

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket No. 20–445; FCC 21–29; FRS 19812]

### Emergency Broadband Benefit Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) established the Emergency Broadband Benefit Program (EBB Program) to support broadband services and devices to help low-income households. The Consolidated Appropriations Act, 2021 (CAA) established an Emergency Broadband Connectivity Fund of \$3.2 billion in the Treasury of the United States for the fiscal year 2021, to remain available until expended. The CAA directed the Commission to use the fund to establish the EBB Program, under which eligible low-income households may receive a discount off the cost of broadband service and certain connected devices during an emergency period related to the COVID–19 pandemic.

**DATES:** Effective April 13, 2021.

**FOR FURTHER INFORMATION CONTACT:** Jodie Griffin, Wireline Competition Bureau, 202–418–7400 or by email at [jodie.griffin@fcc.gov](mailto:jodie.griffin@fcc.gov). We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission’s Emergency Broadband Benefit Program Report and Order (RO) in WC Docket No. 20–445; FCC No. 21–29, adopted February 25, 2021 and released February 26, 2021. Due to the COVID–19 pandemic, the Commission’s headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: <https://docs.fcc.gov/public/attachments/FCC-21-29A1.pdf>

#### I. Introduction

1. In the RO, the Commission establishes the EBB Program to support broadband services and devices to help low-income households stay connected during the COVID–19 pandemic. Efforts to slow the spread of COVID–19 have

resulted in the dramatic disruption of many aspects of Americans’ lives, including social distancing measures to prevent person-to-person transmission which have required the closure of businesses and schools across the country for indefinite periods of times, and in turn has caused millions of Americans to become newly unemployed or unable to find work. These closures have also led people to turn to virtual learning, telemedicine, and telework to enable social distancing measures, which has only increased every household’s need for access to broadband services. The cost of broadband services, however, can be difficult to overcome for low-income families and for families that have been struggling during the pandemic.

2. On December 27, 2020, the CAA became law. Among other actions intended to provide relief during the pandemic, the CAA established an Emergency Broadband Connectivity Fund of \$3.2 billion in the Treasury of the United States for the fiscal year 2021, to remain available until expended. The CAA directed the Commission to use the funds to establish the EBB Program, under which eligible low-income households may receive a discount off the cost of broadband service and certain connected devices during an emergency period relating to the COVID–19 pandemic, and participating providers can receive a reimbursement for such discounts.

3. In creating the EBB Program, the CAA does not preclude the Commission from utilizing in whole or in part any of the Commission’s part 54 rules or amending them to suit the EBB Program. Moreover, Congress directed the Commission to utilize existing regulatory tools in support of the EBB Program, such as the National Verifier and the National Lifeline Accountability Database—originally designed to support the existing Lifeline program—which helps ensure low-income consumers have access to affordable voice or broadband internet access service. The EBB Program, however, is funded through a separate appropriation from the Universal Service Fund. Consistent with Congress’s direction in the CAA, the Commission establishes the EBB Program.

#### II. Discussion

4. The Commission establishes the requirements and processes of the EBB Program, pursuant to the CAA. The Commission sets forth the providers that may participate in the EBB Program, the household eligibility requirements for the program, benefits for covered

services and devices, the program’s budget and reimbursement, and other administrative aspects of the program.

5. *Participating Providers.* In the CAA, Congress required that in order to participate in the EBB Program a carrier must have provided broadband internet access service to households as of December 1, 2020. To meet these requirements, Congress defined “participating provider” as either an existing eligible telecommunications carrier (ETC) or providers approved by the Commission under an “expedited approval process.” Congress directed the Commission to create an “expedited approval process” to approve providers to participate EBB Program where the provider is not an existing ETC. This expedited approval process requires that providers with an “established program as of April 1, 2020” offering broadband services to eligible households with verification process sufficient to prevent fraud, waste, and abuse “shall be automatically approve[d].” The Commission seeks to encourage as many providers as possible to participate in the EBB Program. Consistent with the CAA and the proposal in the *Public Notice*, DA 21–6, the Commission also adopts a carrier election process administered by USAC applicable to all providers participating in the EBB Program. Providers that are not designated as an ETC by a state or the Commission must also file for automatic approval or seek expedited approval from the Commission. In the CAA, Congress recognized the pressing need to quickly deliver much-needed support to Americans by providing the Commission with the authority to streamline and expedite the provider participation process. At the same time, the Commission must also safeguard the EBB Program’s funding to ensure it provides help to those in need and is not wasted by providers unable to quickly deliver broadband services. Accordingly, the election and approval process the Commission adopts provides assurances that providers can promptly deliver broadband services to low-income households.

6. The Commission directed the Wireline Competition Bureau (WCB), within seven days of the adoption of the RO, to announce a timeline for the submission of information by providers required by the CAA, such as applications from non-ETCs to participate in the EBB Program, requests by all providers for approval of alternative verification processes, and the submission by ETCs and non-ETCs of election notices. By *Public Notice*, DA 21–265, the WCB set a priority application deadline of March 22, 2021,

by which providers must submit these filings to receive approval prior to the beginning of the EBB Program. The Commission also directs the WCB to announce at a later date other administrative deadlines or milestones, such as when the EBB Program will begin and when providers may begin enrolling subscribers in the program. The Commission expects that the EBB Program and the enrollment process will begin in less than 60 days after the adoption of the RO.

7. *Providers Eligible to Participate.* In the CAA, a “participating provider” for the EBB Program shall be a “broadband provider” that is either “designated as an eligible telecommunications carrier” or seeks approval from the Commission for participation in the EBB Program. The Commission agrees with commenters that the Commission should establish a broad, technologically neutral approach to provider participation in the EBB Program. This interpretation of provider eligibility aligned with the plain language of the CAA, which defined “broadband provider” as any “provider of broadband internet access service.” Further, the CAA defined “broadband internet access service” broadly by referencing the definition in § 8.1 of the Commission’s rules. Section 8.1 of the Commission’s rules defines “broadband internet access service” as:

a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part.

Accordingly, ETCs and non-ETCs seeking to participate in the EBB Program must establish they provide broadband services. The Commission declines to further narrow provider eligibility among those providers that offer broadband services as defined by the CAA. This interpretation allows participation by not only ETCs or non-ETCs like traditional internet Service Providers (ISPs) including cable providers and wireless internet service providers, but also non-traditional broadband providers like community-owned networks, electric cooperatives, or municipal governments.

8. In the CAA, Congress established that participating providers would be eligible to receive reimbursement for “internet service offering[s]” offered in the “same manner, and on the same

terms, as described in any of such provider’s offerings for broadband internet access service to [an eligible] household[s], as on December 1, 2020.” The Commission interprets this provision to require participating providers to have offered retail broadband internet access service to eligible households as of December 1, 2020. Consistent with the Commission’s broadband data reporting rules, participating providers will be able to establish through certification that they provided broadband internet access service and reimbursable internet service offerings on December 1, 2020, through reference to timely filing of FCC Form 477. For providers that do not file FCC Form 477, participating providers must certify that they provided retail broadband internet access service to end-users as of December 1, 2020. The Commission further clarifies that the retail broadband internet access service must be provisioned to end users, meaning the provider of retail broadband internet access service maintains a direct relationship with the customer, is responsible for dealing with customer complaints, handles customer billing, and provides quality of service guarantees to the end user. The Commission finds these provider certifications, in addition to the submission of broadband plan and rate information described in the following, appropriately satisfied the CAA’s eligibility requirements. As described further in the following, ETCs must make a showing that they offer qualifying broadband service in the election notice filed with USAC. Non-ETCs must make a threshold showing in the approval process to the WCB.

9. *Election to Participate in Emergency Broadband Benefit Program by Existing ETCs and Bureau-Approved Providers.* The CAA directed the Commission to establish an expedited process where existing ETCs and other approved providers could “elect” to participate in the EBB Program and gain access to the necessary USAC databases used to administer the Program. The Commission adopts the proposal to require all participating providers to file an election notice to participate in the EBB Program. This election will be filed with USAC to facilitate the administration of the EBB Program and provide USAC the necessary information to incorporate providers into its systems for eligibility determination, enrollment, and reimbursement.

10. Existing ETCs will need to only file an election with USAC, while non-ETCs will need to first apply and then obtain WCB approval prior to filing

their election with USAC. Accordingly, the Commission directs the WCB to establish a priority application window during which non-ETC providers seeking approval to participate in the EBB Program will have the opportunity to obtain approval prior to commencement of consumer enrollments. Non-ETCs that file complete applications for approval meeting the necessary criteria by the priority application deadline will know their status prior to the start date for the EBB Program. The Commission believes establishing this priority application deadline provides adequate time for prospective providers to evaluate the rules of the EBB Program adopted and to prepare applications, while also encouraging prospective providers to accelerate their consideration consistent with the need to quickly begin providing these supported broadband services. The Commission directs the WCB and USAC to work expeditiously to review provider applications and elections, respectively, and the Commission directs the WCB to issue additional guidance and instruction as necessary for providers seeking to participate in the EBB Program. Further, the Commission expects the WCB and USAC to prioritize their reviews to limit excessive delay in issuing approvals of the applications and elections once properly submitted by the providers.

11. The Commission agrees with commenters that providers and, more importantly, their subscribers should have equal opportunity and access to the Emergency Broadband Benefit. By allowing non-ETC providers to obtain the necessary administrative approvals prior to the commencement of the EBB Program, eligible households will have more choices in the provider they can select to obtain supported broadband service and devices. Following the close of this priority application window, the WCB, in coordination with USAC, will establish and announce a uniform start date on which providers can begin to enroll qualifying subscribers in the EBB Program. This start date must allow for processing of elections and applications of both existing ETCs and non-ETCs to enable a consistent start date for all providers.

12. By establishing a priority application window and uniform start date, the Commission intends to afford providers the necessary time to update their systems and enrollment processes to effectively participate in the EBB Program. Furthermore, preparation and modification to both Commission and USAC systems is necessary to administer the EBB Program. While leveraging the existing Lifeline

processes provides some efficiencies, USAC needs to modify the Lifeline systems to accommodate workflows associated with the EBB Program, including updates to the National Verifier, NLAD, RAD, and the Lifeline Claims System (LCS). These updates require development, security assessments, and privacy assessments and approvals required by the Privacy Act, such as System of Records Notices (SORNs), Computer Matching Agreements (CMAs), and systems testing to ensure an effective launch. These measures comply with Congressional and government-wide directives designed to protect the privacy and security of members of the public who submit their information to the government, including households who choose to participate in the EBB Program. While the Commission can launch the EBB Program with manual review processes that do not require all of these approvals, automated eligibility, and administrative processes greatly improve functionality. The Commission remains committed to expeditiously and successfully launching the EBB Program.

13. *Obligations of Existing ETCs to Participate in the Emergency Broadband Benefit Program.* The CAA provides that an existing ETC is a “participating provider” for the purposes of the EBB Program. The CAA does not require existing ETCs to seek approval to participate in the EBB Program. Instead, existing ETCs must only “elect” to participate in the EBB Program to be eligible for reimbursement for broadband services. Existing ETCs will be able to file these elections to participate in the EBB Program in the states or territories where they have already received an existing ETC designation. To ease administrative burdens, the Commission allows an ETC to file an election for itself and its affiliates who provided broadband service as of December 1, 2020, within the states or territories (collectively “jurisdictions”) where the provider was designated as an ETC. In other jurisdictions where neither the provider nor its affiliate has an existing ETC designation, the provider must seek either automatic or expedited approval from the WCB prior to submitting the election notice to USAC.

14. The Commission finds extending elections to ETC affiliates consistent with the Commission’s practices in Lifeline and High Cost that ETCs can satisfy their statutory obligations to “offer” reimbursable and supported services through affiliated entities. Similarly, commenters supported the ability of ETCs and affiliates to elect to

participate in jurisdictions where the ETC is designated. Allowing elections to be filed for both ETCs and affiliates without seeking additional approval for the affiliated entities will also ease administrative burdens and more quickly allow providers access to the EBB Program. Further, ETCs and affiliated entities are more familiar with the obligations and requirements within a particular jurisdiction to safeguard funds similar to the EBB Program. The Commission finds permitting this election to be consistent with the CAA’s provisions regarding ETC elections and the Commission past treatment of ETC requirements.

15. The Commission declines to adopt the proposals in the record that would allow an existing ETC to offer service supported by the EBB Program in any jurisdiction, or even nationwide, regardless of where the ETC has been designated or where it had previously provided broadband service. First, ETC designations are inherently geographically limited due to the unique authority states have to designate ETCs. Thus, the Commission believes the provision in the CAA that relies on existing ETC designations and automatically qualifies ETCs to participate in the EBB Program supports the proposition that ETCs should be limited in the EBB Program to the jurisdictions in which they have already been designated. Moreover, had the CAA intended to allow ETCs to offer supported service everywhere regardless of the designation, Congress would not have needed to provide a path for non-ETC providers to participate in the EBB program. As identified in the record, providers with existing ETC designations or affiliated with ETCs have significant relevant experience with the policies and procedures needed to carry out the EBB Program obligations. However, in states where a provider is not designated as an ETC, the Commission has less confidence that the provider has established procedures and compliance processes necessary for EBB Program participation in that state. This decision is further bolstered by the CAA’s requirement that participating providers would be eligible to receive reimbursement for “internet service offerings” offered in the “same manner, and on the same terms, as described in any of such provider’s offerings for broadband internet access service to [eligible] household, as on December 1, 2020.” Approving a provider to participate in a jurisdiction where it previously did not offer service would render this statutory provision moot.

16. *Provider Election Process to Participate in the Emergency Broadband*

*Benefit Program.* The Commission directs USAC, under the supervision of and in coordination with the WCB, to establish and administer a process to enable all participating EBB Program providers to file election notices containing information sufficient to effectively administer the program. The Commission directs USAC to collect information in such notices that includes: (1) The states in which the provider plans to participate in the EBB Program; (2) a statement that, in each such state, the provider was a “broadband provider” as of December 1, 2020; (3) a list of states where the provider is an existing ETC, if any; (4) a list of states where the provider received FCC approval, whether automatic or expedited, to participate, if any; (5) whether the provider intends to distribute connected devices under the EBB Program; (6) a description of the internet service offerings for which the provider plans to seek reimbursement from the EBB Program in each state; (7) documentation demonstrating the standard rates for those services; and (8) any other administrative information necessary for USAC to establish participating providers in the EBB Program. In addition to these criteria, participating providers must certify under penalty of perjury that the information set forth in the election notice is true, accurate, and complete; they understand and will comply with all statutory and regulatory obligations described within the RO, including the public interest conditions of offering EBB Program services throughout the provider’s designated service area; and all terms and conditions and other requirements applicable to using the National Verifier, NLAD, RAD, and other USAC systems. Providing materially false information in the election notice will disqualify a provider from participation in the EBB Program. The Commission finds support in the record for adopting these requirements and certifications. These requirements also align with the CAA’s requirements for provider participation and eligibility.

17. Provider elections must include the following information to establish that the provider has met the criteria and can provide enough information to allow USAC to administer the EBB Program. The Commission directs USAC, under the supervision of and in coordination with the WCB, to establish and administer this election process consistent with the RO.

(a) *List of states in which the provider plans to participate in the EBB Program.* A provider must list each state in which it will offer EBB Program services.

Consistent with USAC's existing processes, providers should be prepared to identify to USAC the postal ZIP code(s) or Census Block(s) where the provider will offer EBB Program service to obtain Service Provider Identification Number(s) (SPINs) or Study Area Codes (SACs) to the extent necessary.

(b) *A statement that, in each such state, the provider was a "broadband provider" as of December 1, 2020.* Consistent with the Commission's broadband data reporting rules, participating providers will be able to establish that they provided broadband internet access service and reimbursable internet service offerings on December 1, 2020 through reference to previous FCC Form 477 filings. Providers are required to submit data as of December 31, 2020, and reference to an FCC Form 477 filing for the December data submission will demonstrate the provider offered broadband services. Providers that are not required to file FCC Form 477 must certify that they provided retail broadband internet access service to end users as of December 1, 2020 and identify the underlying carrier providing the network facilities.

(c) *A statement identifying where the provider is an existing ETC.* A provider who is an ETC or is affiliated with an ETC seeking to begin offering the Emergency Broadband Benefit must submit to USAC documentation demonstrating that it is a participating provider in specific states. While ETCs are automatically eligible to participate and likely have already obtained administrative numbers from USAC, such as SPINs or SACs, requiring demonstration of ETC status, filing this statement with USAC will allow for better processing of elections.

(d) *A statement identifying where the provider received FCC approval to participate in the EBB Program.* Providers seeking approvals outside of states where they are existing ETCs or are affiliated with existing ETCs will need to identify those states and submit to the WCB approval to participate in the EBB Program.

(e) *A statement confirming whether the provider intends to distribute connected devices under the EBB Program.* Providers seeking reimbursement for connected devices must submit a statement of intent to distribute connected devices as part of their election notice. These providers should also include documentation detailing the equipment, rates, and applicable costs of the laptop, desktop or tablet. Connected devices should be accessible to and usable by users with disabilities. To the extent the provider

will offer connected devices that are also generally available to the public, it may provide summary information regarding the devices, rates, and costs, such as a link to a public website or screenshots.

(f) *Description and documentation of the internet service offerings for which the provider plans to seek reimbursement from the EBB Program in each state.* Providers must submit documentation for the internet service offerings they will offer through the EBB Program. The participating provider should provide information detailing each service offering for which it plans to seek reimbursement from the EBB Program. This information and documentation should identify the service plan, details about the service such as speed and data caps, the service offering standard rate, equipment costs, jurisdiction where it is offered, and documentation establishing the rate was available on December 1, 2020. The provider can provide this information and documentation through the submission of price lists, rack rates, rate cards, or similar documentation. For service offerings that are publicly available a website or screenshot can be provided. For offerings that cannot be publicly viewed the provider should submit documentation demonstrating the offering was available on December 1, 2020, such as customer bills or publicly available advertisements. The provider can provide aggregated summaries of service offerings and standard rates made available to eligible households, if those offerings and rates are the same for multiple jurisdictions. This will reduce the administrative burden for both participating providers and the Commission in producing and reviewing voluminous service offering descriptions that are substantially similar.

18. In addition, providers must also be able to provide or otherwise obtain the necessary administrative registrations to utilize Commission and USAC processes. These processes include the Commission Registration System (CORES), FCC Registration Number (FRN), Service Provider Identification Number(s) (SPINs), Study Area Codes (SACs), System for Award Management (SAM), and/or Dun & Bradstreet DUNS number for all entities the provider anticipates seeking reimbursement. Providers should be prepared to provide this administrative information during the election process to USAC.

19. *Processing of Elections.* The Commission directs USAC in coordination with the WCB to expeditiously process election notices.

USAC should establish necessary systems and processes to systematically review election notices as quickly as possible, and at least ensure all elections filed by existing ETCs and elections from providers seeking approvals in the priority application window are processed prior to the commencement of the EBB Program. USAC should notify a provider promptly if its election notice is incomplete or otherwise contains errors that prevent USAC from processing the election notice. USAC shall process election notices received during the priority application window prior to the uniform reimbursement start date. USAC will only reject election notices that are materially incomplete, and that the provider fails to update.

20. *Non-ETC Provider Application and Approval Process.* The CAA established that providers not already designated as an ETC that wish to participate in the EBB Program can seek either an automatic or expedited approval from the Commission based on certain criteria. Specifically, the CAA required the Commission to establish an expedited process for such approval and "to automatically approve as a participating provider a broadband provider that has an established program as of April 1, 2020, that is widely available and offers internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse." Consistent with this Congressional directive, the Commission establishes both an automatic approval and an expedited approval process for non-ETC providers seeking to participate in the EBB Program. The Commission delegates to the WCB the authority to establish the process by which providers seek these approvals, including through appropriate direction to USAC. Eligible providers that have submitted complete applications by the priority application deadline will know prior to the start date of the EBB Program if they are eligible to participate. Applications from providers filed after priority application deadline will be reviewed on an expedited, rolling basis.

21. Some commenters suggested the Commission provide an opportunity for states to assist in the decisions to approve non-ETC providers for the EBB Program. After due consideration, the Commission declines to provide a formal role in the approval process to state public utilities commissions (PUCs). First, the Commission acknowledges the states' traditional and essential role in designating ETCs as provided in section 214 of the

Communications Act of 1934. It is well-established that states have the primary responsibility for designating ETCs, and the Commission is only to designate an ETC where a state lacks jurisdiction over the carrier applying for designation. In fact, in the CAA, Congress recognized the importance of states' roles in the selection of providers for the EBB Program by permitting ETCs designated by states automatic entry. However, the CAA also specifically requires that non-ETC providers be approved for participation by the Commission and does not provide a role for the states. The Commission also recognizes this is a temporary, emergency program with limited funding and it is essential the Commission moves quickly in establishing the EBB Program and approving the participating providers. While the Commission declines to establish a formal role for states in the approval of those non-ETC providers, the Commission recognizes the states' interest in knowing the providers who are or will be providing the supported broadband service in their jurisdiction and thus will make publicly available the names of approved providers in each state, along with other information related to the Commission approvals.

