



# PUBLIC NOTICE

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DA 23-316

Released: April 12, 2023

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

### WC Docket No. 20-89

By this Public Notice, the Wireline Competition Bureau (Bureau) and Office of the Managing Director announce that the service delivery/receipt deadline for the COVID-19 Telehealth Program was April 10, 2023 due to the signing and enactment of the joint resolution ending the COVID-19 national emergency on the same day.<sup>1</sup> This guidance supersedes earlier guidance identifying May 11, 2023 as the service delivery/receipt deadline.<sup>2</sup> Pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Commission may reimburse COVID-19 Telehealth Program participants for eligible telehealth expenses only if the participant made payment and received the supported services and equipment before the emergency period ended.

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>3</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>4</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

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<sup>1</sup> The White House, Briefing Room, <https://www.whitehouse.gov/briefing-room/legislation/2023/04/10/bill-signed-h-j-res-7/> (last visited Apr. 12, 2023).

<sup>2</sup> See *Wireline Competition Bureau and Office of the Managing Director Announce Wind Down of COVID-19 Telehealth Program*, Public Notice, DA 23-227 (rel. Mar. 16, 2023). At the time that earlier guidance was issued, it was anticipated that the COVID-19 national emergency would end on May 11, 2023.

<sup>3</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 Apr. 16, 2023).

<sup>4</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), <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).

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>5</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. On January 31, 2020, the Department of Health and Human Services declared that a public health emergency existed and had existed since January 27, 2020.<sup>6</sup> On March 13, 2020, President Trump declared a national emergency, based on powers granted in the National Emergencies Act.<sup>7</sup> Both declarations were extended several times since those dates.<sup>8</sup> A resolution terminating the national emergency based on the powers granted in the National Emergencies Act passed the House of Representatives on February 1, 2023, passed the Senate on March 29, 2023, and was signed by President Biden on April 10, 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 April 10, 2023, the end of the emergency period. Other deadlines are not impacted by the end of the emergency period. Below is a summary of<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 was required to be delivered by and all recurring services were required to be received by the end of the emergency period on April 10, 2023. Recurring services were deemed received when the health care provider made a payment to the vendor.<sup>13</sup>

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

<sup>6</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>.

<sup>7</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 Apr. 12, 2023).

<sup>8</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>9</sup> See H.J. Res. 7, 118th Congress (2023-2024), <https://www.congress.gov/bill/118th-congress/house-joint-resolution/7>.

<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 Red 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*).

<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)*, (continued...)

- **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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Round 2 FAQs tab, FAQ No. 24, <https://www.fcc.gov/covid-19-telehealth-program-invoices-reimbursements> (last visited Apr. 12, 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 Apr. 12, 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 Apr. 12, 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 Apr. 12, 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.*