

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

In the Matter of)
)
Promoting Telehealth for Low-Income) WC Docket No. 18-213
Consumers)



COMMENTS

I. INTRODUCTION & SUMMARY

ACA Connects – America’s Communications Association (“ACA Connects”) hereby submits comments in response to the Federal Communications Commission (“Commission”) Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding.¹ In its filings on the earlier Notice of Inquiry (“NOI”),² ACA Connects articulated principles to guide the Commission as it develops a Connected Care pilot program under the Universal Service Fund (“USF”). First, the program should leverage existing broadband infrastructure as extensively as possible. Second, and relatedly, the

¹ See *Promoting Telehealth for Low-Income Consumers*, WC Docket No. 18-213, Notice of Proposed Rulemaking, FCC 19-64 (rel. July 11, 2019).

² See *Promoting Telehealth for Low-Income Consumers*, WC Docket No. 18-213, Notice of Inquiry, FCC 18-112 (rel. Aug. 3, 2018); see also Comments of American Cable Association, WC Docket No. 18-213 (filed Sept. 10, 2018) (“ACA Connects NOI Comments”); Reply Comments of American Cable Association, WC Docket No. 18-213 (filed Oct. 10, 2018); Letter From Brian Hurley, American Cable Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-213 (filed Nov. 16, 2018).

program should be structured to prevent the use of program funds on deployment of broadband facilities to locations already served by an unsubsidized competitor. By following these principles, ACA Connects explained, the Commission can implement a pilot program that fulfills its important goals while ensuring that scarce USF dollars are used efficiently.

Though the NPRM does not propose adoption of every ACA Connects recommendation, it offers a workable blueprint for a pilot program that aligns with the principles articulated above. In these comments, ACA Connects responds to proposals laid out in the NPRM regarding the design and administration of the pilot program. In particular, we encourage the Commission to follow through on its proposal not to impose restrictive eligibility requirements on broadband providers. We also propose specific steps the Commission should follow in its administration of the program to ensure the efficient use of program funds and protect against subsidized overbuilds.

II. ALL QUALIFIED BROADBAND PROVIDERS SHOULD BE ELIGIBLE TO PARTICIPATE IN THE PILOT PROGRAM

As an initial matter, ACA Connects applauds the Commission for proposing not to limit eligibility in the program to broadband providers that are designated “eligible telecommunications carriers” (“ETC”). As we explained in earlier filings, whether a broadband provider is an ETC does not indicate whether the provider can deliver broadband services capable of supporting connected care. Cable operators are industry leaders in the deployment of high-speed broadband services, yet, for legitimate reasons, many have never pursued an ETC designation. The Commission is correct to suggest that an ETC requirement would “artificially limit participation,” including from cable operators, which would reduce the program’s ability to experiment with a variety

of broadband technologies in the delivery of connected care. Overly restrictive eligibility requirements would also limit the program's ability to leverage existing broadband infrastructure, making it less cost-effective. Finally, as the Commission explains, there is a sound legal basis for allowing non-ETCs to participate in the program.³

III. THE PROGRAM SHOULD STRIVE FOR COST-EFFICIENCY AND NOT SUBSIDIZE OVERBUILDS

In the NPRM, the Commission proposes a structure for the pilot program in which health care provider applicants, rather than individual patients, would select the broadband providers that deliver the supported broadband service. Assuming the Commission adopts this program structure,⁴ there are specific steps the Commission can take, working within that structure, to maximize efficient use of program funds. In particular, ACA Connects encourages the Commission to adopt the following measures.

A. Per-Patient Funding Cap

First, ACA Connects encourages the Commission to adopt the NPRM proposal that it establish a cap on the amount of support each pilot project can receive per patient for broadband connectivity.⁵ A per-patient funding cap makes sense for this program, given that it will provide support for end-user broadband connectivity necessary to enable delivery of telehealth services to individual patients. By setting the cap at an appropriate level, the Commission can ensure that funding amounts are sufficient to cover the costs of connectivity (or to cover a specified percentage of these

³ See NPRM, ¶ 46.

⁴ In its comments on the NOI, ACA Connects proposed that program funds be awarded in the form of vouchers that each patient could use to purchase broadband service. See ACA Connects NOI Comments at 2-3.

⁵ See NPRM, ¶ 31.

costs⁶), but not to support the deployment of broadband facilities. Thusly, the cap would protect against the use of program funds to subsidize anti-competitive overbuilds.

ACA Connects appreciates that the costs of delivering broadband connectivity will be higher in some geographic areas than in others. For that reason, it would be appropriate to index the per-patient cap to the commercial rates a provider charges for broadband service in a given area. In other words, a higher cap would be appropriate in areas that are more costly to serve.⁷

By establishing a per-patient funding cap, the Commission would create a baseline of cost-efficiency for the pilot program. With the pilot program having a limited budget and the Commission considering new applications for the project at the same time, the Commission can promote even greater efficiency through its evaluation of applications by giving additional weight to projects that seek reimbursement for broadband connectivity that is less than the capped amount. This approach would, in effect, foster competition among applicants to develop the most cost-effective proposal possible.

B. Competitive Bidding

The NPRM proposes that, “for all costs that could potentially be supported through the Pilot program,” health care provider applicants would need to conduct

⁶ See *id.* (proposing a discount level of 85 percent for costs supported through the pilot program). We agree with the Commission’s proposal to fund less than 100 percent of eligible costs, for the reasons the Commission outlines in the NPRM.

⁷ One way for the Commission to achieve this outcome is for it to define the cap as a percentage of a broadband provider’s costs to provide the service required by the health care provider. It can then deem the broadband provider’s costs to be the same or a set fraction of the retail price the broadband provider charges for a service offering that is closest to the service required by the health care provider. With this approach, the cap would appropriately vary based on the market in which the service is being offered.

“competitive bidding” and “select the most cost-effective service.”⁸ We support this proposal as well. As the Commission notes, competitive bidding is a familiar feature of the Rural Health Care and E-Rate programs that ensures that USF funds are spent efficiently and that the costs of delivering supported services are transparent. A competitive bidding process that relies upon requests for proposals (“RFPs”) would also give broadband providers information that they could use to assess their ability to provide service that meets the needs of a given pilot project, and to prepare bids that are as directly responsive to those needs as possible.

In order to foster competitive bidding among broadband providers, the Commission should require health care providers to design their projects and their RFPs in ways that, to the extent possible, maximize their likelihood of receiving competitive bids. When evaluating bids, the Commission should look favorably on projects that – based on the geographic area the applicant proposed to cover and how it sought to obtain bids – obtained competitive bids from more than one provider.⁹ This may take different forms. For instance, to the extent that the geographic area covered by a proposed pilot project is served in its entirety by only one broadband provider, but partially by a second broadband provider, the Commission should give favorable treatment to an applicant that issued separate RFPs for the area with the competitive overlap and the area without. In this way, an applicant would maximize the benefits of

⁸ See NPRM, ¶ 66.

⁹ ACA Connects recognizes that in some areas only one broadband provider will exist that can meet the needs of a pilot project. In such cases, a health care provider should not be penalized for submitting an application that does not include competitive bidding so long as the health care provider demonstrates why competitive bidding could not be achieved.

the broadband competition that exists within part of the geographic area it proposes to serve even if such benefits cannot be obtained in the rest of the proposed area.

IV. CONCLUSION

ACA Connects appreciates the opportunity to participate in this proceeding, and it encourages the Commission to take its comments under consideration.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "B Hurley".

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