22. *Automatic Approval Process for Providers with Existing Support Programs.* The Commission adopts an automatic approval process consistent with the CAA to enable non-ETC broadband providers with "an established program as of April 1, 2020, that is widely available and offers internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse" to be automatically approved upon the filing of information meeting the criteria. Any non-ETC broadband provider seeking to qualify for such automatic approval must file an application describing: (1) The jurisdiction in which it plans to participate, (2) the service areas in which the provider has the authority, if needed, to operate in each state, but has not been designated an eligible telecommunications carrier, and (3) a description, supported by documentation, of the established EBB Program with which the provider seeks to qualify for automatic admission to the EBB Program.

23. *Established Program as of April 1, 2020.* To facilitate provider participation in the EBB Program, the Commission adopts a broad interpretation of what constitutes an "established program" that is "widely available." The Commission finds that this requirement encompasses any

eligible broadband provider that maintains an existing program that was made available by April 1, 2020 to subscribers meeting at least one of the criteria in the CAA's definition of an eligible household. Specifically, providers offering broadband subscribers discounted rates based on criteria such as low-income, loss of income, participation in Federal, state, or local assistance programs, or other means-tested eligibility criteria qualify for this automatic approval process. Additionally, providers that made commitments to keep subscribers connected during the pandemic and offered widely available bill forbearance or forgiveness programs beginning no later than April 1, 2020, and continuing through the end of this EBB Program, will be eligible for automatic approval. The Commission finds that providing automatic approval for providers that actively offer targeted low-income programs or programs in which providers otherwise engaged in systematic and ongoing billing practices, like forbearance or forgiveness, that actively reduced costs for struggling subscribers is consistent with the CAA's requirements. These actions reduced the financial burden on struggling households consistent with the Congressional intent of the EBB Program. The principal consideration in determining an "established program" for automatic approval is whether subscribers receive or were eligible to receive a financial benefit through either reduced rates or rate forbearance.

24. Consistent with such a broad interpretation, the Commission finds that a program is "widely established" when it was offered to subscribers in a substantial portion of the service provider's service area in a particular state. The Commission declines to adopt an interpretation that a program must be offered throughout the provider's national or multi-state service territory to be widely available. The Commission finds support in the record that many considerations factor into offering such programs that are not consistent across jurisdictions, such as state and local privacy laws, access to eligibility information, broadband carrier requirements, or the lack of consistent assistance programs. The Commission believes Congress's use of "widely available" in lieu of more sweeping alternatives expresses the intent to have this term apply to service offerings made publicly available even if the existing program was not available throughout a provider's entire service area. Further, the public interest favors an interpretation of this requirement

that broadly defines the type of qualifying programs, supports expeditious entry where possible and in turn makes EBB Program support available as quickly as possible.

25. *Required Verification Processes.* The CAA also requires that providers seeking automatic approval to participate in the EBB Program have established programs that maintain verification processes that are "sufficient to avoid fraud, waste, and abuse." The Commission finds that applying this requirement in a forward-looking manner strikes the appropriate balance between responsible stewardship of the funds and ensuring broad provider participation. Providers that have been offering a broadband program for eligible households have generally foregone collecting revenue they might otherwise have assessed from participating subscribers. Those providers therefore already have incentive to prevent enrollment in their programs by ineligible households. Providers submitting applications for automatic approval must describe only the established program and participation requirements to meet the approval criteria.

26. Providers that receive automatic approval to participate in the EBB Program will use the Lifeline National Verifier and NLAD to verify household eligibility or their own alternative household eligibility verification processes, or the combination of both before seeking reimbursement. Even if a provider has its own existing broadband program for determining eligible households, it may decide to use the National Verifier for some or all applications to the EBB Program, although it is not required to do so. The Commission finds that permitting automatically approved providers to use USAC's eligibility determination systems in a manner consistent with the CAA as described in the following further bolsters program protections against waste, fraud, and abuse.

27. *Timing of Approvals.* Providers that file applications certifying to and making necessary demonstrations for the criteria outlined in the document will receive approval automatically upon filing once the WCB confirms all required information was submitted. The Commission agrees with commenters in the record who argue the intent of Congress was to create an automatic presumption of approval for providers with existing support programs. Thus, the Commission delegates to the WCB the authority to create and administer an application process that will automatically approve provider applications meeting the

criteria described in the document. Additionally, once approved, all providers must file with USAC an election to participate in the EBB Program to gain access to USAC systems.

28. *Expedited Review Process for Non-ETC Providers.* The Commission adopts an expedited review process for non-ETC providers that do not qualify for automatic application processing and are not affiliated with an ETC in the same jurisdiction. Such providers must file an application for expedited review to receive approval from the WCB to participate in the EBB Program. As proposed in the *Public Notice*, DA 21–6, each non-ETC broadband provider seeking to participate must file an application describing: (1) The state(s) in which it plans to participate, (2) the service areas in which the provider has the authority, if needed, to operate in each state but has not been designated an eligible telecommunications carrier, and (3) documentation of the provider's plan to combat waste, fraud, and abuse. These requirements align with the CAA's requirements for provider participation and eligibility.

29. Provider applications for review must establish a sufficient showing that the provider has met the criteria for expedited review and approval, as outlined in the following. The Commission directs the WCB to establish and administer this expedited application review process consistent with the RO.

(a) *A list of states or territories where the provider will offer EBB Program services.* A provider seeking approval must list each jurisdiction in which it seeks to be approved to offer EBB Program services. While the provider need only identify the state or territory where it plans to offer qualifying services for purposes of its submission to the WCB, providers should be prepared to identify to USAC in their election the postal ZIP code(s) or Census Block(s) where EBB Program service will be offered to obtain Service Provider Identification Number(s) (SPINs) or Study Area Codes (SACs), as necessary.

(b) *A statement identifying the jurisdiction in which the provider requires FCC approval and jurisdictions in which the provider is an existing ETC.* Providers that are designated as an ETC or affiliated with an ETC in some states or territories must submit an application and obtain WCB approval to participate in the EBB Program in states or territories where the provider is not designated as an ETC. Providers, even if already designated as an ETC in some states or territories, must seek WCB

approval to offer EBB Program services in states or territories in which the provider is not designated as an ETC. Because such applications will be reviewed on either an automatic or expedited basis, the Commission does not expect such a requirement to impose a significant burden on providers. Providers without an ETC designation or unaffiliated with an ETC must certify that they are authorized to provide broadband services as of December 1, 2020.

(c) *Documentation of the provider's plan to combat waste, fraud, and abuse.* Participating provider applications must include a certification that the provider understands and complies with all statutory and regulatory obligations, including those described within the RO, as public interest conditions of offering EBB Program services. Specifically, a provider must certify that it will:

(i) Confirm a household's eligibility for the EBB Program through either the National Verifier or a Commission-approved eligibility verification process prior to seeking reimbursement for the respective subscriber;

(ii) follow all enrollment requirements and obtain all certifications as required by the EBB Program, including providing eligible households with information describing the Program's eligibility requirements, one-per-household rule, and enrollment procedures;

(iii) interact with the necessary USAC systems, including the National Verifier, NLAD, and RAD, before submitting claims for reimbursement, including performing the necessary checks to ensure the household is not receiving duplicative benefits within the EBB Program;

(iv) de-enroll from the EBB Program any household it has a reasonable basis to believe is no longer eligible to receive the benefit consistent with Program requirements;

(v) comply with the EBB Program's document retention requirements and agree to make such documentation available to the Commission or USAC, upon request or any entities (for example, auditors) operating on their behalf; and

(vi) agree to the Commission's enforcement and forfeiture authority.

30. *Timing of Approvals.* Providers that have filed an application satisfying the criteria outlined in the document will receive expedited review. The Commission declines to adopt a deemed granted date or other specific application review deadlines for the expedited review process. Providers submitting applications by the priority

application deadline will receive a determination prior to the start of the EBB Program. Accordingly, the Commission believes specific application review deadlines are unnecessary. The Commission delegates to the WCB the authority to create and administer an application review process that will expeditiously consider provider applications meeting the criteria described in the document. Additionally, all approved providers must file an election with USAC to participate in the EBB Program.

31. *Conditions and Requirements for Participating Providers.* The Commission finds there is authority within the CAA to require participating providers to offer the EBB Program benefit throughout the provider's approved service area. Additionally, the Commission finds that use of existing USAC databases is the most efficient way to begin the program quickly while ensuring adequate safeguards to prevent waste, fraud, and abuse. Accordingly, the Commission authorizes USAC to make available the appropriate databases to administer the EBB Program including the National Verifier, NLAD, RAD, and LCS. The Commission directs USAC to take the appropriate actions to update, modify, or create the necessary USAC systems to administer the EBB Program in line with the Commission's direction in the RO. The Commission further delegates authority to the WCB and the Office of Managing Director ( ) to supervise and coordinate with USAC all actions necessary to make USAC databases and systems available for the EBB Program.

32. *Public Interest Conditions of Approvals.* The Commission adopts its proposal to require providers to offer the EBB Program discount on at least one service offering across all of its approved service areas in each of the states in which it is approved to participate. The Commission finds that such an approach is consistent with the CAA's requirements regarding the establishment of the EBB Program to reimburse providers for discounts provided to subscribers and supports the public interest in ensuring subscribers have access to the EBB Program. Further, the CAA grants the authority to the Commission to determine whether a provider meets the requirements to participate in the EBB Program. The Commission agrees with commenters that providers should not have to extend service offerings into areas where they currently do not exist and should not be mandated to offer a certain quality of service for the reasons further explained in the following. Requiring providers to expand or

otherwise deploy service offerings or existing programs into areas where they currently do not exist increases provider burdens and delays implementation for providers seeking to quickly offer EBB Program services. Approved providers must offer at least one EBB Program-reimbursed service to each of its eligible households within its service area. However, the Commission also encourages participating providers to make EBB Program support available for all its service offerings for eligible households. Additionally, pursuant to the CAA, participating providers must not deny an eligible household the ability to participate in the EBB Program based on any past or present arrearages with that provider, may not require an eligible household to pay an early termination fee if the household enters into a contract for its EBB Program-supported service and later terminates that contract, and may not subject EBB Program-supported service to a mandatory waiting period based on a household having previously received service from that provider.

33. *Notice to Consumers.* Providers also play an important role in ensuring that their customers are informed about the EBB Program at the point of application and enrollment. Providers will have a direct relationship with their customers, and as such, have a responsibility to ensure that these customers have the information they need to make an informed decision about the broadband service product they subscribe to supported by the EBB Program. Accordingly, the Commission requires participating providers to collect and retain documentation demonstrating that, prior to enrolling an existing subscriber in the EBB Program, the provider clearly disclosed to the household that the EBB Program is a government program that reduces the customer's broadband internet access service bill, is temporary in nature, that the household will be subject to the provider's undiscounted rates and general terms and conditions at the end of the program if they continue to receive service, that the household may obtain broadband service supported by the EBB Program from any participating provider of their choosing, and that the household may transfer their EBB Program benefit to another provider at any time. The provider must also retain documentation demonstrating that, having received such disclosures, the household provided affirmative consent to applying their EBB Program benefit to the service received from the EBB Program provider. The Commission believes that this disclosure and consent

process will help ensure that low-income households are aware of their choices in the EBB Program without creating overly burdensome application requirements for those households.

34. *Use of the National Verifier, NLAD, RAD and other USAC databases.* The Commission finds that, consistent with the CAA's provision allowing the Commission to use USAC's systems and services to implement the EBB Program, participating providers will be required to use certain USAC systems, such as the Lifeline NLAD and RAD, for program administration and will be permitted to use the National Verifier to determine household eligibility. The Commission adopts its proposal to rely on the USAC-administered National Verifier, NLAD, RAD, LCS, and other established processes for the EBB Program, including the provider reimbursement process, call centers for program support, provider and consumer outreach, and conducting program integrity reviews. Accordingly, the Commission adopts the applicable part 54 rules that currently govern Lifeline provider interactions with these USAC systems. Specifically, the Commission applies the requirements of § 54.400(i) and (o) of the Commission's rules defining the NLAD and National Verifier; § 54.404 of the Commission's rules outlining carrier interactions with the NLAD; § 54.406 of the Commission's rules outlining enrollment agent activities and requiring registration with the RAD; § 54.410 of the Commission's rules where appropriate in requiring the use of the National Verifier for eligibility determinations; and § 54.419 of the Commission's rules allowing the use of electronic signatures. The Commission directs the WCB, and USAC as directed by the WCB, to issue any further guidance or instruction necessary to clarify the obligations of EBB Program providers when using USAC databases and the administrative process established for the EBB Program.

35. *Safe harbor for participating providers.* The CAA provides a safe harbor provision stating that the Commission may not enforce a violation of the CAA using sections 501, 502, or 503 of the Communications Act, or any rules of the Commission promulgated under such sections, if a participating provider demonstrates that it relied in good faith on information provided to such provider to make any verification required by subsection 904(b)(2) of the CAA. Section 904(b)(2) of the CAA imposes a duty on participating providers to verify whether a household is eligible to receive the service and connected devices supported by the

EBB Program. The Commission establishes that this safe harbor will apply to providers who utilize the National Verifier for eligibility determinations or any alternative eligibility verification process that has received approval from the Commission consistent with the RO. The safe harbor applies to providers who act in "good faith" with respect to these eligibility verification processes. The Commission has extensive experience in evaluating good faith actions of regulated entities in both negotiation and cost reimbursement. In line with this experience, this safe harbor applies to participating providers for eligibility determinations who act in good faith based on information provided to them in the household eligibility and enrollment process. Good faith will be determined on the totality of circumstances surrounding the participating providers actions or statements. Participating providers that reasonably rely upon the documentation regarding eligibility determinations provided by eligible households or eligibility determinations from the National Verifier will be able to avail themselves of this statutory safe harbor for purposes of their compliance with the EBB Program rules.

36. *Application and Election Procedures.* A provider application to participate in the EBB Program will provide information used to determine whether the applicant has the legal and technical qualifications to participate in the EBB Program. An applicant must certify, under penalty of perjury, its qualifications. Non-ETC providers must certify under penalty of perjury that the information set forth in their application is true, accurate, and complete; they understand and will comply with all statutory and regulatory obligations described within the RO; and all terms and conditions and other requirements applicable to using the National Verifier, NLAD, RAD, and other USAC systems. Providing materially false information in the application will disqualify a provider from participation in the EBB Program. Eligibility to participate in the EBB Program is based on an applicant's submission of required information and certifications. A potential applicant must take seriously its compliance duties and responsibilities and carefully determine before filing an application that it is able to meet the obligations associated with EBB Program support. An applicant's filing and subsequent approval does not guarantee the applicant will receive EBB Program reimbursement. Each participating provider must file all

required forms, information, and certifications with the Commission and USAC to receive reimbursement.

37. A non-ETC provider seeking to participate in the EBB Program must file the appropriate application, whether it is eligible for expedited or automatic approval, electronically, whether filing for automated or expedited approval, through the process announced by the WCB following the adoption of the RO. An applicant provider bears full responsibility for submitting an accurate, complete, and timely application, and should thoroughly review the EBB Program participating provider requirements, in addition to any subsequent guidance, to ensure all required information is included in its application. An applicant provider should be cognizant that submitting an application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the appropriate instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Submitting a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, and ineligibility to participate in future Commission auctions or competitions, as well as criminal prosecution and/or liability under the False Claims Act.

38. *Household Eligibility—Emergency Broadband Benefit Program Eligible Households.* The CAA directs that a household will qualify for the EBB Program if at least one member of the household: (1) Meets the qualifications for participation in the Lifeline program; (2) has applied for and been approved to receive benefits under the free and reduced price lunch program under the Richard B. Russell National School Lunch Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966; (3) has experienced a substantial loss of income since February 29, 2020 that is documented by layoff or furlough notice, application for unemployment insurance benefits, or similar documentation or that is otherwise verifiable through the National Verifier or the NLAD; (4) has received a Federal Pell Grant under section 401 of the Higher Education Act of 1965 in the current award year; or (5) meets the eligibility criteria for a participating provider's existing low-income or COVID-19 program, subject to approval by the Commission and any other requirements deemed by the Commission to be necessary in the

public interest. A household is eligible for the EBB Program regardless of whether any member of the household already receives a Lifeline benefit. Further, a household is eligible for the EBB Program “regardless of whether any member of the household has any past or present arrearages with a broadband provider.”

39. While the CAA provides a definition for “eligible household,” it does not define “household” itself, and the *Public Notice*, DA 21–6, sought comment on using the definition of “household” provided in [the] Lifeline rules for purposes of administering the EBB Program. The Lifeline rules define “household” as:

any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.

The record contains broad consensus supporting the proposal to use Lifeline's definition of household, and the Commission adopts this proposal. Other commenters agreed, generally, without reference to the Lifeline definition, that multiple people should be able to receive the EBB Program benefit at a single address, so long as the people were part of different households, similar to Lifeline's definition of a household. Some commenters disagree with the Commission proposal to permit one benefit per household, noting that often times households will have multiple people requiring access to quality broadband and devices, and each may need a benefit even though they are part of the same household. While the Commission is cognizant of the varying needs of households, it read the CAA to allow only a single benefit per household. As a result, the Commission will use the Lifeline program's definition of household and limit to each economic unit a single monthly Emergency Broadband Benefit and single connected device reimbursement. To help applicants determine if there is more than one household at an address, the Commission made available for the EBB Program a Household Worksheet to confirm whether an applicant is part of an independent economic household

from other existing EBB Program subscribers. For providers conducting eligibility determinations pursuant to an approved alternative verification process, the Commission requires that such processes include measures to confirm that a household, under the definition the Commission adopts within, is not receiving more than one EBB Program benefit. The Commission also directs USAC to conduct periodic program integrity reviews to confirm that EBB Program subscribers located at the same address are in compliance with these requirements.

40. Commenters also argue the EBB Program should support broadband provided to multiple dwelling units at a single address, such as senior and student living, mobile home parks, apartment buildings, and Federal housing units, that receive service as part of a bulk billing arrangement where the households “are not directly billed for services by their internet service provider, but instead pay a monthly fee for broadband services to their landlord.” Similarly, there may be “entities such as school districts, health care providers, assisted living or nursing facilities, and local governments who purchase service ‘in bulk’ for eligible households.” The Commission concludes on balance to make available the Emergency Broadband Benefit available in these arrangements as long as the provider is approved in the EBB Program and the household is eligible under the statute. These eligible households are otherwise at risk of missing out on broadband services supported by the EBB Program because they may not be directly billed by the participating provider and may not have a typical relationship with the participating provider. As a result, the Commission believes that including support in the EBB Program for these eligible households will increase the number of struggling households that are able to benefit from the EBB Program. In situations where the support is passed through as a discount off of the monthly price paid by the eligible household, the eligible household must provide consent to the bulk purchaser/aggregator or participating provider to apply their EBB Program benefit to that service, and the participating provider must retain documentation of such consent. The participating provider claiming reimbursement for the service provided under the bulk arrangement must retain documentation demonstrating that the amount claimed by the provider from the EBB Program is fully passed through to the eligible household as a discount



off of the monthly price that the eligible household otherwise would have paid directly to the bulk purchaser. To ensure compliance with these requirements, the Commission requires participating providers offering service through such bulk billing arrangements to retain documentation demonstrating the identity of the entity or entities through which the discount was passed and the eligible households who received the subsidized service. As an example, if a bulk purchaser typically provides eligible households broadband service for \$30 a month, each eligible household that receives such service must provide consent to the bulk purchaser or participating provider that the participating provider can seek reimbursement from the EBB Program for the \$30 a month service. The participating provider would need to retain documentation of such consent, as well as documentation that the \$30 that the participating provider is seeking reimbursement for will be fully passed through to the eligible household. As a result of the discount, the bulk purchaser would be paying \$30 less to the participating provider, and the eligible household would be receiving free broadband service and not paying anything to the bulk purchaser. In cases where the household does not pay a fee for the service, either to the provider or a bulk purchaser/aggregator, but the fee is paid by another entity, the service cannot be claimed for EBB Program support.

41. The *Public Notice*, DA 21–6, sought comment on whether there should be a limitation on the number of benefits per address regardless of the number of households. The Commission concludes that the Commission will not impose any limitations inconsistent with the Lifeline definition of a “household.” The Commission also sought comments on whether additional enrollments at a single address require a separate, more rigorous verification process. Some commenters cautioned against using a separate process, and the Commission finds that the Household Worksheet as used in Lifeline will help protect against duplicate benefits, while not being overly burdensome to applicants. The *Public Notice*, DA 21–6, also sought comment on whether an applicant should certify that no other person in the economic household is receiving a benefit. The Commission finds that the Household Worksheet requires an applicant to confirm their understanding of the one-per-household rule and that the person will lose their benefit if they break the rule, and the Commission will not need any further

certification from an EBB Program subscriber regarding more than one benefit at a household. The Commission further directs USAC to apply its existing periodic Lifeline program integrity reviews for addresses with an unusually high number of subscribers to addresses enrolled in the EBB Program as well.

