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February 16, 2021

Jessica Rosenworcel  
Acting Chairwoman  
Federal Communications Commission  
45 L Street, NE  
Washington, D.C. 20554

Re: WC Docket No. 20-445 Emergency Broadband Connectivity Fund

Dear Acting Chairwoman Rosenworcel:

We appreciate the opportunity to provide comments on the Federal Communications Commission's (FCC) request for comments regarding the Emergency Broadband Connectivity Fund that was created by the Consolidated Appropriations Act of 2021. ADvancing States is a nonpartisan association of state government agencies that represents the nation's 56 state and territorial agencies on aging and disabilities. We work to support visionary state leadership, the advancement of state systems innovation, and the development of national policies that support home and community-based services for older adults and persons with disabilities. Our members administer a wide range of services and supports for older adults and people with disabilities, including administering the Older Americans Act (OAA) and Medicaid long-term services and supports (LTSS). Together with our members, we work to design, improve, and sustain state systems delivering long-term services and supports for people who are older or have a disability and for their caregivers.

Overall, we are extremely supportive of the program and are eager for it to be implemented. Many of the older adults and people with disabilities that we and our members serve are negatively impacted by a lack of broadband internet access. This lack of access has been a challenge for a number of years and the impact of the COVID-19 pandemic has exacerbated the negative outcomes associated with the digital divide.

As the world has increasingly leveraged the internet to avoid community spread of COVID-19, there are widespread ramifications for individuals without internet access. These include an inability to utilize telemedicine, increased risk of social isolation, and decreased access to virtual socialization and health promotion activities. Furthermore, many providers and localities are utilizing websites as the primary means of scheduling vaccinations, thus limiting access for many individuals who are particularly at-risk of severe negative outcomes from the pandemic.

In the letter outlining the proposed program operations, there are a number of specific issues that the FCC requests comment on. Below, we address each issue that we believe is relevant to our services and programs and provide feedback accordingly.

**What other information is necessary in the notice of election to ensure efficient processing of qualifying providers?**

We believe that there should be a single point of contact identified at the provider who is responsible for external communication and coordination regarding the entity's participation in the program. Not only would this assist the FCC communicate with the provider in the event that additional information or clarification is needed, it would also enable external partners such as our members to engage with the entity and support the implementation. We request that the FCC make this information publicly available to support communication, collaboration, and transparency with the program's local and state implementation.

**We also seek comment on how the Commission should interpret the "standard rate" for supported offerings.**

We believe that this should be determined by using the lowest applicable rate that would apply to an individual. This would include promotional rates that may be available to new customers. The "standard rate(s)" should be made readily available in a format that clearly and easily explains the fees associated with the different service offerings, as well as the expected "out of pocket" costs for consumers after the subsidy is applied.

**Should the Commission adopt a specific timeframe for acting on provider elections?**

Yes, we believe that the commission should accept provider applications on a rolling basis and adopt a timeframe during which it must determine if the provider is eligible. We recommend no longer than 30 days with the option and emphasis on faster decisions. We believe that the demand for the program will exceed the funding appropriated in the legislation and therefore that expedient processing is necessary to ensure that the subsidy is available to individuals across the country.

**Should the approvals only be prospective and not allow retroactive approvals?**

This is a challenging proposition due to the limited funding available for the program. In the Medicaid program, our members will often implement new programs while awaiting retroactive approval from the federal government. This is a process that works well and helps expedite services and supports to individuals who need and would benefit from them. However, Medicaid is an entitlement without federal limits on funding. State agency expenditures are "at risk" when spent on a program that is awaiting approval, but only if the program is deemed noncompliant with the applicable federal requirements.

While we believe that retroactive approvals would greatly assist the program's ability to serve individuals, we are concerned that the limited appropriations would put providers at risk if they deliver services that are ultimately in excess of available funding. It is unclear whether the provider or the participating household would be at risk for the cost of the services delivered that are not reimbursed by the FCC in such a scenario. If the FCC can develop a clear strategy to protect individuals and families from potential recoupment of costs, we support retroactive approvals. However, if this is not a realistic option then we do not believe that it is prudent to expose low-income households to financial risk.

**What information should USAC disclose to the public about election notices as well as its determinations?**

Information should include, at a minimum:

- The providers in each state and, if applicable, within each region of the state;
- A primary point of contact within each provider for external entities to contact;
- A summary of service offerings, such as:
  - Cost to consumers, both with and without the subsidy applied;
  - Available internet speeds;
  - Length of time that the rate is guaranteed.
- Available devices and cost to consumers.

Additionally, this information should be available in easy-to-understand formats and should be accessible to individuals with visual or cognitive disabilities.

**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?**

Yes, we strongly encourage the FCC to ensure that individuals who are particularly vulnerable to COVID-19 are specifically targeted and prioritized for this initiative. We believe that older adults and people with disabilities must be included within the definition of “target groups” and we also encourage the FCC to engage with established programs operated by our members. We also want to stress that there are a wide range of local entities that form the “aging and disability networks” and that already deliver services to older adults and people with disabilities in communities across the country. These networks can assist the FCC with outreach, education, and enrollment assistance into the program.

**We seek comment on using the definition of “household” provided in our Lifeline rules for purposes of administering the Emergency Broadband Benefit Program.**

Due to the extremely condensed timeline that the FCC has to establish this program, we believe that utilizing existing definitions is a prudent option. This can reduce confusion amongst beneficiaries and people who support them who may already have familiarity with existing requirements.

