31, 2022.<sup>11</sup> The deadline was extended to February 28, 2023, for awardees in Puerto Rico, Florida, South Carolina, and North Carolina due to Hurricanes Fiona and Ian.<sup>12</sup>
- **Service delivery/receipt deadline:** All equipment supported by the Program must be delivered by May 11, 2023, and all recurring services must be received by May 11, 2023.

<sup>5</sup> The White House, Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, 85 Fed. Reg. 15337. See National Archives and Records Administration, Federal Register, <https://www.federalregister.gov/d/2020-05794> (last visited Mar. 16, 2023).

<sup>6</sup> Department of Health and Human Services, Administration for Strategic Preparedness & Response, *Renewal of Determination That A Public Health Emergency Exists* (Feb. 9, 2023) <https://aspr.hhs.gov/legal/PHE/Pages/COVID19-9Feb2023.aspx>.

<sup>7</sup> The White House, *Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic*, 85 Fed. Reg. 9385. See National Archives and Records Administration, Federal Register, <https://www.federalregister.gov/d/2023-03218> (last visited Mar. 16, 2023). Under the provisions of the National Emergencies Act, emergency powers and authorities shall cease to be exercised after this date. See 50 U.S.C. § 1622(a).

<sup>8</sup> See Dept. of Health and Human Services web site, *COVID-19 Public Health Emergency (PHE)*, <https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html> (last visited Mar. 16, 2023).

<sup>9</sup> In the event the national emergency is extended past May 11, 2023, all deadlines herein that reference May 11 will be updated to reflect the new end date of the national emergency.

<sup>10</sup> This notice is addressed to Round 2 participants, and the listed deadlines are only for Round 2. Round 1 is complete; the most recent past deadline was Jan. 31, 2022, when Post-Program Reports were due for submission. See *Wireline Competition Bureau and Office of the Managing Director Set July 31, 2021 Invoicing Deadline for COVID-19 Telehealth Program and Provide Post-Program Guidance*, WC Docket No. 20-89, Public Notice, 35 FCC Rcd 14628 (WCB/OMD 2020).

<sup>11</sup> See *Wireline Competition Bureau Extends Deadlines for the COVID-19 Telehealth Program Round 2*, WC Docket No. 20-89, Public Notice, DA 22-805 (WCB July 29, 2022) (*Round 2 Deadlines Notice*).

<sup>12</sup> See *Schools and Libraries Universal Service Support Mechanism et al.*, CC Docket No. 02-6 et al., Order, DA 22-998 (WCB 2022) (*Hurricane Fiona Order*); *Schools and Libraries Universal Service Support Mechanism et al.*, CC Docket No. 02-6 et al., Order, DA 22-1063 (WCB 2022) (*Hurricane Ian Order*).

Recurring services are deemed received when the health care provider makes a payment to the vendor.<sup>13</sup>

- **Deadline to submit requests for reimbursement:** The deadline of October 31, 2023, to submit requests for reimbursement<sup>14</sup> is unaffected by the expiration of the national emergency.
- **Deadline to submit Post-Program Feedback Reports:** The deadline of January 31, 2024, to submit Post-Program Feedback Reports<sup>15</sup> is unaffected by the expiration of the national emergency.

The Commission is committed to guarding against waste, fraud, and abuse and ensuring that funds disbursed through the COVID-19 Telehealth Program are used for appropriate purposes. In the event of a violation of Program rules or requirements, the Commission reserves the right to take appropriate action, including, but not limited to, seeking recovery of funds.<sup>16</sup> Awardees may also be subject to compliance audits to ensure compliance with rules and requirements for the COVID-19 Telehealth Program.<sup>17</sup> If audited, awardees must provide documentation related to their participation in the COVID-19 Telehealth Program.<sup>18</sup> Awardees are reminded to retain relevant records for six years past the last date of delivery of services or connected devices and records may be requested as part of any follow-up audit.<sup>19</sup>

*Additional Information.* For assistance, all program participants are encouraged to email [Round2TelehthInvoiceSupp@fcc.gov](mailto:Round2TelehthInvoiceSupp@fcc.gov). For special situations or to resolve ambiguous issues, please contact Clinton Highfill, Attorney-Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau, [clinton.highfill@fcc.gov](mailto:clinton.highfill@fcc.gov) or (202) 418-0091. Frequently Asked Questions (FAQs) are posted at the Commission's website for the COVID-19 Telehealth Program, [www.fcc.gov/covid19telehealth](http://www.fcc.gov/covid19telehealth).

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<sup>13</sup> Awardees with recurring service contracts should note that until the emergency period ends, recurring costs may be paid for monthly or in advance. See FCC website, *COVID-19 Telehealth Program (Invoices & Reimbursements)*, Round 2 FAQs tab, FAQ No. 24, <https://www.fcc.gov/covid-19-telehealth-program-invoices-reimbursements> (last visited Mar. 16, 2023).

<sup>14</sup> See *Round 2 Deadlines Notice*. Information on the invoicing process is available at USAC, *Round 2 Invoicing FAQs*, <https://www.usac.org/about/covid-19-telehealth-program/covid-19-telehealth-program-invoicing-faqs/round-2-invoicing-faqs/> (last visited Mar. 16, 2023).

<sup>15</sup> See *Round 2 Deadlines Notice*. See also FCC website, *COVID-19 Telehealth Program (Invoices & Reimbursements)*, Round 2 FAQs tab, FAQ No. 25, <https://www.fcc.gov/covid-19-telehealth-program-invoices-reimbursements> (last visited Mar. 16, 2023). The reporting template is posted at: [https://www.fcc.gov/sites/default/files/covid-19\\_telehealth\\_post-program\\_feedback\\_template.xlsx](https://www.fcc.gov/sites/default/files/covid-19_telehealth_post-program_feedback_template.xlsx) (last visited Mar. 16, 2023). Completed reports should be filed in WC Docket No. 20-89 in the Commission's electronic comment filing system, available at <https://www.fcc.gov/ecfs/>.

<sup>16</sup> See 47 CFR § 54.631.

<sup>17</sup> See *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, 36 FCC Rcd 7141 at 7176-77, paras. 79-80 (2021) (*Second COVID-19 Report and Order*).

<sup>18</sup> See *id.*

<sup>19</sup> See *id.*