42. The WCB also sought comment on whether the EBB Program should adopt the same NLAD processes used for Lifeline. After consideration of the record, the Commission concludes that the Commission should use the NLAD for a variety of functions for the EBB Program. The CAA, for example, contemplates the use of the NLAD by participating providers for purposes of determining whether a household is an eligible household. The *Public Notice*, DA 21–6, sought comment on a proposal to require all participating providers to track enrollments of eligible households in the EBB Program in the NLAD to prevent duplicative support. There was broad support in the record supporting the proposal, and the Commission adopts it. Further, the Commission finds that all providers, including those that use an approved alternative verification process or verify eligibility via a school as discussed in the following, must enroll their subscribers in the NLAD prior to claiming reimbursement for those subscribers, to prevent duplicative support between providers.

43. Finally, the Commission observes that households are eligible to participate in both the EBB Program and the Lifeline program, either on the same or different services, and the Commission directs USAC to enable the NLAD to allow an eligible household to have separate subscriber IDs for the EBB Program and Lifeline and to associate such subscriber IDs with a respective Lifeline provider or Emergency Broadband Benefit provider, as applicable. If a household is enrolled only in the Lifeline program, then it will only have a Lifeline subscriber ID and be associated with a Lifeline provider. If a household is enrolled only in the EBB Program, then it will only have an EBB Program subscriber ID and be associated with an EBB Program provider. If a household is enrolled in both the Lifeline program and the EBB program, then it will have separate Lifeline and EBB Program subscriber IDs, and each of those subscriber IDs will be associated with their respective Lifeline or EBB Program provider (in some cases, a household may choose the same provider for both the Lifeline program and the EBB Program).

44. *National Verifier and NLAD Eligibility Determination.* The CAA

provides that participating providers can use one of three methods to verify eligibility for the EBB Program. In the following, the Commission discusses the first method of verification, use of the National Verifier and NLAD. The CAA allows a participating provider to use the National Verifier and NLAD to confirm applicants’ eligibility. The Commission finds that allowing participating providers to use the National Verifier will help to stand up the EBB Program quickly and provide administrative efficiency, while also serving as an effective tool to prevent waste, fraud, and abuse. The Commission directs USAC to make available an EBB Program consumer portal and application form leveraging the existing National Verifier infrastructure. Commenters also requested that the Commission enable a service provider portal or eligibility check application programming interface (API) so that providers can help consumers with the application process. The Commission agrees that these additional application methods would enable providers to help enroll consumers, and the Commission directs USAC to make available these other application methods as well if feasible within the overall timeframe of the EBB Program.

45. Generally, the National Verifier is a system of systems, with computer connections to state and Federal eligibility databases that can automatically check and confirm a household’s eligibility electronically, followed by manual review of eligibility documentation for any applicants whose eligibility cannot be verified using an automated data source. To assist those participating providers that want the National Verifier to be a one-stop shop for determining eligibility for the EBB Program and do not to conduct their own verification processes, the Commission directs USAC to enable the National Verifier to verify three additional eligibility bases that are required by the CAA for the EBB Program: (1) Participation in free and reduced lunch program under the Richard B. Russell National School Lunch Act or the school breakfast program under section 4 of the Child Nutrition Act; (2) a substantial loss of income since February 29, 2020; and (3) receipt of a Federal Pell Grant under section 401 of the Higher Education Act of 1965 in the current award year. The CAA contemplates substantial loss of income and Federal Pell Grant participation would be verified by the National Verifier where possible, and commenters agreed with adding those

eligibility bases to the National Verifier. Commenters also suggested that participation in school breakfast or lunch should also be added to the National Verifier, and the Commission agrees. Where possible, the Commission directs USAC to enable database connections through computer matching agreements with the respective government entities for those programs. Where not possible, the Commission directs USAC, under the direction of the WCB, to allow eligible households to submit documentation so that USAC can manually process the eligibility information for inclusion in the National Verifier. The Commission delegates authority to the WCB to direct USAC in these efforts and to provide any additional interpretations of section 904 necessary for implementing use of the National Verifier for the EBB Program. Unless and until such database connections have been enabled, USAC will verify program eligibility based on manual documentation review, consistent with the guidelines discussed in the following.

46. Where the National Verifier cannot verify eligibility through any automated data sources, the Commission delegates to the WCB to direct USAC to establish documentation criteria for the three added eligibility programs. While the Consolidated Appropriations Act identified a few types of documentation to demonstrate income loss, such as “layoff or furlough notice, application for unemployment benefits, or similar documentation,” the Commission sought comment on other types of documentation. Some commenters argued that other documentation for substantial loss of income should be construed broadly, or that the Commission has kept in mind the widespread loss of income. Consistent with the Commission’s clarification of “substantial loss of income since February 29, 2020,” discussed in the following, any documentation must clearly show loss of a job, including due to a furlough, that began after February 29, 2020, however documented, as well as the household’s annual income for 2020. In addition, many commenters suggested acceptable documentation for receipt of a Pell Grant under section 904(a)(6)(D) of the CAA, including: (1) Written or electronic confirmation from a student’s Institution of Higher Education that the student has received a Pell Grant for the current award year; (2) a student’s official financial aid award letter documenting the amount of a student’s Pell Grant award received for the current year; (3) a copy of a student’s

paid invoice that clearly documents the student’s receipt of a Pell Grant during the current award year; and (4) a copy of a student’s Student Aid Report that clearly documents the student’s receipt of a Pell Grant during the current award year. USAC should consider these documents when establishing documentation criteria for receipt of a Pell Grant.

47. The CAA allows that current Lifeline enrollees are automatically eligible for the EBB Program based on their Lifeline eligibility. Many commenters suggested that customers already enrolled in Lifeline should not have to also apply for the EBB Program. The Commission finds that current Lifeline households will not need to apply for the EBB Program or submit new eligibility documentation if they are already enrolled in NLAD. Current Lifeline enrollees, however, must still opt-in or affirmatively request enrollment in the EBB Program. As explained in the document, providers must collect and retain documentation demonstrating that, prior to enrolling an existing Lifeline household in the EBB Program, the provider made clear disclosures regarding the EBB Program benefit and the consumer’s choices within the EBB Program, and the household provided affirmative consent to applying their Emergency Broadband Benefit to the service received from the EBB Program provider.

48. In the Lifeline program, potential households are required to provide the last four digits of a Social Security Number to enroll in National Verifier and NLAD to verify subscriber identity. Some commenters, however, argue that the CAA does not require a Social Security Number for enrollment in the EBB Program, and that if the Commission imposes a Social Security Number requirement, many of the neediest households may not be able to enroll because they may not have a Social Security Number, may have difficulty accessing data, or fear providing a Social Security Number. Commenters suggested alternative forms of identification instead of a Social Security Number, such as an Individual Taxpayer Identification Number (ITIN), Government ID, current utility bill, or current employment photo identification badge. While the Commission permits a consumer to use the last four digits of a Social Security Number during enrollment, the Commission was persuaded that accepting only a Social Security Number may prevent eligible households from enrolling in the EBB Program. Applicants who choose not to provide the last four digits of their

Social Security Number or cannot be verified using a Social Security Number may verify their identity using a variety of other types of identity documentation, including a government-issued ID, passport, driver’s license, or Individual Taxpayer Identification Number documentation. The Commission directs USAC to work with the WCB to establish approval criteria for acceptable identity documentation. In developing that criteria, USAC should consider the methods used to verify identity by providers with existing low-income programs.

49. The *Public Notice*, DA 21–6, proposed that eligible households will be required to interact directly with National Verifier as is currently required for the Lifeline benefit, and many commenters supported this proposal. The Commission adopts this proposal and will require households to interact directly with National Verifier. Some commenters suggested that the Commission permit service providers to submit verification requests through the National Verifier on behalf of households even if the households consumers are not physically present with the service provider, while others were concerned that consumers may not be able to access National Verifier as they do not have broadband access, and places such as libraries or community centers that typically offer broadband access are closed or operating in a limited capacity due to the pandemic. Although allowing service providers to remotely submit information on behalf of consumers may benefit some consumers, the Commission finds that the risk to program integrity and potential for waste, fraud, and abuse outweighs the benefit. Further, households that do not have internet access to apply electronically through the National Verifier may still apply for the EBB Program using a paper application. In addition, verification through the National Verifier is not the only way for households to get verified in the EBB Program, as service providers may have their own approved alternative verification processes to enroll households, while other households may be qualified by a provider through verification with a school. Given these alternatives, the Commission thought that permitting providers to sign up consumers remotely was necessary.

50. The CAA permits households with members who qualify for free and reduced-price school lunch or the school breakfast program to enroll in the EBB Program. As a result, the Commission permits qualifying

households to apply for the EBB Program and will have USAC enable the National Verifier to approve the household based on participation in free and reduced lunch program or the school breakfast program. In the *Public Notice*, DA 21–6, the WCB sought comment on the reduced or free school breakfast or lunch eligibility from section 904(a)(6)(B) of the CAA and how to treat households with students enrolled in the EBB Program in schools or school districts that participate in the USDA Community Eligibility Provision. Participation in the Community Eligibility Provision allows the nation's highest-poverty schools and school districts to serve breakfast and lunch at no cost to all enrolled students without needing to collect individual household applications. Thus, households with a student enrolled in a school or school district participating in the Community Eligibility Provision will not have “applied for and been approved to receive” school lunch or breakfast programs but are still beneficiaries of these programs. Many commenters support that households with children enrolled in largely low-income schools or school districts that participate in the Community Eligibility Provision should be eligible for the emergency broadband benefit under section 904(a)(6)(B) of the CAA despite not individually applying for assistance. The Commission agrees with these commenters.

51. Some commenters argue that accepting participation in the Community Eligibility Provision would be overinclusive. On balance, the Commission finds that the risk of including otherwise ineligible households is outweighed by the importance of making the EBB Program accessible and removing barriers to participation. Indeed, because the schools that participate in the Community Eligibility Provision are the among the highest-poverty schools in the nation, the Commission believes that including households with students that attend those schools efficiently targets low-income households and excluding such schools would counterintuitively effectively remove the National School Lunch Program as a qualifying program for households in largely low-income schools and school districts. The Commission also recognizes that allowing use of the Community Eligibility Provision as a qualifying program limits disclosure to less sensitive information of households. While the CAA does not provide a specific time frame for when the member of the household should have been approved for benefits under

the free and reduced price lunch or breakfast programs, the California Emerging Technology Fund proposed that the Commission should allow proof of enrollment in these programs for either the 2019–2020 and 2020–2021 school year, given that many schools have been closed since mid-March 2020 due to the pandemic and students may not be enrolled in the programs in the current school year. The Commission agrees with this proposal. The Commission therefore accepts for eligibility determination purposes a household's confirmation that the household has dependent children who participated or are participating in the Community Eligibility Provision school breakfast or free and reduced-price school lunch program in the 2019–2020 or 2020–2021 school year. The Commission directs USAC to develop a process for such eligibility determinations that has the capability to, after a household provides the name of a dependent child's school, automatically check for CEP participation against the nationwide lists maintained by U.S. Department of Agriculture and/or the Food Research & Action Center. The Commission also directs USAC to conduct program integrity reviews of a sample of households who enrolled in the EBB Program using this eligibility criteria to confirm EBB Program compliance.

52. The *Public Notice*, DA 21–6, also sought comment on whether a school's participation in the E-Rate program would facilitate any needed verification. The Commission receives some comments supporting the idea that a school participating in E-Rate should be sufficient to confirm household eligibility for its students' households. However, schools can participate in E-Rate even if less than 1% of its students are eligible for the National School Lunch Program. As such, the Commission did not find that a school's participation in E-Rate alone would provide any help as to the eligibility of households that have students enrolled in that school, and the Commission declines to use participation in E-Rate as a basis of eligibility for qualifying for school lunch or breakfast.

53. Households with members who have experienced a substantial loss of income are also qualified to enroll in the EBB Program according to the CAA. The WCB sought comment on how to define a “substantial loss of income since February 29, 2020” in section 904(a)(6)(C) of the CAA, and whether households with an income above a certain level should be excluded from the EBB Program. Although the Commission receives comments that the

Commission should clearly define “substantial loss of income,” only a few commenters provided criteria for the Commission to consider. Consistent with the requirements of the CAA, the Commission clarifies that a “substantial loss of income” includes the loss of a job, including a furlough, that is documented by a layoff or furlough notice, application for unemployment insurance benefits, or similar documentation. The Commission permits households with such members to enroll in the EBB Program through the National Verifier. To target eligibility to households most in need, the Commission agrees with commenters that the Commission imposes a household income limitation, and consistent with the criteria established by the Centers for Disease Control to halt evictions, a household that has suffered a job loss must not have had an income in 2020 greater than \$99,000 for single-filers and \$198,000 for joint filers to be eligible for the EBB Program.

54. The CAA also permits eligibility into the EBB Program if a member of a household has received a Federal Pell Grant under Section 401 of the Higher Education Act of 1965 in the current award year. Commenters supported and welcomed the inclusion of receipt a Pell Grant as an eligibility basis for the EBB Program. USTelecom has asked for clarification on what constitutes a household for purposes of a Pell Grant, given that students that are awarded Pell Grants are typically living away from parents, yet that student may be dependent on parental support. The Commission clarifies that consistent with the EBB Program's adoption of the Lifeline definition of “household,” people are part of the same household if they share income and expenses and live at the same address. If the recipient of a Pell Grant lives at a separate address from the recipient's parents, the recipient and the family are separate households, and only the recipient of the Pell Grant would be eligible for the EBB Program using Pell Grant eligibility.

55. The CAA also allows into the EBB Program a household where at least one member meets the eligibility criteria for a participating provider's existing low-income or COVID–19 program. For eligibility under this provision, commenters suggested that providers should be able to continue to operate the EBB Program with the existing eligibility requirements. Although this provision of the CAA suggests the Commission could impose other eligibility requirements on these existing programs that the Commission

considers necessary for the public interest, given the emergency nature of the EBB Program, the Commission declines to modify the programmatic or income eligibility requirements of any provider's existing low-income or COVID-19 program for purposes of eligibility in the EBB Program. Some commenters suggested that the Commission work with providers to set a baseline eligibility for the provider's existing low-income or COVID-19 program. The Commission similarly believes imposing baseline criteria on all existing low-income or COVID-19 programs would be disruptive to those programs and cause undue burden on the providers at a time when it is essential those programs continue to operate efficiently. Finally, consistent with the CAA's allowance that a broadband provider that had an established a low-income or COVID-19 program as of April 1, 2020 shall be automatically approved as a participating provider, and to ensure that such eligibility determinations are made pursuant to well-established verification mechanisms, the Commission finds that a participating provider's existing low-income or COVID-19 program must have been available as of April 1, 2020, and any eligibility criteria for such programs must have been established as of April 1, 2020, for use of that program as a qualifying program under section 904(a)(6)(E) of the CAA.

56. Some commenters suggested that although the Commission does not allow Lifeline applicants to self-certify, the Commission should allow EBB Program applicants to self-certify given the emergency nature of the EBB Program. While the Commission recognizes that self-certification could in some circumstances lessen the burden on some households, the Commission declines to allow self-certification. Self-certification presents a sizable risk of waste fraud and abuse in the EBB Program. Further, the Commission finds the CAA contemplates documentation and verification to confirm eligibility and permitting a household to enroll in the EBB Program while only self-certifying to eligibility would run contrary to these statutory requirements. And given the many bases of eligibility through which a household is able to enroll in the EBB Program and different avenues for verification, the Commission finds that these ample opportunities make self-certification far less urgent.

57. *Participating Provider Alternative Verification Process.* The CAA also allows a participating provider to "rely upon an alternative verification process

of the participating provider," subject to certain conditions. As set out by the CAA, the "participating provider submits information as required by the Commission regarding the alternative verification process prior to seeking reimbursement," and the Commission has seven days after receipt of the information to notify the participating provider if the participating provider's "alternative verification process will be sufficient to avoid waste, fraud, and abuse."

58. The *Public Notice*, DA 21-6, sought comment on what information should be provided to the Commission concerning the alternative verification process, and the criteria the Commission should consider in determining whether a provider's alternative verification process is sufficient to avoid waste, fraud, and abuse. Some commenters suggested that the Commission create a model "alternative verification process" for participating providers to choose, while others suggested that the Commission automatically approve the verification processes for providers that have low-income programs that are not provided with government assistance and instead subsidized by the provider, as those providers already have strong incentives to ensure that only qualified customers take advantage of those programs. Other commenters proposed that local governments may act as the alternative verification process for providers. The Navajo Nation Telecommunications Regulatory Commission suggested that the Commission should work with providers who have worked in Indian Country to get their input as to verification, given the challenge that Lifeline has in verifying consumers in Indian Country. The Commission also received comments that any alternative verification process should be allowed to have different household eligibility definitions, but the Commission finds that it cannot expand eligibility beyond what the Consolidated Appropriations Act authorizes. The Commission notes, however, that under section 904(a)(6)(E) of the CAA, a broadband provider's eligibility criteria for their *existing* low-income or COVID-19 program may provide eligibility bases other than those explicitly listed in sections 904(a)(6)(A)-(D) of the CAA.

59. Regardless of how a provider seeks or receives authorization to participate in the EBB Program (as an ETC, as a non-ETC with expedited approval, or as a non-ETC with automatic approval), a provider must submit and receive WCB approval of its alternative verification process prior to using such a process to enroll

consumers in the EBB Program. The *Public Notice*, DA 21-6, proposes that the Commission delegates to the WCB authority to review and approve (or deny) alternative verification processes, and the Commission adopts this proposal. The Commission directs the WCB to develop a process for submitting proposed alternative verification processes and to review and approve or reject such submissions within the seven days required by the CAA. For ETCs, the Commission directs such providers to submit to the WCB requests for approval describing their alternative verification process after submitting their notice of election to USAC. The ETC's request for approval of its alternative verification process must still go through the approval process required by section 904(b)(2)(B) of the CAA and be approved by the WCB before the ETC can begin providing EBB Program service. For providers seeking a non-ETC approval from the WCB, the Commission directed such providers to submit requests for approval describing their alternative verification process along with their application to participate in the EBB Program, where possible. Although the provider application to participate may be granted automatically if the provider qualifies for such a grant, the provider's request for approval of its alternative verification process must still go through the approval process required by section 904(b)(2)(B) of the CAA and be approved by the WCB before the provider can begin providing EBB Program service.

60. The Commission also agrees with commenters that non-ETCs that are automatically approved as a participating provider based on having an established low-income or COVID-19 program as of April 1, 2020 pursuant to section 904(d)(2)(B) of the CAA should also have the alternative verification processes for those programs automatically approved. The CAA not only provides an automatic approval for such providers but also deems as eligible for the EBB Program households with at least one member that meets the eligibility criteria for a participating provider's existing low-income or COVID-19 program. The Commission finds Congress' heavy reliance on these existing aid programs instructive. The Commission is persuaded that such providers have strong incentives to ensure that only qualified customers take advantage of a provider's own low-income or COVID-19 program, as these programs are currently subsidized by the provider. Any such automatically approved provider must still submit a

description of their alternative verification process to the WCB.

61. The *Public Notice*, DA 21–6, proposed to allow alternative verification methods that are at least as stringent as methods used by the National Verifier, and the Commission received comment agreeing with this proposal. To be at least as stringent as the National Verifier, information collected by participating providers in the alternative verification process should at least include the applicant's: (1) Full name, (2) phone number, (3) date of birth, (4) email address, (5) home and mailing addresses, (6) name and date of birth of the benefit qualifying person if different than applicant, (7) basis for inclusion in program (*e.g.*, SNAP, SSI, Medicaid, school lunch, Pell Grant, income, provider's existing program, etc.) and documentation supporting verification of eligibility, and (8) certifications from the household that the information included in the application is true. The provider must describe the processes it (or a third-party) uses to verify the requested preceding information, including the applicant's identity and eligibility, and as required by the CAA, the provider must explain why the provider's alternative process will be sufficient to avoid waste, fraud, and abuse. For example, Comcast requires consumers to submit an application to obtain proof of identification and establish eligibility for its internet Essentials program, which is open to individuals in a high poverty area or through participation in a government assistance program. Comcast cross-references information from the application against internal databases populated with publicly available data from government sources to confirm participation in National School Lunch Program, residence at a public housing address, or residence in high poverty area, and if eligibility cannot be verified through internal databases or based on participation in a different government program, Comcast requires documentation of proof of participation and the documentation is reviewed by a vendor. The provider must also explain how it trains its employees and agents to prevent ineligible enrollments, including enrollments based on fabricated documents. If the alternative verification process fails to include any of the preceding information in the document, the provider should explain why it thinks such information is not necessary to prevent waste, fraud, and abuse. If a provider without an established low-income program seeks approval of an alternative verification

process, it must explain why it proposes to use an alternative verification process instead of the National Verifier eligibility determinations. The Commission declines to issue a model alternative verification process, and the Commission further declines to approve any of the other alternative verification processes submitted by commenters.