**Eligibility Verification**

Currently the FCC Proposes a verification process of: (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. We are concerned that schools are the only population-specific entity in this proposal. Given that Lifeline eligibility, and eligibility for this program, is extended to anyone receiving Medicaid services, we strongly encourage the Commission to take these individuals into account when providing guidance on allowable verification processes. The sole focus on schools in this section, coupled with the omission of older adults and people with disabilities in the prior

request regarding “target groups,” risks inadvertently leaving many individuals out of the program due to a specific emphasis on other groups without similar attention paid to these vulnerable populations.

**Should participating providers have any obligation under the program’s rules to publicize the availability of the benefit?**

Yes, we believe that there will be a great need to perform a wide range of outreach and education both nationally and locally regarding the benefit. This is a new program that many individuals will be unfamiliar with and we believe that there is a significant risk of missing many households without extensive outreach at the national, state, and local levels. Participating providers must be included within these activities, which would include publicizing the benefit’s availability.

**What are the most effective means of publicizing this benefit to the communities most in need?**

Our experience indicates that there will need to be a wide range of different strategies that are used simultaneously to publicize the benefit. This can include TV and radio advertisements, direct-to-consumer mailings or flyers, as well as individual conversations and personalized outreach. We recognize that such strategies involve a significant amount of effort, but want to stress that they could be supported by engagement with entities that directly serve populations most in need. The FCC, participating providers, and their partners can leverage existing networks, including the aging and disability networks, to ensure that information is provided.

**Should USAC conduct outreach to current Lifeline subscribers?**

Yes. Lifeline programs may include some data availability through cellular plans; however, the current programmatic allotments are significantly less than individuals need to access all of the offerings available on the internet. As discussed earlier, there are a substantial number of health, welfare, and socialization activities that are routinely provided online and lifeline participants without a separate source of broadband access are unable to participate.

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

We strongly encourage the FCC to engage with the Federal Government’s Administration for Community Living (ACL),<sup>1</sup> to identify partners, opportunities, and activities that the Commission and USAC can participate with to leverage outreach to older adults and people with disabilities.

**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?**

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<sup>1</sup> ACL is a part of the United States Department of Health and Human Services. More information is available at [www.acl.gov](http://www.acl.gov)

We are again concerned by the omission of entities that are specifically targeted to older adults and people with disabilities. As we mentioned before, there are a wide range of state and local organizations that could be important partners to ensure that these populations are aware of and able to access the benefit. ACL, which was discussed in the response to the previous question, would be a great resource for the Commission to identify entities and events that would be important means for outreach and education.

**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.**

We agree that program integrity audits and activities should occur for this benefit. The rapid roll-out of the program coupled with the new rules associated with it will likely create some susceptibility to fraud, waste, and abuse. We also have concerns that over-aggressive enforcement could create significant negative impacts for households that may have unknowingly or inadvertently violated program rules. We recommend creation of some sort of “good faith” safe-harbor for individuals and families that unintentionally violate program rules.

**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?**

We oppose using this type of criteria to disenroll individuals. Many new subscribers who access this program may not have experience or knowledge that allows them to fully utilize the benefit. Instead, we strongly encourage the FCC and participating providers to use information indicating low or no bandwidth usage to target households for additional assistance, training, and support on how to utilize the device and the broadband access.

**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?**

The commission should first ensure that there are no minimum contract periods for participation in the program. Establishing this rule and allowing individuals to opt-out of the benefit at any time is crucial since the income of many eligible participants will likely be highly variable from month-to-month and may not facilitate the ability for ongoing participation if there is an out-of-pocket cost for the household. We also strongly encourage the FCC to mandate that participating providers make clear and understandable information on how to cancel the benefit available to all participants and potentially eligible individuals. Lastly, we support the proposal to allow subscribers to cancel or transfer their benefit directly with USAC.

**Additional Comments**



In addition to the comments specifically requested by the notice, we identified several additional areas that we believe the FCC should address in the final programmatic rules. First, there are a number of additional public programs that could be used to deem household eligibility beyond the ones specifically included in the legislation. Many different federal and state means-tested programs that collect information on family and household income may have similar income requirements to the benefit. This includes low-income farm programs administered by the Federal Department of Agriculture, the Older Americans Act's "registered services," and a wide range of others. We encourage the FCC to work with other federal agencies to identify opportunities to expedite household enrollment into the benefit program.

We also strongly encourage the FCC to establish some types of programs, resources, or partnerships that provide direct training and support to participants regarding accessing the internet. As we mentioned earlier, many individuals who access this program may have little or no experience with the Internet and with devices provided through this benefit. These individuals could struggle to take advantage of this program even if they are provided broadband access and a device. We believe that such training should include initial information, options for more training, and procedures to identify people who may be struggling to use their services after enrollment.

### **Conclusion**

We appreciate the opportunity to submit comments on this important program. We are extremely excited about the availability of these benefits and are hopeful that they make a lasting impact in reducing the digital divide that negatively impacts many of the individuals we serve. We are happy to provide additional information or to provide support during the roll-out of this program. If you have any questions about this letter, please reach out to Damon Terzaghi of my staff at [dterzaghi@advancingstates.org](mailto:dterzaghi@advancingstates.org).

Sincerely,

A handwritten signature in blue ink that reads "Martha A. Roherty".

Martha A. Roherty  
Executive Director  
ADvancing States