62. The *Public Notice*, DA 21–6, also sought comment on documentation and records providers should be required to keep complying with audit requirements. Commenters suggested that the providers should at least collect and retain documentation of the applicant's identity and eligibility criteria. The Commission requires that providers keep all documentation provided to them from the applicant used to make eligibility determinations, for as long as the applicant receives the Emergency Broadband Benefit, and also for no less than the six full calendar years following the termination of the EBB Program. For example, if a subscriber enrolls in the EBB Program through participation in the school breakfast or lunch program or the Pell Grant, retained documentation should include the name of the school and school year for which the subscriber has claimed eligibility. This requirement is similar to the document retention requirement used in the Lifeline program but is long enough to cover the statute of limitations under the False Claims Act laws for Federal wire fraud and ensures that documentation is available to confirm program compliance. Commenters also agree with the proposal in the *Public Notice*, DA 21–6, that providers identify the alternative verification process used when enrolling a household in the NLAD, and the Commission adopts that proposal. The Commission also directs USAC to conduct periodic program integrity reviews to ensure that subscribers enrolled through a provider's alternative verification process are eligible for the emergency broadband benefit.

63. *School-Based Eligibility Verification*. The CAA also allows a participating provider to rely on a school to verify eligibility under the free and reduced price school lunch or school breakfast program. The *Public Notice*, DA 21–6, proposed that a provider identify the school it relied on when enrolling a household in NLAD, and commenters agreed. The Commission also sought comment on what other information a participating provider should be required to submit or maintain. Commenters were concerned about the ability of schools to provide information about households

and individuals enrolled in the EBB Program without violating data privacy and confidentiality laws. The Commission also received a comment suggesting that the Commission create a standard protective order or consent form that providers can use. One commenter was also concerned that there may be significant administrative burdens and staffing requirements placed on schools if they are required to verify students, particularly if schools have a large number of students that qualify. One commenter estimated that it could take a school district 192 hours a month to process income verification requests from service providers. The Commission shares those concerns and was sympathetic to the burdens this method could impose on schools, especially during the pandemic when so many school administrators and teachers are struggling with the challenges of safe, in-person education, supporting students in need, and distance learning. The Commission concludes that, to comply with the requirements of the CAA, for a participating provider to rely on information provided by a school when enrolling a household in the EBB Program, the participating provider must certify in NLAD that it relied on information provided by a school for eligibility verification and that it retains documentation indicating: (1) The school providing the information, (2) the program(s) that the school participates in, (3) the household that qualifies (and qualifying student(s)), (4) and the program(s) the household participates in. The Commission believes this permits access to the EBB Program for student households through the school and also minimizes the burden on the school, especially in light of the relevant privacy and consent requirements. At the same time, households with students can also verify eligibility for and enroll in the EBB Program without relying upon schools, and will be able to use on any of the qualifying criteria for eligible households set forth in the CAA. And while the Commission declines to create a standard protective order or consent form, it recognized that it may be a beneficial tool for consumers and providers, and delegate to the WCB the authority to create such a form if it is needed for the National Verifier's processes.

64. *Covered Services and Devices*. The COVID–19 pandemic continues to challenge Americans' access to and reliance on broadband connections as households try to adapt and ensure that they have the tools to succeed in their

everyday tasks, including telework, telehealth, telemedicine, and virtual learning. The CAA permits, in the EBB Program, eligible households to receive a discount off the cost of broadband service and certain connected devices, and participating providers can receive a reimbursement for such discounts during the emergency period.

65. *Services.* In describing the services eligible for EBB Program support, the CAA defines “internet service offering” as a broadband internet access service provided to a household, and defines “broadband internet access service” with the meaning given to that term in § 8.1(b) of the Commission’s rules. The Consolidated Appropriations Act further requires that an internet service offering must have a “standard rate” in order to receive the emergency broadband benefit, and that standard rate equals the “the monthly retail rate for the applicable tier of broadband internet access service as of December 1, 2020, excluding any taxes or other governmental fees.” The Commission interprets this requirement to mean that an internet service offering eligible for EBB Program support must have a retail rate that was on offer as of December 1, 2020 and that, but for the application of the EBB Program discount, would have been charged to the customer on a monthly basis. The Commission interprets the CAA’s reference to a “monthly retail rate” to exclude broadband service products that are priced based primarily on the data allowance of the product (for example, a purchase 1 GB of data for \$5.00) and are sold separate from a monthly recurring service plan). This requirement also helps to focus limited funding toward more robust broadband service offerings to maximize the EBB Program’s benefits for enrolled households. Additionally, the Commission clarifies that the CAA’s application of the emergency broadband benefit as a discount off of the monthly retail rate charged to the subscriber means that service plans that are already offered with no fee to the end user—for example, as a result of Lifeline program support or other benefit programs—are not eligible for additional or duplicative support from the EBB Program. At the same time, the CAA does permit plans where the end result is no fee being assessed on the household *after* the application of the monthly benefit.

66. Some parties asked that the Commission require participating providers to make the emergency broadband benefit available on all of their service offerings. On balance, the Commission believes that dictating the required offerings in a temporary

program will discourage participation and result in less consumer choice than would otherwise be available if it provided participating providers with more flexibility. However, the Commission notes that participating providers may apply the emergency broadband benefit to any of their eligible offerings, including promotional offerings that were available as of December 1, 2020. Specifically, pursuant to the CAA, participating providers are required to make available to eligible households a monthly discount off the standard rate for an internet service offering and associated equipment, up to \$50.00 per month. For households residing on Tribal lands, the monthly discount may be up to \$75.00 per month. Participating providers will receive reimbursement from the EBB Program for the discounts provided.

67. The Commission provides further clarity on the internet service offerings and associated equipment eligible for reimbursement. Internet service offering is defined as “broadband internet access service provided by such provider to a household, offered in the same manner, and on the same terms, as described in any of such provider’s offerings for broadband internet access service to such household, as on December 1, 2020.” Accordingly, providers who participate in the EBB Program are only eligible to receive reimbursement for offerings that were available on and include the same terms as those available as of December 1, 2020. The majority of commenters do not oppose the service offering date of December 1, 2020, but some commenters explain that the December 1, 2020 date should not limit the ability of providers to offer upgrades on top of such existing service offerings to consumers. The Commission agrees and finds that participating providers may offer free enhancements of service quality elements of a discount-eligible internet service offerings but may not increase the price charged for that offering. The Commission believes the December 1, 2020 restriction is best understood as a method of avoiding arbitrage opportunities and waste in the EBB Program by allowing unscrupulous providers to take advantage of the increased subsidy available. By referring to offerings that were available prior to the enactment of the law, the CAA prevents participating providers from increasing prices above the usual market rate for their services for the purpose of claiming the maximum reimbursement amount. Interpreting that restriction to also restrict the ability of participating providers to offer free upgrades to the

quality of the broadband services provided to eligible households, however, such as speed, data caps, and other non-price elements, would be contrary to the law’s purpose of supporting robust modern broadband service during an unprecedented pandemic. The Commission therefore permits provider offerings that were available on and include the same terms as those available as of December 1, 2020 to include free enhancements in quality with respect to such non-price elements.

68. *Minimum Service Standards.* The Commission declines to apply minimum service standards to covered services for the EBB Program. The Commission finds that qualifying internet service offerings must include a broadband connection (as defined in section 904(a)(9) of the CAA)—fixed or mobile—that permits households to rely on these connections for the purposes essential to participating in society during the pandemic, such as telework, remote learning, and telehealth. A majority of commenters supported this approach, explaining that broadband speeds should be sufficient for telework and distance learning, and discount-eligible internet service offerings should feature speeds comparable to those offered to market-rate customers. The Commission also recognizes that Congress did not limit the discount to lower-cost broadband plans. Consumers purchasing discounted services under the EBB Program qualify for the same protections as those purchasing services at standard rates. Thus, providers that offer discounted broadband services pursuant to the EBB Program rules, either on a standalone or bundled basis, must comply with the same consumer-protection requirements that apply to the corresponding services that they offered on or before December 1, 2020. Thus, providers must disclose accurate information regarding the performance characteristics, commercial terms, and other features of their discounted broadband services to enable consumers to make informed choices regarding the purchase and use of such services.

69. Some commenters also suggested that participating providers should offer services that meet the Commission’s definition of broadband at 25/3 Mbps or encourage the Commission to require high-capacity, affordable broadband service. Given the emergency nature of the EBB Program and the vital need to maximize consumer choice and benefits in a short timeframe, the Commission was not persuaded by such arguments. By administering the program within the definition of “internet service offering,” and permitting non-ETCs to

participate, the Commission obviates the need for lengthy service obligations and the risk of slow speeds and maintain consumer choice—allowing consumers to select offerings that work best for their household—as well as permit participating providers to serve eligible households as quickly as possible during the emergency period. The Commission further declines to apply the Lifeline program’s minimum service standards to covered services for the EBB Program. The Commission recognizes that some commenters encouraged it to use Lifeline’s minimum service standards or the Lifeline program itself as a starting point. Indeed, the Commission understands that low-income consumers must have access to reliable broadband connections vital for basic education, health care, remote work, disability access and public safety, but the CAA does not indicate Congressional intent that the Commission applies Lifeline’s minimum service standards for the EBB Program. The Commission is supported in this decision by the measures adopted that clarify that participation in the EBB Program does not preclude the same household from participating in the Lifeline program or other aid programs offered at the state and local level as long as participants meet the requirements for such programs. Even though the EBB Program is an emergency, temporary program, it will operate concurrently with Universal Service Fund programs and other existing programs at the state and local levels so eligible consumers can choose a broadband connection that meets their connectivity needs.

70. The Commission, however, anticipates that providers that elect to participate in the EBB Program that are already designated as ETCs through their participation in other Universal Service Fund programs, particularly the Lifeline program, will draw from that experience and offer similar or upgraded broadband services. In the EBB Program, the Commission anticipates that existing ETCs will continue to offer quality and innovative services, and encouraged other broadband providers (non-ETCs) to offer service standards that promote robust broadband access to vital services.

71. *Bundled Service Offerings.* The Commission also recognizes that participating providers in the EBB Program may offer qualifying broadband service combined with other services, otherwise known as bundled service offerings (e.g., voice, data, texting, associated equipment). While the CAA does not explicitly direct the Commission regarding how to handle

bundled broadband service offerings, the Commission finds if such bundled service options were offered “in the same manner, and on the same terms” on December 1, 2020, participating providers should be able to apply the monthly discount of up to \$50 per month, or up to \$75 for Tribal lands, to the entire bundled service. The Commission draws this conclusion from record support that viewed such offerings as enhancing flexibility between participating providers and consumers. Also, the Commission draws from its experience with the Lifeline program that participating providers in the EBB Program, including ETCs that are already adept at applying such a discount in the Lifeline program to bundled services, offer bundled service offerings to address consumer demands outside of any Commission regulation. In contrast to the record support for permitting EBB Program reimbursement for broadband bundled services that include voice and/or text messaging, there was not similar support for permitting reimbursement for the full price of broadband bundled services that include video service. The Commission finds that permitting EBB Program reimbursement for the full price of a bundle that includes video service is not contemplated by the statute and was not necessary to ensure that consumers in the EBB Program have robust service choices, and the Commission therefore does not permit support for such bundles with video service.

72. The Commission finds that the CAA’s requirement that the service offerings be offered “in the same manner” as they were on December 1, 2020, authorized the Commission to support both standalone broadband service offerings and broadband service offerings bundled with voice, text messaging, and/or associated equipment. For many fixed and mobile internet service offerings, it is common to offer broadband service as part of a bundle without separating out the price of the broadband component and its associated equipment. By permitting participating providers to offer broadband in those same bundles in the EBB Program, the Commission permits providers to make available internet service offerings “in the same manner” as they were on December 1, 2020.

73. *Associated Equipment and Other Customer Premises Equipment.* The CAA requires participating providers to make available to eligible households a monthly discount off the rate for an internet service offering *and* associated equipment, up to \$50.00 per month, and on Tribal lands, the monthly discount

may be up to \$75 per month. In the *Public Notice*, DA 21–6, the WCB also sought comment on how to define associated equipment and whether that undefined term should include, for example, the monthly rental costs for modems and/or routers that are offered as part and parcel of an internet service offering. The record overwhelmingly supported including modems, routers, and hotspot devices and antennas, if offered as monthly rental costs or part and parcel of an internet service offering as eligible for the EBB Program monthly discount as of December 1, 2020. Combined with record support and recognizing that the CAA does not specifically define or identify any associated equipment as it relates to any particular broadband service, the Commission finds that associated equipment includes equipment necessary for the transmission functions of internet service offerings supported through the EBB Program which households may choose to receive. Commenters support the Commission’s conclusion by encouraging the Commission to define the scope of eligible associated equipment “in a technology-neutral manner” to accommodate household choice and the different types of broadband networks. The Commission agrees that a technology-neutral approach is appropriate as long as it meets the requirements of the CAA. However, the Commission declines to include Wi-Fi extenders or repeaters as associated equipment or any other customer premises equipment that enhances or extends a broadband signal beyond a participating provider’s internet service offering. First, any associated equipment that enhances or extends a broadband signal from its existing coverage area as outlined in the participating provider’s internet service offering would not be offered “in the same manner, and on the same terms” as defined in the CAA. Second, these types of devices are typically sold as add-on options to a broadband connection or sold separately through major manufacturers and are therefore not offered as part and parcel of an internet service offering. Accordingly, Congress does not clearly allow the Commission to include these devices, and if it had intended to do so, it would have included such devices in its definition of “connected devices.” The Commission also notes that the “associated equipment” discussed in this paragraph must be billed monthly on the same terms and same manner as it would have been in an offering available on December 1, 2020. The price for such associated equipment

cannot be frontloaded. For example, if a provider has a \$30 monthly service offering and would have offered a modem for a monthly rental of \$5 for a total monthly fee of \$35, the provider cannot front-load the monthly rental fee and charge \$20 for four months of a modem rental in the first month in order to maximize reimbursement up to the \$50 monthly discount allowed.

74. *Connected Devices*. The CAA clearly and narrowly defines a “connected device” eligible for a separate, one-time reimbursement as “a laptop or desktop computer or tablet.” In the *Public Notice*, DA 21–6, the Commission sought comment on whether the Commission should provide any further clarity regarding connected devices that are eligible for reimbursement. The CAA does not leave room for a broad interpretation of “connected device.” Congress explicitly declined to include mobile phones in its definition, and thus the Commission finds that the definition of a tablet does not include devices that can independently make cellular calls such as large phones or phablets.

75. Various commenters urge the Commission to fund additional end-user devices outside the scope of the CAA, including mobile phones (*i.e.*, smartphones) and portable Wi-Fi hot spots arguing that these devices are capable of supporting video conferencing platforms and other software, and limiting such devices could “impose more financial burdens to a student.” CTIA, for example, explained that “mobile devices from the 4G era or later should qualify as ‘tablets’ under the definition” while “mobile phones, including feature phones and smartphones from the 3G era or earlier, should not qualify as ‘tablets.’” T-Mobile explained “that certain mobile phones that provide similar functionality as a basic tablet” should be considered a “connected device.” TDI et al. proposed that devices that enable Video Relay Service or internet Protocol Captioned Telephone Service should be eligible for reimbursement. Conversely, other commenters supported the exclusion of mobile phones, with one commenter opposing the inclusion of tablets, as a connected device. Common Sense Media, in its comments, excludes cell phones from its research-based list of requirements for a robust learning experience, explaining that “students and teachers need laptops or tablets capable of meeting the distance learning requirements of their curriculum.” The record also indicated that, while tablets are capable of supporting video conferencing platforms and other

software, commenters expressed caution that tablets may require more specific service standards or a broad interpretation. Taking into consideration the record, and the narrow and specific language in the CAA’s definition of a connected device, the Commission is unable to expand the definition of connected device and concluded that the EBB Program will provide reimbursement for any connected device, defined as “a laptop or desktop computer or tablet.”

76. The Commission next clarifies that participating providers may only receive a single reimbursement of up to \$100 for one connected device per household, and the eligible household must contribute towards the cost of the connected device at least \$10 but no more than \$50. The *Public Notice*, DA 21–6, sought comment on whether eligible households should be able to receive more than one connected device through the EBB Program, for example, if the household changes providers. The Consolidated Appropriations Act provides that a participating provider may receive reimbursement for no more than one connected device per eligible household, but it is silent as to whether households may receive the connected device reimbursement benefit from more than one provider. Although some commenters suggested that eligible households should receive more than one connected device, the Commission finds no legal basis to do so. In order to preserve limited funds, ensure that benefits reach the greatest number of eligible households, and avoid wasteful spending, the Commission finds that households are limited to a single connected device during the EBB Program for which a provider seeks reimbursement. The Commission takes this position in order to maintain the integrity of the EBB Program—ensuring that reimbursements, and the subsequent disbursements, for a connected device are only processed for valid claims that comply with the CAA.

77. *Minimum System Requirements for Connected Devices*. In the *Public Notice*, DA 21–6, the WCB sought comment on whether the Commission should impose minimum system requirements for connected devices supported by the EBB Program. The Commission adopts its proposal that a connected device supported by the EBB Program should be expected to support video conferencing platforms and other software essential to ensure full participation in online learning, should be Wi-Fi enabled, and have video and camera functions. The record overwhelmingly supported that, at a minimum, connected devices must be

able to support video conferencing and camera functionality and online learning software. Recognizing however that the ongoing COVID–19 pandemic has compounded challenges for numerous households to maintain broadband services, the Commission finds that setting minimum system requirements for connected devices could limit consumer choice and exacerbate barriers to broadband service that may have existed prior to COVID–19. While some commenters suggested specific standards the Commission should adopt for connected devices, the Commission declines to adopt such standards and instead encourage participating providers and interested stakeholders to explore other opportunities, including partnering with school districts and state and local programs that may provide funding or other avenues for access to end-user devices and equipment due to the COVID–19 pandemic. The Commission also expects that connected devices be accessible to and usable by people with disabilities.

78. *Benefits for Households on Tribal Lands*. The CAA also provides a discount up to \$75 for internet service offerings to eligible households on Tribal Lands. The Commission finds that it was vital to utilize the EBB Program in an efficient way to help provide more households on Tribal lands with affordable, reliable connectivity. The Commission adopts its proposal in the *Public Notice*, DA 21–6, to use the same definition of Tribal lands as used in the Lifeline program, including certain lands near the Navajo Nation treated as Tribal lands. The Commission also allows members of households on Tribal lands to use their participation in the same Tribal programs permitted under the Lifeline program to qualify for the EBB Program, in addition to other permitted means of qualifying. The Commission also adopts its proposal to use the processes USAC has in place for identifying the location of a household residence.

79. Many commenters supported the Commission’s proposal to use the Lifeline program’s definition of Tribal lands as well as existing USAC processes for verifying eligibility of households on Tribal lands. The Commission finds this to be the best and most efficient approach for households and participating providers in the EBB Program because it will continue to help the Commission quickly address existing impediments to connectivity on Tribal lands and allow providers to offer EBB Program benefits to a wide-range of households that will, in turn, increase



the number of subscribers of broadband internet access service. The Commission therefore declines to use any other definitions suggested by commenters that would expand upon the established definitions in the Commission Lifeline rules and would accordingly prevent USAC from using the existing Lifeline informational tools to identify whether an applicant resides on Tribal lands.

80. With respect to other accommodations to ensure eligible households on Tribal lands are able to participate in the EBB Program, some commenters encouraged a flexible approach that would use additional methods other than USAC databases (*i.e.*, National Verifier, NLAD) to verify addresses. The Commission disagrees with such an approach and finds that USAC's databases, especially its mapping tool in the National Verifier, offered a sufficiently comprehensive process for identifying residences on Tribal lands for the EBB Program. Additionally, USAC provides multiple other methods for applicants and providers to submit residential location data to confirm whether an applicant resides on Tribal lands. Expanding or otherwise modifying the USAC systems to accommodate new methods would also require additional time. To facilitate timely and efficient processing of participating providers and eligible households on Tribal lands, the Commission finds the benefits of using USAC's existing mapping tool and other address verification methods far outweighs commenters' concerns to this action and also eliminates time-consuming or wasteful administrative processes. The Commission directs USAC to make available its existing comprehensive address verification methods to applicants and providers in the EBB Program, including providers using their own alternative verification process pursuant to the CAA.

81. *Budget and Reimbursement—Emergency Broadband Connectivity Fund and Reimbursement for the Emergency Broadband Benefit.* The EBB Program is funded through the \$3.2 billion Emergency Broadband Connectivity Fund in the CAA, and does not rely on contributions to the Universal Service Fund. The CAA further provides that no more than 2% of the Emergency Broadband Connectivity Fund (Fund) or \$64 million is to be used for the administration of the EBB Program, and funding for the EBB Program will remain available until the Fund is expended or six months after the end of the Emergency Period as defined in the CAA, whichever comes first. The Commission recognizes that while

Congress allocated that a portion of the Fund be used for the administration of the EBB Program, the primary purpose of the Fund is to provide support for the households enrolled in the program. To that end, the Commission directs USAC, in coordination with the OMD, to re-evaluate no later than three months after the start of the EBB Program to determine if there are any of its administrative funds that can be used to fund reimbursements for service and connected device claims. Moreover, the Commission directs USAC to continue to regularly report to the OMD its projected budget for its administration of the EBB Program. Based on USAC's initial estimates provided to the OMD, USAC's EBB Program administrative costs will be under the 2 percent cap, which includes costs associated with business process outsourcing, project management, IT professional fees, and call center activities. Pursuant to the terms of the Memorandum of Understanding between USAC and the Commission, USAC and the Commission will not incur administrative costs beyond the \$64 million cap.

82. The emergency nature of the EBB Program requires a prompt processing of claims that ensures participating providers, including those who currently have no relationship with USAC, receive reimbursement for valid claims for services and connected devices provided to eligible households. To ensure that there is a mechanism for disbursing funds to providers that balances the need to guard against waste, fraud, and abuse in the EBB Program with the need to reimburse valid claims quickly and efficiently, the Commission adopts the following requirements for the reimbursement process.

83. *Lifeline Claims System.* The Commission recognizes the importance of using existing, functional systems such as the NLAD and the Lifeline Claims System to ensure that EBB Program providers can submit timely reimbursement claims yet are not claiming support for the same household. The NLAD plays a vital role in ensuring that providers can only claim subscribers enrolled in NLAD on the first of each month and the information captured in NLAD serves as the basis for claims in the Lifeline Claims System. As with Lifeline, the Commission requires providers in the EBB Program to transmit to the NLAD the required information necessary to uniquely identify households. To help maintain the integrity of the EBB Program and to facilitate efficient processing of reimbursement claims, the

Commission adopts the proposal in the *Public Notice*, DA 21–6, to use USAC's Lifeline Claims System to reimburse providers for the provision of covered devices, services and associated equipment to eligible households. The Lifeline Claims System is the online filing system hosted by USAC that service providers use to submit claims for reimbursement for service they provide to Lifeline customers. In the Lifeline program, providers are required to submit a reimbursement request through the Lifeline Claims System based on the number of subscribers enrolled in the NLAD on a specific date each month, called a snapshot date. Providers are instructed to review the snapshot report from NLAD for all of the provider's households in NLAD as of that date, validate the households for which they wish to seek reimbursement, or indicate a reason for not claiming reimbursement for other households on the report, and review, correct, and certify the requested reimbursement amount. The Commission employs the same process for reimbursing providers in the EBB Program. The Commission directs USAC to make the Lifeline Claims System available to EBB Program providers, once they are approved to participate in the program, subject to USAC system access requirements.

84. Commenters generally support the WCB's proposal to use the Lifeline Claims System for managing reimbursements, stating that the use of an existing USAC platform will avoid unnecessary delays that would result from developing a new reimbursement platform for use in the EBB Program. Some noted the importance of issuing reimbursements quickly, particularly for smaller providers that may find it financially difficult to wait months for reimbursement. The Information Technology and Innovation Foundation (ITIF) contends that using the Lifeline Claims System for managing reimbursements will “expedite [ ] financial recovery by providers to ensure stability while also leveraging a tested, already established system with Lifeline.” Other commenters, such as the National Consumer Law Center and the United Church of Christ OC, Inc. (NCLC and UCC) noted that using the Lifeline Claims System will provide integrity to the EBB Program by helping to ensure that the funds are directed to providers and consumers for eligible services and connected devices.

85. *Uniform snapshot date.* The disbursement of EBB Program claims will be based on the number of Program subscribers enrolled with a provider in the NLAD as of the first of each month. The first of the month will serve as the

uniform snapshot date. When establishing the uniform snapshot date for Lifeline, the Commission finds that the practice would (1) reduce the risk that the EBB Program would reimburse multiple providers for serving the same customer in a month; (2) assist with the adoption of uniform audit procedures; and (3) aid in the calculation of support based on the number of subscribers that a service provider has listed in NLAD. Commenters also recognized the value of establishing a uniform snapshot date for use in the EBB Program. For example, T-Mobile stated that applying the uniform snapshot date will simplify the enrollment and reimbursement process in the EBB Program as it currently does for Lifeline. The Commission agrees that the uniform snapshot date brings efficiencies to the reimbursement process by restricting support to those eligible subscribers that are enrolled in NLAD on the first of each month and removing any uncertainty that would come with a requirement for providers to claim subscribers on a pro-rata basis in the event households receive service for less than the full month. On the other hand, employing a method that allows for partial claims would be cumbersome to administer and would make it difficult for USAC to track disbursements from the Emergency Broadband Connectivity Fund. The Commission finds it most efficient to require providers to claim subscribers that are enrolled in NLAD as of the first of the month regardless of how many days in the month the provider was providing service to the subscriber.

86. *Program-wide use of NLAD for reimbursements.* The Commission also establishes that NLAD will be used as a tool for reimbursement calculations and duplicate checks in all states, territories and the District of Columbia, regardless of a state's NLAD opt-out status for purposes of the Lifeline Program. Uniformity in the ways providers interact with the Lifeline Claims System and other USAC systems is essential in ensuring that the EBB Program operates efficiently, which is a priority given the emergency and temporary nature of the Program. Asking USAC to develop and administer different reimbursement processes for different states would delay the implementation of this emergency program and potentially burden state administrators. Moreover, the Commission recognizes the need for non-ETC providers to quickly become familiar with the reimbursement process to ensure that claims are made correctly and to reduce the need for revisions. Having multiple reimbursement

processes would further complicate the EBB Program and lead to confusion among providers who are not familiar with existing Lifeline processes, particularly in opt-out states. This uniform approach and program-wide reliance on the NLAD for the generation of the snapshot report is important in facilitating the swift processing of reimbursement claims.

87. *Certification requirements.* To submit their reimbursement claims for broadband internet access service provided to eligible households, the Commission requires participating providers to review their snapshot report and validate the eligible households for which they are requesting reimbursement. The provider shall confirm that the reimbursement amount matches the amount of the monthly service or connected device for which the participating provider is permitted to seek reimbursement and make any corrections to the amount as necessary. The Commission also requires providers to review the snapshot report and to confirm that households receiving a fully subsidized service have used the service during the relevant period. If a household has not used their service during the relevant period, then the provider shall not submit a reimbursement claim for service provided to that household until the service is used and the non-usage is cured. To add more accountability and to help ensure that only service that subscribers are using is funded through the EBB Program, the Commission requires that providers certify that their EBB Program service claims for reimbursement meet the usage requirements. To ensure that the Program is supporting broadband service that is actually being used, the Commission will not permit providers to seek reimbursement for a service month in which a household did not meet the usage requirements, even if the household meets the usage requirements in subsequent months.

88. Additionally, the Commission requires providers to make the certifications, including those set forth in the CAA when submitting a reimbursement claim. The CAA requires that in order to receive reimbursement from the Emergency Broadband Connectivity Fund, the providers shall make several certifications regarding the accuracy of their claims, compliance with the requirements of the EBB Program and various consumer protection-related provisions. Specifically, the CAA requires that providers certify that the amount for which they are seeking reimbursement from the Emergency Broadband

Connectivity Fund is not more than the standard rate, and that each eligible household for which the provider is seeking reimbursement for providing internet service has not or will not be charged (1) for that offering if the standard rate for that offering is less than or equal to the amount of the EBB Program benefit for that household; or (2) more for that offering than the difference between the standard rate for that offering and the amount of the EBB Program benefit for that household. The provider is also required to certify that each eligible household for which it is seeking reimbursement will not be required to pay an early termination fee, was not after December 27, 2020, subject to a mandatory waiting period for the covered broadband internet service, and will otherwise be subject to the provider's generally applicable terms and conditions as they are applied to other customers. Moreover, providers are required to certify that each household for which they are seeking a reimbursement for a connected device has been charged more than \$10 and less than \$50 for the connected device. Finally, for providers that are claiming households that they determined to be eligible to enroll in the EBB Program through the alternative verification process, providers must provide a description of that verification process and certify that the process was designed to avoid waste, fraud, and abuse and has been approved by the Commission as required by section III(B) of the RO.

89. The *Public Notice*, DA 21–6, proposed that these certifications accompany each reimbursement claim, in addition to an annual certification submitted by participating providers. Commenters did not object to this certification, although some asked for additional certifications while others requested that the Commission not require certifications beyond those listed in the CAA. The Commission finds that certifications, along with the possibility of audits, are a vital tool for managing waste, fraud, and abuse. While the certifications required by the CAA address many of the Program requirements, the Commission finds that additional certifications are necessary to ensure compliance with Commission's requirements that it finds essential to help guard against waste, fraud, and abuse in the EBB Program. Accordingly, the Commission directs USAC to make any adjustments necessary to the Lifeline Claims System to ensure that providers are prompted to certify that their reimbursement claims meet the usage requirements and to

certify the statements included in section 904(b)(6) of the CAA. The Commission further directs USAC, in coordination with the WCB, to develop an annual certification for all participating providers and a process for its submission. As discussed in the following, the Commission also adopts additional certifications to accompany reimbursement claims for connected devices distributed through the EBB Program.

90. As well-established in the record, the Emergency Broadband Connectivity Fund has limited funding and the Commission must make every effort to ensure that the Commission maximizes the use of these funds to serve as many eligible households as possible, including responsibly leveraging EBB Program funding with other sources of support. To that end the Commission requires participating providers that are applying both the Lifeline discount and the Emergency Broadband Benefit to a household's supported broadband service to apply the full Lifeline discount first before calculating the reimbursement amount claimed under the EBB Program. This approach responsibly stewards limited EBB Program funding where Lifeline support is available and is consistent with the requirements of § 54.403(b) of the Commission's rules regarding the application of the Lifeline support amount.

91. *Reimbursement for Connected Devices.* EBB Program providers can also seek up to \$100 reimbursement for a connected device provided to a household satisfying the requirements set forth in the RO and as long as the household has been charged more than \$10 but less than \$50 for the device. To facilitate the efficient review and processing of reimbursement claims for connected devices, the Commission directs USAC to modify the Lifeline Claims System to manage these claims. Because the Consolidated Appropriations Act limits the connected device reimbursement to providers who are providing the EBB Program benefit to the household, the Commission requires that claims for connected devices must be made concurrent with or after the provider's first reimbursement claim for service for that household. To ensure that a household does not receive more than one connected device for which a provider has received reimbursement from the EBB Program, providers are also required to confirm in NLAD that no reimbursement claim for a connected device has been made for that household.

92. Some commenters agreed with the proposal in the *Public Notice*, DA 21–6, to require providers to certify that the household receiving the device is an EBB Program beneficiary and that the household has been charged the required co-pay for the device. To help make the Emergency Broadband Connectivity Fund last as long as possible, Public Knowledge urged the Commission to require providers to prove the retail value of the connected device to ensure that the provider is not receiving a reimbursement that exceeds the value of the device. The Commission acknowledges the need to balance speedy and efficient processing of reimbursement claims with the need to protect the integrity of the EBB Program by ensuring the reimbursements are only processed for valid claims that comply with the requirements of this Order. To that end, to ensure the quick reimbursement of valid claims for connected devices, USAC will not be required to collect and review documentation before processing a reimbursement claim. Instead, the Commission requires providers, under penalty of perjury, to certify that the connected device meets the Commission's requirements, that the reimbursement claim amount reflects the market value of the device, that the household has been charged a compliant co-pay amount, and that the connected device has been delivered to the household. Providers are instructed to retain any materials that document compliance with these requirements, including the device type (*e.g.*, laptop, tablet, mobile hotspot, modem, gateway, router, antenna, receiver, or satellite dish) and device make and model. The Commission finds that requiring certifications under penalty of perjury along with the possibility of an audit will help to encourage compliance with EBB Program requirements and reduce the incidence of improper payments.

93. *Timing of Reimbursement Claims.* The EBB Program is a limited duration program with limited funds, and it is important that the Commission is able to project accurately when those funds will run out. To this end, USAC must have actual reimbursement claims information from providers as soon as possible after each service month. USAC will use this claims information for reporting the disbursement information to the public and for creating a forecast for the projected final month of the EBB Program, both of which are discussed in the following. To ensure that this claims information is submitted to USAC by providers in a timely manner so that it can be used to administer the program

efficiently, and so providers can receive timely reimbursement for the discount they provide to households, the Commission established a limited time period during which providers can submit reimbursement claims. The process for submitting a reimbursement claim will largely track the process in the Lifeline program, where a snapshot report of a provider's enrolled subscribers as of the first of the month is sent to the provider. Providers will then have until the 15th of each month, or the following business day in the event the 15th falls on a weekend or holiday, in which to submit to USAC their reimbursement claims for both service and connected device support for households captured on the snapshot report. For those providers seeking to have their reimbursement claim processed quicker, they must review and certify their reimbursement claims sooner, as established by USAC.

94. The record was clear that there is universal support for accurate and timely reporting of reimbursement information so that providers and the public can make informed decisions regarding their participation in the EBB Program. Providers can help the Commission ensure that USAC is collecting nearly real-time claims information by submitting their accurate reimbursement claims as soon as possible and within that 15-day period. Moreover, given the importance of the projection of the program's end date as it relates to the smooth administration of the end of the EBB Program, the Commission trusts that providers will do their part in ensuring that USAC has reimbursement claims information as soon as possible. The Commission also believes providers will be motivated to receive reimbursements as soon as possible. To that end, to ensure the timely filing of reimbursement claims so that USAC's projections are reliable and based on current activity in the EBB Program, the Commission finds it necessary to restrict the processing of reimbursement claims to those submitted by the deadline set for each month—either the 15th of that month or the following business day in the event that the 15th falls on a holiday or weekend. Reimbursement claims submitted after that deadline will not be processed. Therefore, providers are strongly encouraged to submit their claims as soon as possible.

95. To further support the Commission effort to track disbursements and to provide a projection for the depletion of the Fund that is based on the most accurate and up-to-date household and disbursement information, the Commission is

prohibiting providers from revising previously submitted claims associated with the provision of EBB Program services and connected devices. The Commission expects that this limitation will encourage providers to be especially cautious when reviewing reimbursement claims prior to submission to ensure accuracy. Moreover, preventing changes to prior disbursements will give the Commission, USAC, providers and households confidence in the reported disbursement amounts. Providers are required to certify to the accuracy of reimbursement claims and that the United States, the Commission, and USAC retain the right to pursue recoveries as well as take enforcement action for any claims improperly disbursed from the Fund. Additionally, to help support USAC's efforts to project the end of the EBB Program, the Commission sought participating providers' cooperation and request that they transmit to NLAD the amount they intend to claim for service and connected device support for each household they enroll in NLAD. While the reimbursement amount processed for the provider will be based on the amount contained in the provider's certified reimbursement claim submitted through the Lifeline Claims System, the information transmitted to NLAD will, in part, be relied upon for calculating the EBB Program's projected end date. The Commission encourages providers to transmit a good faith estimate of the monthly support amount for service and any device provided to the household through the EBB Program within seven days of enrolling the household in NLAD.

96. *USAC training and support.* Finally, the Commission recognizes that the EBB Program will attract a variety of broadband providers, including those with no prior experience with USAC and its systems. To provide guidance on the reimbursement claims process, the Commission directs USAC, subject to the oversight of the OMD and the WCB, to conduct extensive training, including webinars, to distribute instructions, and otherwise to provide support to broadband providers considering participation in the EBB Program. The Commission further directs USAC to ensure that interested providers are given access, subject to system and USAC requirements, to the USAC systems essential for the management and processing of reimbursement claims.

97. *Payment Administration.* While USAC will be administering the EBB Program, as permitted under section 904(i)(5) of the CAA, and pursuant to

the terms of the MOU between the Commission and USAC that authorizes the use of USAC for the administration of the EBB Program, the Commission must authorize the payments from the Emergency Broadband Connectivity Fund in the United States Treasury to providers who have submitted valid claims for reimbursement. In the RO, the Commission describes steps to remove impediments to participation in the EBB Program for those providers that would otherwise be prohibited from receiving reimbursements due to unpaid debts to the Commission or which the Commission has referred to the United States Department of the Treasury (Treasury). The Commission also provides guidance on the information providers must be prepared to provide to ensure timely payment of reimbursement claims from the Fund.

98. *Red Light Rule.* The Commission finds that there is good cause to suspend the Commission's red light rule for the EBB Program and that doing so will serve the public interest. To implement the requirements of the Debt Collection Improvement Act of 1996, the Commission establishes what is commonly referred to as the "red light rule," although the red light rule itself is not a statutory requirement and therefore can be waived by the Commission. Under the red light rule, the Commission will not take action on applications or other requests by an entity that is found to owe debts to the Commission until full payment or resolution of that debt.

99. Generally, the Commission's rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an overall basis.

100. The Commission finds that the temporary nature of this emergency program and the enduring disruption caused by the COVID-19 pandemic justify a waiver of the red light rule. In order to encourage provider participation and facilitate consumer choice in the EBB Program, the Commission finds that it is in the public interest and that good cause exists to waive the red light rule with respect to providers submitting otherwise valid claims for reimbursement in the EBB Program. Allowing more providers to participate in the EBB Program, even those who may be in red light status, is a crucial step in expanding the broadband service options available to

low-income consumers through the EBB Program. The Commission issues this waiver to ensure that otherwise eligible broadband providers are not discouraged from participating in the EBB Program for fear that a debt owed to the Commission would prevent them from receiving reimbursement. To be clear, this waiver is limited only to participation of providers in the EBB Program and does not affect the Commission's right or obligation to collect any debt owed by an applicant by any other means available to the Commission, including by referral to the Treasury for collection.

101. *Treasury Offset.* The Treasury has a number of collection tools, including its offset program, known as the Treasury Offset Program (TOP), pursuant to which it collects delinquent debts owed to Federal agencies and states by individuals and entities, by offsetting those debts against Federal monies owed to the debtors. EBB Program providers that owe past-due debt to a Federal agency or a state may have all or part of their EBB Program payments offset by Treasury to satisfy such debt. Prior to referral of its debt to Treasury, a provider is notified of the debt owed, including repayment instructions. If the referred debt of an EBB Program participating provider remains outstanding at the time of a payment from the EBB Program to that provider, the provider will be notified by Treasury that some or all of its EBB Program payment has been offset to satisfy an outstanding Federal or state debt. EBB Program providers are required to pass the EBB Program discount to the customer for the service or connected device claimed even if Treasury offsets the payment for such service or device against debt owed by the provider. EBB Program providers that owe past due Federal or state debts are encouraged to resolve such debts and in doing so, consult the TOP Frequently Asked Questions for the Public, available at <https://fiscal.treasury.gov/top/faqs-for-the-public.html>, for delinquent debt that has been referred to Treasury, and for delinquent debt that the Commission has not yet referred to Treasury, consult <https://www.fcc.gov/general/red-light-frequently-asked-questions>.

102. *Additional Requirements.* To be eligible to receive disbursements from the Emergency Broadband Connectivity Fund, providers must obtain and report an FCC Registration Number (FRN). Persons or entities doing business with the Commission are required to obtain an FRN, a unique identifier that is obtained through the Commission Registration System (CORES).

Participating providers are directed to obtain an FRN if they do not already have one and report it as directed by USAC or the Commission.

103. All entities that intend to provide service through the EBB Program must also register with the System for Award Management (SAM). SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the Federal Government's partners in support of Federal awards, grants, and electronic payment processes. Registration in the SAM provides the Commission with an authoritative source for information necessary to provide funding to applicants and to ensure accurate reporting pursuant to the Federal Funding Accountability and Transparency Act of 2006, as amended by the Digital Accountability and Transparency Act of 2014 (collectively the Transparency Act or FFATA/DATA Act). Only those providers registered in SAM will be able to receive reimbursement from the Emergency Broadband Connectivity Fund. EBB Program providers that are already registered with SAM do not need to re-register with that system in order to receive payment from the Emergency Broadband Connectivity Fund. Broadband providers not yet registered with SAM may still elect to participate in the EBB Program, enroll eligible customers and receive program commitments. Active SAM registration, however, is required for an eligible provider to receive a payment from the EBB Program. Furthermore, participating providers may be subject to reporting requirements. To the extent that participating providers subaward the payments they receive from the EBB Program, as defined by FFATA/DATA Act regulations, providers may be required to submit data on those subawards.

104. *Do Not Pay*. Pursuant to the requirements of the Payment Integrity Information Act of 2019 (PIIA), the Commission is required to ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any Federal funds. To meet this requirement, the Commission and USAC will make full use of the Do Not Pay system administered by the Treasury's Bureau of the Fiscal Service. If a check of the Do Not Pay system results in a finding that an EBB Program provider should not be paid, the Commission will withhold issuing commitments and payments. USAC may

work with the EBB Program provider to give it an opportunity to resolve its listing in the Do Not Pay system if the provider can produce evidence that its listing in the Do Not Pay system should be removed. However, the EBB Program provider will be responsible for working with the relevant agency to correct its information before payment can be made by the Commission.

105. *Tracking and Reporting of Available Funding*. While the Commission considers carefully many of the details of the implementation of the EBB Program, the amount of appropriated funds is finite and it must also prepare for a transition when funds are exhausted. The CAA provides that the EBB Program will conclude upon the earlier of six months after the end of the emergency period or when the amount in the Fund is exhausted. At the conclusion of the EBB Program when the discount is eliminated, participating households will be subject to their provider's "generally applicable terms and conditions." The Commission agrees with commenters that the Emergency Broadband Connectivity Fund may well be depleted before the end of the emergency period, which means that the benefit on which households have been relying to afford broadband service may disappear while the public health emergency is ongoing. To prepare providers and households for the end of the program and the benefit, commenters stressed the importance of transparency regarding the financial state of the EBB Program and have urged the Commission to track and report disbursements from the program at frequent intervals so that the public can anticipate the end of the program.

106. Commenters recommended the creation of a tracker that displays the number of enrollments and amounts of disbursements made from the Emergency Broadband Connectivity Fund. Some commenters suggested that the tracker be updated either in real-time, or on a weekly or monthly basis. Commenters also urged the Commission to display disbursements and enrollment activity by different geographic levels or by provider, and to provide additional information about the programs through which EBB Program customers are qualifying. Commenters argued that providers need this information prepare their customers for the elimination of the benefit.

107. The Commission agrees that tracking and reporting on disbursement and program enrollment activity will be an essential tool for managing the EBB Program and for developing an informed forecast of the end of the EBB Program.

Given the anticipated limited duration of the EBB Program, the Commission further agrees with commenters that clear and frequent updates on the remaining funds available will help give participating providers the data they need to begin the process of providing notice to subscribers about the end of the benefit and preparing them for a potential transition to other broadband options. The Commission will develop and publish online a tracker that, at a minimum, displays (1) the number of EBB Program households enrolled in NLAD; (2) the number of net new households enrolling into the EBB Program each week; and (3) the total dollar amount of the reimbursement claims approved to date, disaggregated by monthly amounts for internet access service and associated equipment, as well as connected devices, with historical data remaining so that the public can monitor any trends in the disbursement rates between updates. The Commission directs USAC, subject to the oversight of the WCB and the OMD, to develop this tracker and make it available on USAC's website as well as the Commission's website. The posted information shall be updated at least every two weeks by USAC, with the goal of weekly updates as the EBB Program ramps up.

108. The Commission declines to require that USAC post detailed information about EBB Program activities by geographic region, finding that such information would not be essential for informing providers and the public about the status of the program, which is the Commission's more immediate goal. USAC should focus its resources on what is necessary to successfully administer the implementation of the EBB Program and its wind-down. However, the Commission agrees that more information about the communities the EBB Program serves could help the Commission evaluate the success of this program and could inform future broadband-related initiatives. Therefore, to be transparent about participation in the EBB Program, the Commission directs USAC to submit a report to the Commission that provides information about how households qualified for the EBB Program, the claimed support amounts for connected devices and services, the geographic locations of consumers at the county level, and other information that the WCB, in consultation with USAC, believes would be essential for evaluating the program. This report shall be filed with the WCB no more than six months after the initiation of the EBB Program, with

updates submitted as necessary to capture additional information about the EBB Program and participating households obtained after the submission of the report.

109. *Program Sunsetting.* The Commission goal is to provide an informed projection of the exhaustion of funds for the EBB Program so USAC and the Commission can effectively manage the disbursement of the remaining funds and ample notice is provided to households, providers and other stakeholders. The Commission is especially concerned about the elimination of the benefit and the impact it could have on households, including unexpected or larger bills, and disruption or even termination of the broadband service. Accordingly, the Commission adopts procedures designed to ensure that households are informed that the program is temporary and the benefit will terminate at the end of the program, to provide notice to all stakeholders of the forecasted end of the program, and to manage the program to ensure that the remaining funds are disbursed equally to providers and allow for a transition for households off the EBB Program.

110. The first step in administering the end of the EBB Program is to predict fund exhaustion based on enrollment activity, disbursement levels, and other relevant information. Commenters argued that stakeholders will require advanced notice of the end of the program, in addition to the EBB Program activity posted on a tracker, to prepare their customer service representatives, billing systems, and customers for the elimination of the subsidy. The Commission cannot predict at this time when the Emergency Broadband Connectivity Fund will be depleted, but as households enroll in the EBB Program and providers begin to submit claims for reimbursement, the Commission anticipates a clearer picture of the interest in the program and the rate at which funds will be withdrawn. The Commission recognizes that a greater understanding of the timing of the end of the EBB Program and the procedures the Commission and USAC will employ to manage the remaining funds and reimbursement claims will create greater confidence in the EBB Program and help households navigate the end of the subsidy.

111. First, the Commission directs USAC to develop a method, subject to the oversight of the Office of Managing Director, the Office of Economics and Analytics, and the WCB, to forecast when the Fund will be able to pay out reimbursement claims only for another 75 to 90 days. The forecast shall take

into account the Commission commitment that in the final month of disbursements, the remaining balance in the Fund will be able to provide at least 50% of each claim for service or connected devices to assist households and providers with the transition. Once USAC has identified when the Fund will be depleted using submitted claims and other relevant information, USAC will notify providers and the public of the expected exhaustion of the Fund and the month in which USAC expects to pay out final claims. Administering this finite Fund presents administrative challenges, particularly given that the Commission is unable to predict at this time the demand in the EBB Program and the rate at which households will enroll in the program in the beginning weeks of the program. Given these challenges, the Commission has endeavors to provide at least 60 days' notice before the end of the Program. This notice will be posted on the USAC and Commission websites at least 60 days prior to the final snapshot date that coincides with the forecasted final month of the Program. This notice should be sufficient to allow providers to make an informed decision about whether to plan to claim their EBB Program subscribers in the final month and possibly receive a partial reimbursement claim for the service provided, or to transition those subscribers off their service.

112. Some commenters suggested 30 days' notice of the end of the program would be adequate whereas others argued that 90 days are needed to ensure that providers have ample time to provide notice to their customers. CTIA suggested that providers have at least 60 days' notice to wind down their participation in the EBB Program. The Commission finds that 60 days' notice of the termination of the EBB Program strikes a balance between the need for USAC to have enough data to accurately forecast the end of the program with the need to offer enough time for providers to notify their customers and work with them on a post-program broadband solution. This is an emergency program and as such, requires all stakeholders to work expeditiously in ensuring that the Commission is serving low-income households and helping to meet their broadband needs during the pandemic. Moreover, the Commission finds that 60 days' notice is reasonable given other existing Commission requirements for service providers to notify their subscribers in advance of a possible change or disruption in their service, and the Commission expects that providers will be able to adjust their

systems as necessary to provide such notice just as they would need to in these other contexts.

113. Second, in the event that reimbursement claims in the final month exceed the amount of remaining funds, reimbursements for both service and connected device claims will be paid out on a reduced, pro-rata basis, but in no circumstances will the reimbursement be less than 50% of the provider's claim for that final month. For example, if the remaining balance in the Fund is sufficient to pay 80% of each reimbursement claim submitted in that final month, the Fund will pay out 80% of each claim on a pro-rata basis, thus depleting the Fund and ending the EBB Program. In this scenario, a provider can expect to receive a \$40 disbursement if they would otherwise submit a service claim for \$50, and the subscriber would be responsible for payment of the additional \$10 for that service month. While the Commission took steps in the RO to ensure that USAC has the most up-to-date claims information available to support its projection analysis and to avoid a scenario where the amount in the Fund will be insufficient to offer a reimbursement of at least 50% on claims in that final month, the Commission recognizes that in order to responsibly manage the Fund, the Commission must prepare for this scenario. In the final months of the EBB Program, after the end date has been forecast, the Commission directs USAC to continue to monitor Program activity to determine whether the Fund will be able to support at least 50% of the claims, paid out on a pro-rata basis, in the expected final month of the EBB Program. If USAC's analysis indicates that the Fund will not be able to meet this 50% threshold, USAC shall immediately notify the WCB, the Office of Economics and Analytics, and the Office of Managing Director. If Commission staff agrees with USAC's analysis, the WCB will direct USAC to pause the reimbursement process for that final month. For example, in the event that the remaining balance in the Fund could only pay 30% of each anticipated claim for support, the Fund will not issue any disbursements in that month. In that situation where the remaining funds cannot guarantee at least a 50% disbursement on claims in that final month, the Commission will determine how best to use the remaining funds consistent with the CAA.

114. The Commission recognizes that uncertainty in the subsidy amount for the final month presents challenges for households and for providers as they

manage their participation in the EBB Program and as providers communicate to households regarding expectations for the final month. By establishing a 50% floor for the final month of reimbursement, the Commission balances the compelling interest in avoiding extreme price increases for eligible households while transitioning households off the subsidy, with its obligation to maximize the effectiveness of EBB Program funds by ensuring that as much of the Fund supports services to the greatest number of low-income households. Reimbursing each claim on a pro-rata basis in the final month of the program, regardless of the amount the provider would be entitled to, helps the Commission fulfill that mandate. The Commission recognizes the 50% floor could result in some funds being left unspent for a short while, and would require additional Commission direction on the use of the remaining funds, but by implementing this approach it is ensuring that the final month of the program provides a substantial subsidy to help households transition off the program. The Commission also anticipates that USAC's projections will provide enough advance notice of this possibility to allow both households and providers to plan accordingly.

115. The Commission declines to adopt a policy suggested by commenters that would structure the subsidy so eligible households would receive the benefit for a determined time period. The Commission finds that such a mechanism would restrict household participation in the EBB Program in order to guarantee benefits to a more limited number of households for the set period, and would also require USAC to deny enrollment to otherwise eligible households. Given its obligation to maximize the effectiveness of the EBB Program, the Commission finds it could not adopt a regime that would limit the low-income households benefitting from this program. Maximizing the number of households while guaranteeing at least a 50% benefit in the final month balanced the need to serve as many households as possible while ensuring that households can rely on a substantial benefit in the final month of the EBB Program.

116. Relatedly, several commenters suggested that the Commission reserve a portion of the funding for households that do not already have broadband service connections. Education Super Highway noted that funding is unlikely to meet the demand for the EBB Program, and that those without a broadband connection may have a more difficult path and be at a disadvantage

in applying for the program given the provider-centric design of the EBB Program. While the Commission understands these concerns, the Commission declines to set aside any portion of the funding for unconnected households. The CAA does not include any prioritization for how funding should be distributed to eligible households, and the Commission finds that it is appropriate to provide the benefit to eligible households without regard to their current level of broadband service. Moreover, the Commission expects the outreach efforts discussed in the following would help unconnected households enroll in the EBB Program.

117. Because of the uncertainty in the reimbursement amount for the final month, once notice of the projected end date has been issued, the Commission must limit volatility in the program claims that could materially change the projected end date. As a result, the Commission will freeze enrollments of new households at the time the notice is issued. To more smoothly administer the end of the program, providers and households must have confidence that the Fund can support claims made up until the forecasted end date. The Commission recognizes that this enrollment freeze will restrict access to the program for households wishing to enroll in the program's waning weeks, but the Commission notes that the EBB Program will operate without any cap on the number of eligible households that will be able to enroll before that time. The Commission finds that an enrollment freeze at the end of the program allows the Commission to serve the greatest number of eligible low-income households while responsibly managing the remaining funds in the final weeks of the program. Therefore, the Commission directs USAC, under the oversight of the OMD and the WCB, to develop procedures for implementing this enrollment freeze.

118. *Notice to consumers.* In the *Public Notice*, DA 21–6, the WCB acknowledged that customers will need to be notified prior to or upon enrollment in the EBB Program of the temporary nature of the program and that they will be subject to the general terms and conditions of the broadband service they receive through the EBB Program if they continue to take that service after the program's conclusion.

119. Commenters agreed that notice at the time of enrollment is essential especially given that no one can state with confidence at the outset how long the program will last. Public Knowledge stated that providers must be “fully transparent with consumers, at the time

of sign-up, about these factors.” Hughes Network Systems agreed that providers must have a responsibility in notifying subscribers at the time of enrollment that the program will end when the funds are depleted or when the emergency period ends. To ensure that customers are given notice at or before initial enrollment that the EBB Program benefit provides a temporary discount on their broadband service bill, that discount will not be applied to their bill, the Commission directs USAC, in consultation with the WCB, to publish language describing the limited duration of the benefit and the potential impact on the customer's bill at the end of the program on USAC's relevant consumer-facing websites, any USAC-provided application and the National Verifier, and other educational materials.

120. Providers also play an important role in ensuring that their customers are informed about the temporary nature of the EBB Program. Providers will have a direct relationship with their customers, and as such, have a responsibility to ensure that these customers have the information they need to make an informed decision about the broadband service product they subscribe to supported by the EBB Program. Accordingly, the Commission directs USAC and providers to include on their EBB Program consumer applications a certification for the household to affirm that they understand that the EBB Program is a temporary Federal Government subsidy that reduces the customer's broadband internet access service bill and at the conclusion of the EBB Program, the household will be subject to the provider's undiscounted general rates, terms, and conditions if the household continues to subscribe to the service.

121. The Commission also requires providers to include information about the limited duration of the Program and the impact of its termination on any EBB Program advertising materials, including, but not limited to billing inserts; websites; flyers; television, radio, and newspaper advertising; mailers; and posters. The Commission directs providers to use their best judgment in developing language that will clearly communicate the duration and impact of the program's end to the prospective low-income households, but at a minimum that language should comply with the relevant EBB Program rules the Commission adopts herein. Providers have an interest in communicating the terms of the Program clearly to their customers to manage expectations and to preserve the relationship. It is important as both a consumer protection measure and to

ensure that low-income consumers continue to have access to broadband services during this pandemic, that providers assist customers by transitioning them to other available products in the event that the broadband service plan they were subscribing to becomes unaffordable after the EBB Program ends and the benefit is eliminated.

122. The Commission is persuaded by commenters' arguments that customer bills offer an opportunity to communicate the limited duration of the EBB Program and the impact on the monthly bill when the subsidy ends. Commenters representing aging and public housing advocacy groups recommended that providers submit notices on consumer bills that provides "information on billing after the conclusion of the EBB Program, when the first bill at a higher rate will be due, an explanation of any partial month charges and information on any additional resources." The San Francisco Department of Technology contended that the temporary discount should be clearly characterized as such on consumer bills, and the Benton Institute for Broadband and Society urged the Commission to adopt requirements that providers be in clear communication with consumers about the end of the subsidy and the amount of the monthly bill that a customer is responsible for. MMTc NUL recommended that providers should inform customers that "they will be eligible to transition to an alternative, lower-priced broadband plan at the conclusion of the emergency program, making clear the price, service levels, and other terms and conditions that will apply."

123. The Commission agrees that provider-supplied communication is important and will help guard against unexpected bill-shock and confusion throughout the EBB Program. Therefore, the Commission requires providers participating in the EBB Program to deliver at the time of enrollment and on a monthly basis, either in the form of a monthly bill, or other monthly communication if the benefit covers the entire rate of the qualified plan, to its EBB Program household, documentation that prominently and clearly states in easy to understand terms that the EBB Program is a temporary subsidy that reduces the customer's broadband internet access service bill and at the conclusion of the benefit, the customer will be subject to the provider's general rates, terms, and conditions if the customer continues to subscribe to that broadband service. This initial disclosure, monthly bill or

communication must also prominently and clearly set forth the rate that the customer should be expected to pay, including fees, taxes, and equipment rental charges once the EBB Program ends and the benefit expires. Once USAC and the WCB announce a forecasted end of the EBB Program, the provider must provide notice to its customer in a prominent manner on the customer's bill, or other monthly communication if the benefit covers the entire rate of the qualified plan, about the last date or service month that the full benefit will apply to their bill, the last date or service month that the partial, final-month benefit will apply to their bill, and the expected rate of the broadband service once the benefit expires.

124. The Commission recognizes that providers will need some time to adjust their billing and other systems in order to communicate the EBB Program end date to their customers. Therefore, providers should send this notice to their customers as soon as practicable after the notice is posted on USAC and the Commission websites, but no less than 15 days after the notice from USAC and the Commission is posted. The Commission encourages providers to send this notification to households electronically, consistent with any consumer expressed preferences for receiving electronic notices and other communications and to the same email or phone number that bills or other monthly communications are sent, in addition to a mailed notice to ensure that customers have multiple opportunities to receive information regarding the end of the EBB Program and alternative broadband plans if it will be unaffordable without the benefit. Commenters recognized that advance notice to households is important so they can make informed choices regarding broadband service for their household. The Commission finds that providers are in the best position to explain to their customers what will happen to their bill once the benefit is exhausted.

125. *Household transition to other services or discounts.* The Commission recognizes that the end of the EBB Program means that households will need to evaluate available options to determine how their household can continue to subscribe to broadband services. Rather than limit participation in the program to a predetermined number of customers, as some commenters suggest, the Commission structures the EBB Program to ensure that it serves the greatest number of households possible. But this more inclusive approach presents some

administrative challenges. For example, the Commission cannot predict at this time how long the EBB Program will last and when a customer's last month of EBB Program-discounted service will be. The Commission commits to ensuring that the Commission is transparent about the enrollment and disbursement activity in the EBB Program. The Commission knows that there is a connection between a household's income level and whether they have a home broadband connection, and EBB Program customers will need a smooth transition to affordable broadband options at the conclusion of the EBB Program if they wish to maintain broadband service. Commenters noted that it is vital that consumers be transitioned to affordable broadband services at the conclusion of the EBB Program. Ensuring that these households can continue accessing the broadband they need to participate in virtual learning, complete their homework, and communicate with employers and healthcare providers will be a group effort. The Commission encourages providers and community groups to communicate the availability of affordable broadband options, including any broadband adoption initiatives in their communities.

126. The Commission also hopes that providers consider ways in which they can financially support their customers as the benefit ends and the households look to transition to comparable broadband services or continue with the same broadband service offered at a discounted rate subsidized by the provider. The Commission also recognizes that requiring providers to directly subsidize a household's broadband service, either fully or partially, once the Emergency Broadband Connectivity Fund is depleted would likely be considered to be to an unfunded mandate. While the Commission cannot and does not require that providers offer a discount to households at that time, the Commission hopes that providers are able to identify the ways in which they can use their experience with the EBB Program and the Federal support they received to help households continue to access high quality, low-cost broadband service during the course of this public health emergency. At a minimum, providers with existing low-cost and income restricted programs should not preclude EBB Program recipients from enrolling in those programs based on current or recent customer (for example, service within the last 90 days) eligibility restrictions. Consumers previously in an existing low-cost



program and using the EBB Program benefit to receive a higher tier of service should be allowed to transition back to the low-cost offering at the conclusion of the benefit program.

127. Due to their relationship with their EBB Program customers, providers play an essential role in helping to protect households from bill shock and to ensure that households understand that they “shall be subject to a participating provider’s generally applicable terms and conditions” after the expiration of the EBB Program. Therefore, the Commission requires that providers obtain an affirmative opt-in from households at any time while the household is participating in the EBB Program and before they can be charged an amount higher than they would pay under the full EBB Program reimbursement amount permitted by the Commission rules, including any potential increased payment as a result of a partial reimbursement during the EBB Program’s final month. The Commission agrees with commenters that an opt-in from households will help guard against unexpected charges by reducing the likelihood that households will receive broadband service absent the EBB Program benefit without their permission. To that end, consistent with the notice requirements the Commission adopts in the RO, with respect to provider communications to households, the provider shall clearly state that it will stop providing broadband service to the household at the conclusion of the EBB Program unless the household agrees to continue to receive broadband service. At least 30 days before the end of the EBB Program, the provider must also notify households of the upcoming increase to their monthly bills (or as soon as practicable if there is a scenario in which providers do not have 30 days’ notice prior to the expiration of the program). The Commission encourages providers to ensure that households have the opportunity to make an informed decision about the continuation of broadband service absent the EBB Program benefit. EBB Program households that subscribed to the provider’s broadband service before the commencement of the EBB Program must also opt-in to the continuation of broadband service. The Commission finds that requiring providers to obtain permission from households before continuing to provide broadband service after the end of the EBB Program is another tool that helps ensure that households have the information they need to make decisions about their broadband services and to ensure that

the same households are protected from unexpected bills related to their broadband services.

128. *Promoting Awareness.* The Commission recognizes that for the EBB Program to achieve its full potential and serve as many eligible households as possible during the COVID–19 pandemic, low-income households must be clearly informed of the program’s existence, benefits, eligibility qualifications, and how to apply. Participating providers, some of whom may not have experience with the Lifeline program, USAC, and USAC’s processes, will also require information both on how to participate in the EBB Program and on how to educate consumers. The record overwhelmingly reflected the importance of publicizing the program to new and existing consumers through national and local campaigns that use diverse spokespeople and languages. For the EBB Program to reach as many eligible consumers as possible, including disconnected low-income consumers, individuals with disabilities, and households of color, it is important to implement a broad, collaborative outreach, including the Federal Government, state, local, and Tribal governments, broadband internet access providers, community groups, trade associations, Tribal communities, philanthropists, educators, and other trusted institutions. The record also recognized the importance of educating participating providers on the EBB Program. To this end, the Commission encourages EBB Program participating providers to engage in consumer marketing with basic requirements and encourage them to consider communications strategies proposed in the record. The Commission also directs the Commission staff and USAC to develop comprehensive provider education and training programs, as well as consumer outreach plans. Finally, the Commission strongly encourages other civic entities to publicize the EBB Program to eligible households.

129. The Commission next encourages providers that file an election notice with USAC to publicize the availability of the EBB Program service in a manner reasonably designed to reach those consumers likely to qualify and in a manner that is accessible to individuals with disabilities. The record overwhelmingly confirmed that participating providers should publicize, including in languages other than English, the availability of the EBB Program. To ensure that consumers receive comprehensive information explaining the EBB Program, the

Commission recommends that provider marketing materials describe in clear, easily-understandable language in, if feasible, the dominant languages of the communities that the provider serves: (1) The eligibility requirements for consumer participation; (2) the monetary charges to the customer; (3) the available upload/download speeds, data caps, and connected devices, if any, with descriptions; (4) a provider customer service number, prominently displayed on all promotional materials, that is associated with an adequately staffed phone line; and (5) that the EBB Program is a temporary emergency Federal Government benefit program operated by the FCC and, upon its conclusion, customers will be subject to the provider’s regular rates, terms, and conditions.

130. The Commission declines to mandate that providers engage in more prescriptive forms of EBB Program promotion. Instead, the Commission grants providers the flexibility to develop their own marketing plans. The Commission finds that providers are in the best position to understand how to market a new program to the communities they serve. However, the Commission encourages participating providers to consider and implement some of the numerous consumer outreach strategies described in the record. For instance, many commenters urged providers to engage in outreach and partner with local government agencies, through institutions providing basic needs to eligible populations, such as housing, food and transportation and healthcare, schools eligible for free or reduced lunch, school breakfast, and E-Rate, libraries, and Tribal organizations. The City of Seattle, Washington State Broadband Office, Seattle Public Schools District and Seattle Housing Authority recommended that providers without retail locations where they serve low-income customers partner with a commercial, nonprofit, or other community organizations to offer site-based information about low-cost offers for low-income communities. Additionally, some commenters, recognizing that eligible households may not currently have access to broadband, encouraged providers to use a variety of media outlets that target minority and low-income populations—including newspapers, television and radio stations, billboards, and internet advertisements—to promote the EBB Program through Public Service Announcements and crawls that direct listeners and viewers specifically to where they can find local information

on the program, learn which local providers are participating, and ways to contact those providers. Partnerships with disability organizations and other entities that frequently provide internet access and technical assistance to people with disabilities are further encouraged by other commenters to publicize the EBB Program.

131. The Commission also directs the Consumer and Governmental Affairs Bureau (CGB) to both to educate service providers on the EBB Program and to engage in consumer outreach to the largest possible number of eligible consumer participants. The Commission further directs CGB and the Office of Native Affairs and Policy (ONAP) to coordinate to develop educational and informational communications and materials to advertise the EBB Program, such as a web page and digital toolkit, in a printable format and translated into other languages, that can easily be accessed by service providers, organizations, and the public. The record demonstrated support for Commission-developed marketing materials—including charts, posters, flyers and messaging—that providers and other organizations can customize and share through email, social media and other channels. The Commission also supports the idea raised by commenters that to promote the EBB Program, the Commission should work closely with, among others, Congressional offices, other Federal agencies, state and local governments, community organizations, schools, and libraries.

132. The Commission also directs USAC to develop and implement a communications strategy, under the oversight of the WCB and CGB, to provide training and information necessary to successfully participate in the EBB Program to service providers—both ETCs and non-ETCs, Tribal communities and organizations, associations and consumer advocates, the E-Rate community, potential eligible consumers, and the public at large. The objective for the communications plan should be to ensure that both current and new stakeholders can learn about and successfully participate in the EBB Program and ensure discounts on broadband service and connected devices are efficiently and effectively provided to eligible consumers. The Commission anticipates that USAC's communications strategy will include a dedicated, regularly updated web page and other outreach methods including webinars, bulletins, email campaigns, and direct outreach to providers, eligible consumers, Tribal communities, schools, libraries, and other

organizations that serve EBB Program eligible populations. The record overwhelmingly supported such wide-ranging communications efforts. To help ensure that households are aware of affordable broadband services for which they may likely qualify, the Commission directs USAC to coordinate with state and Federal partners, and community support organizations such as food banks to promote the availability of Lifeline as a supplement to the EBB Program or as an option when the benefit is eliminated. Indeed, commenters urged the Commission and USAC to work closely with congressional offices, coordinate with other Federal agencies, state and local organization, Tribes, consumer-facing agencies, trade associations, schools, libraries, and hospitals that could assist with educating low-income consumers about the program and the provider options that are available as a result. The Commission strongly encourages CGB, WCB, and USAC to incorporate these recommendations into their outreach efforts.

133. Lastly, the Commission strongly encourages other Federal agencies, state and local governments, groups, and broadband offices, youth groups and organizations, schools and libraries to promote the EBB Program to eligible households. The Colorado Communications and Utility Alliance (CCUA) emphasized that “local governments have ability to promote the EBBP through bill inserts, electronic notification to customers, company websites and social media.” The CCUA, as well as the National Association of Telecommunications Officers and Advisors, pointed to the recent success of local governments and community organizations to provide a wide range of pandemic related information to citizens. Similarly, the City of Longmont, Colorado reported that it “has an arsenal of tools at its disposal to promote the availability of the EBBP, and is prepared to utilize them to the fullest extent.” Therefore, the Commission agrees with commenters that these entities that work with program eligible populations would be highly effective in raising awareness about the EBB Program.

134. *Audits.* The CAA requires the Commission to adopt audit requirements to ensure that participating providers are in compliance with the program rules and to prevent waste, fraud, and abuse in the EBB Program. A finding of waste, fraud, or abuse or an improper payment identified by the Commission or the Inspector General of the Commission must include (1) the name of the

participating provider; (2) the amount of funding made available from the EBB Program to the provider; (3) the amount of funding determined to be an improper payment to the provider; (4) a description of to what extent funding made available from the EBB Program that was an improper payment was used for a reimbursement for a connected device or a reimbursement for an internet service offering; (5) whether, in the case of a connected device, such device, or the value thereof, has been recovered; (6) whether any funding from the EBB Program was made available to a participating provider for an emergency broadband benefit for a person outside the eligible household; and (7) whether any funding from the EBB Program was made available to reimburse a participating provider for an emergency broadband benefit made available to an eligible household in which all members of such household necessary to satisfy the eligibility requirements were deceased. Within one year of the date of the enactment of the CAA, the Commission's Office of Inspector General must conduct an audit of the disbursements made to a representative sample of participating providers. The record generally supported the use of audits to ensure compliance and accountability in the EBB Program. Multiple commenters urged the Commission to adopt audit requirements similar to those procedures used in the Lifeline program “to ensure compliance and to prevent waste, fraud, and abuse,” and to focus its audit and fraud-prevention efforts on rule violations that occur at scale and that impact the largest number of consumers.” Others contend that the current Lifeline audit process requires substantial reform or support a more simplified version of the process that does not impede participation by households and providers or have an adverse impact on customer privacy and data security. Commenters agreed that participating providers should be required to collect and retain documentation sufficient to support compliance with any certifications and that such record keeping requirements should be clearly defined.

135. The Commission agrees with the commenters that it is imperative to require audits to confirm the integrity of the EBB Program and prevent fraud, waste, and abuse in the program. To that end, the Commission delegates authority to the OMD to develop and implement an audit process of participating providers that complies with all requirements in sections 904(b)(7) and (8) of the CAA. OMD may

obtain the assistance of third parties, including but not limited to USAC, in carrying out this effort. Consistent with the Commission experience regarding the Universal Service Fund, the Commission finds that audits are the most effective way to ensure compliance with the Commission rule requirements.

136. *Enforcement.* The CAA provides that a violation of its section 904, which establishes the EBB Program, or any regulation promulgated under that section “shall be treated as a violation of the Communications Act of 1934 or a regulation promulgated under such Act.” The Commission is compelled to enforce this section and the associated regulations “in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Communications act of 1934 were incorporated into and made a part of this section.” In the *Public Notice*, DA 21–6, the WCB sought comment on the authority of the Commission to impose administrative forfeitures and other penalties on program participants found to be in violation of the program rules and requirements. The record largely supported the application of the Commission’s existing enforcement powers, including imposing administrative forfeitures and other penalties on participating providers that violate the program rules and requirements, to protect the integrity of the EBB Program. The National Lifeline Association urged that “[a]ny proposed forfeitures under the [EBB Program] rules should be based on reasonable recoveries for rule violations and three times the amount of harm to the [EBB Program] (treble damages) for cases of actual fraud.” T-Mobile argued that in order to avoid discouraging providers from participating in the EBB Program, the Commission should not treat a violation of its other rules as a basis for withholding EBB Program funding from participants. Consistent with this statutory direction and the record, the Commission decides to use the Commission’s existing, statutorily permitted enforcement powers to initiate investigations and impose administrative forfeitures. In addition, the Commission would apply the Commission’s suspension and debarment rules currently applicable to the USF program to EBB Program participating providers. The Commission would also withhold EBB Program funds from participants found to be in violation of the EBB Program rules, if appropriate, and will also seek to recoup improperly disbursed funds,

in addition to appropriate enforcement penalties. The Commission finds that these enforcement mechanisms sufficiently balance the need for widespread participation in the EBB Program with the importance of maintaining the program’s integrity.

137. *Application of Other Part 54 Regulations.* The Commission uses the authority granted by the CAA to apply portions of 47 CFR part 54—pertaining to definitions, de-enrollment, program integrity, and the use of USAC—to the EBB Program.

138. *Subpart E.* Due to similarities between the programs and the use of certain USAC Lifeline systems to administer the EBB Program, the Commission elects to apply select portions of the regulations that control the Lifeline program to the EBB Program. Specifically, the Commission applies the following definitions in § 54.400 of the Commission’s rules to the EBB Program, subject to the further interpretations expounded upon in the RO: (f) Income; (g) duplicative support; (h) household; (i) National Lifeline Accountability Database of Database; (j) Qualifying assistance program; (k) Direct service; (l) Broadband internet access service; (o) National Lifeline Eligibility Verifier; and (p) Enrollment representatives. Maintaining uniform definitions across the two programs will facilitate a quick launch and efficient administration for the Commission, USAC, and participating providers. What is more, the Commission limits application of the Lifeline rules to those specifically enumerated in the Order to balance the need of ensuring that the EBB Program has adequate guidelines and parameters with the concern of chilling participation by providing a complex framework that may be unfamiliar to new providers or serve as a bar to participation in this temporary program.

139. The Commission also elects to apply relevant subsections of § 54.404 of the Commission’s rules, outlining carrier interactions with the NLAD, and portions of § 54.405 of the Commission’s rules to the EBB Program concerning carrier obligations and de-enrollment. Specifically, the Commission applies § 54.405(e)(1), (2), and (5) of the Commission’s rules, for de-enrollments generally, de-enrollments for duplicative support, and de-enrollments requested by the subscriber, respectively. In the definition for de-enrollment requested by the subscriber, the Commission directs USAC to accept and process de-enrollment requests directly from EBB Program subscribers, and to notify the subscriber’s provider when such a de-enrollment occurs. This

additional method for de-enrollment by subscribers will assist in administering funds efficiently and provide further certainty to participants regarding their ability to transition out of this temporary program.

140. For de-enrollment for non-usage, however, the Commission adopts a modified requirement—as permitted by the CAA—to adapt to the unique circumstances provided by the pandemic, the limited duration of the EBB Program, and the participation of non-ETC providers that may not have already designed processes to comport with the specific Lifeline usage requirements. Accordingly, the Commission requires that providers submit a certification in their reimbursement claim that every subscriber claimed has used their supported service, as defined in § 54.407(c)(2) of the Commission’s rules, at least once during the service month being claimed. Providers must retain documentation demonstrating the subscriber monthly usage amounts to support this certification. The Commission does not adopt for the EBB Program the notice and de-enrollment process required in the Lifeline program rules, but participating providers that fail to resolve non-usage by households enrolled in the EBB Program will be unable to claim the program benefit for those households. This modification ensures that the limited funds provided by the CAA will reach those whose needs are greatest by protecting against supporting unused service.

141. Additionally, the Commission adopts for the EBB Program a modification of the subscriber eligibility determination and certification found in § 54.410 of the Commission’s rules, and require all participating providers to implement policies and procedures for ensuring that their EBB Program households are eligible to receive the Emergency Broadband Benefit. Accordingly, a provider may not provide a consumer with an activated device that it represents enables use of Emergency Broadband Benefit-supported service, nor may it activate service that it represents to be Emergency Broadband Benefit-supported service, unless and until it has: (1) Confirmed that the household is an eligible household pursuant to section III(B) of the RO, and; (2) Completed the eligibility determination and certification required by section III(B) of the RO, and any other necessary enrollment steps expounded upon in the RO. We find that these preventative measures provide a front-end guard against the improper use of the limited

funds provided by the CAA, and protect against waste, fraud, and abuse.

142. To further ensure program integrity, the Commission applies the following sections of the Lifeline rules to the EBB Program: § 54.407(a), (c)(2)(i) through (v), (d) and (e) of the Commission's rules, pertaining to the number of participants as of the first of the month (snapshot), the definition of service usage, reimbursement certifications, and records; § 54.417 of the Commission's rules, pertaining to recordkeeping requirements; and, § 54.419 of the Commission's rules, pertaining to the validity of e-signatures. The Commission notes that these rule sections, as applied to the EBB Program, are the subject of more detailed discussions in the RO. We also require participating providers that use enrollment representatives to comply with the Representative Accountability Database registration requirement established in §§ 54.400(p) and 54.406(a) of the Commission's rules. Requiring registration for employees, agents, contractors, or subcontractors of participating providers or their third-party entities prior to those personnel providing information to the USAC systems will bolster the security of the system and help monitor for suspected non-compliance in program activity. However, the Commission declines to apply § 54.406(b) of the Commission's rules to avoid discouraging provider participation and diminishing consumer choice in the EBB Program.

143. The record supports the use of these Lifeline rules in implementing the EBB Program, including the use of the National Verifier, NLAD, RAD, snapshot dates and process, and de-enrollment requirements and deadlines. The Commission agrees with commenters that these established processes will assist in the quick and efficient implementation of the EBB Program while protecting against waste, fraud, and abuse.

144. *Use of USAC.* The Commission also uses the authority granted by the CAA to avail ourselves of USAC's services to implement the EBB Program, including administering approvals and elections of participating providers and determinations of household eligibility, including whether a household resides on Tribal lands, by relying upon USAC-administrated processes and systems, including the National Verifier, NLAD, RAD, and LCS for the provider reimbursement process, call centers for program support, provider and consumer outreach, and conducting program integrity reviews. The record supported using USAC and its processes for the efficient and effective

administration of the program, and the Commission believes USAC's experience administering the Lifeline program makes USAC uniquely situated to be the administrator of the EBB Program.

145. *Subpart H.* The Commission next applies § 54.702(c) of the Commission's rules to the EBB Program as well, preventing USAC from making policy, interpreting unclear statutes or rules relied upon to implement the EBB Program, or interpreting the intent of Congress. Additionally, the Commission grants USAC the authority to conduct program audits of contributors and providers, as provided in § 54.707 of the Commission's rules. This grant, however, is subject to the further direction as set forth in section III(G) of the RO.

146. *Subpart I.* Lastly, the Commission provides a path for recourse to parties aggrieved by decisions issued by USAC. Specifically, the Commission requires review of decisions issued by USAC to follow the requirements set forth in 47 CFR Subpart I. The Commission finds these existing processes sufficient to provide meaningful review of decisions issued by USAC during the EBB Program.

147. *Delegations to the Bureau and Office of Managing Director.* The Commission delegates authority to the WCB and OMD to make necessary adjustments to the program administration and to provide additional detail and specificity to the requirements of the EBB Program to conform with the intent of the RO and ensure the efficient functioning of the program.

148. In addition, the Commission delegates financial oversight of the EBB Program to the Commission's Managing Director and directs the OMD to work in coordination with the WCB to ensure that all financial aspects of the program have adequate internal controls. These duties fall within OMD's current delegated authority to ensure that the Commission operates in accordance with Federal financial statutes and guidance. Such financial oversight must be consistent with the rules adopted in the RO. OMD performs this role with respect to USAC's administration of the Commission's Universal Service programs, and the Covid-19 Telehealth program, and the Commission anticipates that OMD will leverage existing policies and procedures, to the extent practicable and consistent with section 904 of the CAA, to ensure the efficient and effective management of the program. Finally, the Commission notes that OMD is required to consult with the WCB on any policy matters

affecting the program, consistent with § 0.91(a) of the Commission's rules. OMD, in coordination with the WCB, may issue additional directions to USAC and program participants in furtherance of its responsibilities.

149. In its administration of the EBB Program, USAC is directed to comply with, on an ongoing basis, all applicable laws and Federal government guidance on privacy and information security standards and requirements, such as the Privacy Act, relevant provisions in the Federal Information Security Modernization Act of 2014, National Institute of Standards and Technology publications, and Office of Management and Budget guidance.

150. The Commission recognizes that, once implementation of the EBB Program begins, the Commission or USAC may encounter unforeseen issues or problems with the administration that will need to be resolved. To achieve widespread participation by eligible households in the EBB Program, the Commission delegates this authority to Commission staff to address and resolve such issues.

### III. Procedural Matters

#### A. Paperwork Reduction Act Analysis

151. Pursuant to section 904(h)(2) of the Consolidated Appropriations Act, the collection of information sponsored or conducted under the regulations promulgated in the Report and Order is deemed not to constitute a collection of information for the purposes of the Paperwork Reduction Act, 44 U.S.C. 3501–3521.

#### B. Congressional Review Act

152. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), concurs, that the regulations implementing the EBB Program are a "major rule" under the Congressional Review Act, 5 U.S.C. 804(2). By exempting this rulemaking proceeding from the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), the Commission concludes that Congress has determined notice and public procedure under the Administrative Procedure Act to be impracticable, unnecessary, or contrary to the public interest. In addition, the exemption of this proceeding from the Administrative Procedure Act requirement that rules cannot become effective until 30 days after publication in the **Federal Register**, 5 U.S.C. 553(d), demonstrates Congressional intent that the rules the Commission adopt shall become effective without delay.

Accordingly, the Commission finds for good cause that notice and public procedure on the rules adopted herein are impracticable, unnecessary, or contrary to the public interest, and therefore the Report and Order would become effective April 13, 2021 pursuant to 5 U.S.C. 808(2). The Commission will send a copy of the Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

#### C. Regulatory Flexibility Act

153. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a final regulatory flexibility analysis “whenever an agency promulgates a final rule under [5 U.S.C. 553], after being required by that section or any other law to publish a general notice of proposed rulemaking.” Pursuant to the Consolidated Appropriations Act, section 553 does not apply to the rulemaking proceeding implementing the EBB Program. Accordingly, no Final Regulatory Flexibility Analysis was required for the Report and Order.

#### IV. Ordering Clauses

154. Accordingly, *it is ordered* that, pursuant to the authority contained in Section 904 of Division N, Title IX of the Consolidated Appropriations Act, 2021, Pub. L. No 116–260, 134 Stat. 1182, the Report and *order is adopted*.

155. *It is further ordered* that the Commission *shall send* a copy of the Report and Order to the Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission

**Marlene Dortch,**

*Secretary.*

#### Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

#### PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, and 1601–1609 unless otherwise noted.

■ 2. Add subpart P to read as follows:

#### Subpart P—Emergency Broadband Benefit Program

Sec.

- 54.1600 Definitions.
- 54.1601 Participating providers.
- 54.1602 Emergency Broadband Benefit.
- 54.1603 Emergency Broadband Benefit Program support amount.
- 54.1604 Participating provider obligation to offer Emergency Broadband Benefit Program.
- 54.1605 Household qualification for Emergency Broadband Benefit Program.
- 54.1606 Household eligibility determinations.
- 54.1607 Enrollment representative registration.
- 54.1608 Reimbursement for providing Emergency Broadband Benefit Program discount.
- 54.1609 De-enrollment from the Emergency Broadband Benefit Program.
- 54.1610 Expiration of Emergency Broadband Benefit Program.
- 54.1611 Recordkeeping requirements.
- 54.1612 Validity of electronic signatures.

#### Subpart P—Emergency Broadband Benefit Program

##### § 54.1600 Definitions.

(a) *Broadband internet access service.* The term “broadband internet access service” has the meaning given such term in 47 CFR 8.1(b), or any successor regulation.

(b) *Broadband provider.* The term “broadband provider” means a provider of broadband internet access service.

(c) *Commission.* The term “Commission” means the Federal Communications Commission.

(d) *Connected device.* The term “connected device” means a laptop or desktop computer or a tablet.

(e) *Designated as an eligible telecommunications carrier.* The term “designated as an eligible telecommunications carrier”, with respect to a broadband provider, means the broadband provider is designated as an eligible telecommunications carrier under section 214(e) of the Communications Act of 1934 (47 U.S.C. 214(e)).

(f) *Direct service.* As used in this subpart, direct service means the provision of service directly to the qualifying low-income consumer.

(g) *Duplicative support.* “Duplicative support” exists when an Emergency Broadband Benefit subscriber is receiving two or more Emergency Broadband Benefit services concurrently or two or more subscribers in a household have received a connected device with an Emergency Broadband Benefit discount

(h) *Eligible household.* The term “eligible household” means, regardless of whether the household or any

member of the household receives support under subpart E of 47 CFR part 54 (or any successor regulation), and regardless of whether any member of the household has any past or present arrearages with a broadband provider, a household in which—

(1) At least one member of the household meets the qualifications 47 CFR 54.409(a) or (b) (or any successor regulation);

(2) At least one member of the household has applied for and been approved to receive benefits under the free and reduced price lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 *et seq.*) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(3) At least one member of the household has experienced a substantial loss of income since February 29, 2020, that is documented by layoff or furlough notice, application for unemployment insurance benefits, or similar documentation or that is otherwise verifiable through the National Verifier or National Lifeline Accountability Database;

(4) At least one member of the household has received a Federal Pell Grant under section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) in the current award year, if such award is verifiable through the National Verifier or National Lifeline Accountability Database or the participating provider verifies eligibility under 47 CFR 54.1606(a)(2); or

(5) At least one member of the household meets the eligibility criteria for a participating provider’s existing low-income or COVID–19 program, subject to the requirements of 47 CFR 54.1606(a)(2).

(i) *Emergency broadband benefit.* The term “emergency broadband benefit” means a monthly discount for an eligible household applied to the actual amount charged to such household, which shall be no more than the standard rate for an internet service offering and associated equipment, in an amount equal to such amount charged, but not more than \$50, or, if an internet service offering is provided to an eligible household on Tribal land, not more than \$75.

(j) *Emergency period.* The term “emergency period” means the period that—

(1) Begins on the date of the enactment of the Consolidated Appropriations Act; and

(2) Ends on the date that is 6 months after the date on which the determination by the Secretary of Health and Human Services pursuant to section

319 of the Public Health Service Act (42 U.S.C. 247d) that a public health emergency exists as a result of COVID-19, including any renewal thereof, terminates.

(k) *Enrollment representative.* An employee, agent, contractor, or subcontractor, acting on behalf of an eligible telecommunications carrier or third-party entity, who directly or indirectly provides information to the Administrator for the purpose of eligibility verification, enrollment, subscriber personal information updates, benefit transfers, or de-enrollment.

(l) *Household.* A “household” is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(m) *Income.* “Income” means gross income as defined under section 61 of the Internal Revenue Code, 26 U.S.C. 61, for all members of the household. This means all income actually received by all members of the household from whatever source derived, unless specifically excluded by the Internal Revenue Code, Part III of Title 26, 26 U.S.C. 101 *et seq.*

(n) *Internet service offering.* The term “internet service offering” means, with respect to a broadband provider, broadband internet access service provided by such provider to a household, offered in the same manner, and on the same terms, as described in any of such provider’s offerings for broadband internet access service to such household, as on December 1, 2020.

(o) *Lifeline qualifying assistance program.* A “Lifeline qualifying assistance program” means any of the Federal or Tribal assistance programs the participation in which, pursuant to 47 CFR 54.409(a) or (b), qualifies a consumer for Lifeline service, including Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; Veterans and Survivors Pension Benefit; Bureau of Indian Affairs general assistance; Tribally administered Temporary

Assistance for Needy Families (Tribal TANF); Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations (FDPIR).

(p) *National Lifeline Accountability Database.* The “National Lifeline Accountability Database” is an electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and elimination of duplicative support, as directed by the Commission.

(q) *National Lifeline Eligibility Verifier or National Verifier.* The “National Lifeline Eligibility Verifier” or “National Verifier” is an electronic and manual system with associated functions, processes, policies and procedures, to facilitate the determination of consumer eligibility for the Lifeline program and Emergency Broadband Benefit Program, as directed by the Commission.

(r) *Participating provider.* The term “participating provider” means a broadband provider that—

(1)(i) Is designated as an eligible telecommunications carrier; or  
(ii) Meets requirements established by the Commission for participation in the Emergency Broadband Benefit Program and is approved by the Commission under 47 CFR 54.1601(b); and

(2) Elects to participate in the Emergency Broadband Benefit Program.

(s) *Standard rate.* The term “standard rate” means the monthly retail rate for the applicable tier of broadband internet access service as of December 1, 2020, excluding any taxes or other governmental fees.

(t) *Tribal lands.* For purposes of this subpart, “Tribal lands” include any Federally recognized Indian tribe’s reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688); Indian allotments; Hawaiian Home Lands—areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920 July 9, 1921, 42 Stat. 108, *et seq.*, as amended; and any land designated as such by the Commission for purposes of subpart E of 47 CFR part 54 (or any successor regulation) pursuant to the designation process in 47 CFR 54.412.

#### **§ 54.1601 Participating providers.**

(a) *Eligible telecommunications carriers.* A broadband provider that is designated as an eligible telecommunications carrier may participate in the Emergency Benefit

Broadband Program as a participating provider.

(b) *Other broadband providers.* A broadband provider that is not designated as an eligible telecommunications carrier may seek approval from the Wireline Competition Bureau to participate in the Emergency Broadband Benefit Program as a participating provider.

(1) The Wireline Competition Bureau shall review and act on applications to be designated as a participating provider on an expedited basis. Such applications shall contain:

(i) The states or territories in which the provider plans to participate;

(ii) The service areas in which the provider has the authority, if needed, to operate in each state or territory, but has not been designated an eligible telecommunications carrier; and,

(iii) Certifications and documentation of the provider’s plan to combat waste, fraud, and abuse.

(2) Notwithstanding paragraph (b)(1) of this section, the Wireline Competition Bureau shall automatically approve as a participating provider a broadband provider that has an established program as of April 1, 2020, that is widely available and offers internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse. Such applications seeking automatic approval shall contain:

(i) The states or territories in which the provider plans to participate;

(ii) The service areas in which the provider has the authority, if needed, to operate in each state or territory, but has not been designated an Eligible Telecommunications Carrier; and,

(iii) A description, supported by documentation, of the established program with which the provider seeks to qualify for automatic admission to the Emergency Broadband Benefit Program.

(c) *Election notice.* All participating providers must file an election notice with the Administrator. The election notice must be submitted in a manner and form consistent with the direction of the Wireline Competition Bureau and the Administrator. At a minimum the election notice should contain:

(1) The states or territories in which the provider plans to participate in the Emergency Broadband Benefit Program;

(2) A statement that, in each state or territory, the provider was a “broadband provider” as of December 1, 2020;

(3) A list of states or territories where the provider is an existing Eligible Telecommunications Carrier, if any;

(4) A list of states or territories where the provider received Wireline

Competition Bureau approval, whether automatic or expedited, to participate, if any;

(5) Whether the provider intends to distribute connected devices;

(6) A description of the internet service offerings for which the provider plans to seek reimbursement in each state or territory; and,

(7) Documentation demonstrating the standard rates for those services in each state; and any other information necessary to establish participating providers in the Administrator's systems.

(d) *Suspension and debarment.* The prohibition on participation and suspension and debarment rules established in 47 CFR 54.8, shall apply to activities associated with or related to the Emergency Broadband Benefit Program.

#### **§ 54.1602 Emergency Broadband Benefit.**

(a) The Emergency Broadband Benefit Program shall provide reimbursement to a participating provider for providing a discount on the price of broadband internet access service (and associated equipment), a connected device, or both, to an eligible household during the emergency period.

(b) Participating providers may allow consumers whose households qualify for the Emergency Broadband Benefit Program pursuant to 47 CFR 54.1605, to apply the Emergency Broadband Benefit to any residential service plan that includes broadband internet access service or a bundle of broadband internet access service along with fixed or mobile voice telephony service, text messaging service, or both.

#### **§ 54.1603 Emergency Broadband Benefit Program support amount.**

(a) The Emergency Broadband Benefit Program support amount for all participating providers shall equal the actual discount provided to an eligible household off of the actual amount charged to such household, which shall be no more than the standard rate for an internet service offering and associated equipment, but not more than \$50.00 per month, if that provider certifies that it will pass through the full amount of support to the eligible household, or not more than \$75.00 per month, if that provider certifies that it will pass through the full amount of support to the eligible household on Tribal lands, as defined in 47 CFR 54.1600(t).

(b) A participating provider that, in addition to providing the Emergency Broadband Benefit Program to an eligible household, supplies such household with a connected device may be reimbursed up to \$100.00 for such

connected device, if the charge to such eligible household is more than \$10.00 but less than \$50.00 for such connected device, except that a participating provider may receive reimbursement for no more than one (1) connected device per eligible household.

(c) If the amount of funding remaining in the Emergency Broadband Connectivity Fund is less than the total amount of valid reimbursement claims in the Emergency Broadband Benefit Program, the support amount for all participating providers submitting valid reimbursement claims for a month may be less than the full support amount permitted under this section.

#### **§ 54.1604 Participating provider obligation to offer Emergency Broadband Benefit Program.**

(a) All participating providers in the Emergency Broadband Benefit Program must make available the Emergency Broadband Benefit Program to qualifying low-income consumers.

(b) All participating providers in the Emergency Broadband Benefit Program are encouraged to:

(1) Publicize the availability of the Emergency Broadband Benefit Program in a manner reasonably designed to reach those likely to qualify for the service.

(2) Indicate on all materials describing the Emergency Broadband Benefit Program, using easily understood language in the dominant languages of the communities the provider serves:

(i) The eligibility requirements for consumer participation;

(ii) That the Emergency Broadband Benefit is non-transferable and is limited to one discount per household;

(iii) The monetary charges to the customer;

(iv) The available upload/download speeds and data caps for the covered services, and a list of connected devices, if any, with descriptions;

(v) The provider's customer service telephone number, which must be prominently displayed on all promotional materials and adequately staffed by customer service representatives; and

(vi) That the Emergency Broadband Benefit Program is a temporary emergency Federal Government benefit program operated by the Federal Communications Commission and, upon its conclusion, customers will be subject to the provider's regular rates, terms, and conditions.

#### **§ 54.1605 Household qualification for Emergency Broadband Benefit Program.**

(a) To constitute an eligible household:

(1) The household income as defined in 47 CFR 54.1600(m) must be at or below 135% of the Federal Poverty Guidelines for a household of that size; or

(2) At least one member of the household must receive benefits from one of the following Federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; or Veterans and Survivors Pension Benefit; or

(3) At least one member of the household has applied for and been approved to receive benefits under the free and reduced price lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 *et seq.*) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); or

(4) At least one member of the household has experienced a substantial loss of income since February 29, 2020, that is documented by layoff or furlough notice, application for unemployment insurance benefits, or similar documentation or that is otherwise verifiable through the National Verifier; or

(5) At least one member of the household has received a Federal Pell Grant under section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) in the current award year, if such award is verifiable through the National Verifier or the participating provider verifies eligibility under 47 CFR 54.1606(a)(2); or

(6) At least one member of the household meets the eligibility criteria for a participating provider's existing low-income or COVID-19 program, subject to the requirements of 47 CFR 54.1606(a)(2); or

(7) If the household is located on Tribal lands, at least one member of the household participates in one of the following Tribal-specific Federal assistance programs: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations.

(b) In addition to meeting the qualifications provided in paragraph (a) of this section, in order to constitute an eligible household, no member of the household may already be receiving an Emergency Broadband Benefit Program discount.

**§ 54.1606 Household eligibility determinations.***(a) Eligibility verification processes.*

To verify whether a household is an eligible household, a participating provider shall—

- (1) Use the National Verifier; or
- (2) Rely upon an alternative verification process of the participating provider, if—
  - (i) The participating provider submits information as required by the Commission regarding the alternative verification process prior to seeking reimbursement; and
  - (ii) Not later than 7 days after receiving the information required under paragraph (a)(2)(i) of this section, the Wireline Competition Bureau—

(A) Determines that the alternative verification process will be sufficient to avoid waste, fraud, and abuse; and

(B) Notifies the participating provider of the determination under paragraph (a)(2)(ii)(A) of this section; or

(3) Rely on a school to verify the eligibility of a household based on the participation of the household in the free and reduced price lunch program or the school breakfast program as described in 47 CFR 54.1600(h)(2). The participating provider must retain documentation demonstrating the school verifying eligibility, the program(s) that the school participates in, the qualifying household, and the program(s) the household participates in.

*(b) Provider policies and procedures.* All participating providers must implement policies and procedures for ensuring that their Emergency Broadband Benefit Program households are eligible to receive the Emergency Broadband Benefit. A provider may not provide a consumer with service that it represents to be Emergency Broadband Benefit-supported service or seek reimbursement for such service, unless and until it has:

- (1) Confirmed that the household is an eligible household pursuant to 47 CFR 54.1605;
- (2) Completed any other necessary enrollment steps, and;
- (3) Securely retained all information and documentation it receives related to the eligibility determination and enrollment, consistent with 47 CFR 54.1611.

*(c) One-Per-Household Worksheet.* If the prospective household shares an address with one or more existing Emergency Broadband Benefit Program subscribers according to the National Lifeline Accountability Database or National Verifier, the prospective subscriber must complete a form certifying compliance with the one-per-

household rule prior to initial enrollment.

*(d) The National Lifeline Accountability Database.* In order to receive Emergency Broadband Benefit Program support, participating providers must comply with the following requirements:

(1) All participating providers must query the National Lifeline Accountability Database to determine whether a prospective subscriber is currently receiving an Emergency Broadband Benefit-supported service from another participating provider; and whether anyone else living at the prospective subscriber's residential address is currently receiving an Emergency Broadband Benefit-supported service.

(2) If the National Lifeline Accountability Database indicates that a prospective subscriber who is not seeking to transfer his or her Emergency Broadband Benefit, is currently receiving an Emergency Broadband Benefit-supported service, the participating provider must not provide and shall not seek or receive Emergency Broadband Benefit reimbursement for that subscriber.

(3) Participating providers may query the National Lifeline Accountability Database only for the purposes provided in paragraphs (e)(1) and (2) of this section, and to determine whether information with respect to its subscribers already in the National Lifeline Accountability Database is correct and complete.

(4) Participating providers must transmit to the National Lifeline Accountability Database in a format prescribed by the Administrator each new and existing Emergency Broadband Benefit Program subscriber's full name; full residential address; date of birth; the telephone number associated with the Emergency Broadband Benefit Program service; the date on which the Emergency Broadband Benefit Program discount was initiated; the date on which the Emergency Broadband Benefit Program discount was terminated, if it has been terminated; the amount of support being sought for that subscriber; and the means through which the subscriber qualified for the Emergency Broadband Benefit Program.

(5) All participating providers must update an existing Emergency Broadband Benefit Program subscriber's information in the National Lifeline Accountability Database within ten business days of receiving any change to that information, except as described in paragraph (d)(7) of this section.

(6) All participating providers must obtain, from each new and existing

subscriber, consent to transmit the subscriber's information. Prior to obtaining consent, the participating provider must describe to the subscriber, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Emergency Broadband Benefit Program, and that failure to provide consent will result in subscriber being denied the Emergency Broadband Benefit.

(7) When a participating provider de-enrolls a subscriber from the Emergency Broadband Benefit Program, it must transmit to the National Lifeline Accountability Database the date of Emergency Broadband Benefit Program de-enrollment within one business day of de-enrollment.

(8) All participating providers must securely retain subscriber documentation that the participating provider reviewed to verify subscriber eligibility, for the purposes of production during audits or investigations or to the extent required by National Lifeline Accountability Database or National Verifier processes, which require, inter alia, verification of eligibility, identity, address, and age.

(9) A participating provider must not enroll or claim for reimbursement a prospective subscriber in the Emergency Broadband Benefit Program if the National Lifeline Accountability Database or National Verifier cannot verify the subscriber's status as alive, unless the subscriber produces documentation to demonstrate his or her identity and status as alive.

*(e) Connected device reimbursement and the National Lifeline Accountability Database.* In order to receive Emergency Broadband Benefit Program reimbursement for a connected device, participating providers must comply with the following requirements:

(1) Such participating provider must query the National Lifeline Accountability Database to determine whether a prospective connected device benefit recipient has previously received a connected device benefit.

(2) If the National Lifeline Accountability Database indicates that a prospective subscriber has received a connected device benefit, the participating provider must not seek a connected device reimbursement for that subscriber.

(3) Such participating provider shall not seek a connected device reimbursement for a subscriber that is not receiving the Emergency Broadband Benefit for service provided by the same participating provider.



(4) Where two or more participating providers file a claim for a connected device reimbursement for the same subscriber, only the participating provider whose information was received and processed by the National Lifeline Accountability Database or Lifeline Claims System first, as determined by the Administrator, will be entitled to a connected device reimbursement for that subscriber.

(5) All participating providers must obtain from each subscriber consent to transmit the information required under paragraph (e)(1) of this section. Prior to obtaining consent, the participating provider must describe to the subscriber, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Emergency Broadband Benefit Program connected device benefit, and that failure to provide consent will result in the subscriber being denied the Emergency Broadband Benefit Program connected device benefit.

**§ 54.1607 Enrollment representative registration.**

Enrollment representative registration. A participating provider must require that enrollment representatives register with the Administrator before the enrollment representative can provide information directly or indirectly to the National Lifeline Accountability Database or the National Verifier.

(a) As part of the registration process, participating providers must require that all enrollment representatives provide the Administrator with identifying information, which may include first and last name, date of birth, the last four digits of his or her social security number, email address, and residential address. Enrollment representatives will be assigned a unique identifier, which must be used for:

- (1) Accessing the National Lifeline Accountability Database;
- (2) Accessing the National Verifier;
- (3) Accessing any eligibility database; and
- (4) Completing any Emergency Broadband Benefit Program enrollment or verification forms.

(b) Participating providers must ensure that enrollment representatives shall not use another person's unique identifier to enroll Emergency Broadband Benefit Program subscribers, recertify Emergency Broadband Benefit Program subscribers, or access the

National Lifeline Accountability Database or National Verifier.

(c) Participating providers must ensure that enrollment representatives shall regularly recertify their status with the Administrator to maintain their unique identifier and maintain access to the systems that rely on a valid unique identifier. Participating providers must also ensure that enrollment representatives shall update their registration information within 30 days of any change in such information.

**§ 54.1608 Reimbursement for providing Emergency Broadband Benefit Program discount.**

(a) Emergency Broadband Benefit Program support for providing a qualifying broadband internet access service shall be provided directly to a participating provider based on the number of actual qualifying low-income households listed in the National Lifeline Accountability Database that the participating provider serves directly as of the first of the month.

(b) For each eligible household receiving Emergency Broadband Benefit-supported service, the reimbursement amount shall equal the appropriate support amount as described in 47 CFR 54.1603, except as otherwise provided by 47 CFR 54.1603(c). The participating provider's Emergency Broadband Benefit Program reimbursement shall not exceed the participating provider's standard rate for that offering.

(c) A participating provider offering an Emergency Broadband Benefit Program service with a standard rate that does not require the participating provider to assess and collect a monthly fee from its subscribers must certify that every subscriber claimed has used their supported service, as defined by 47 CFR 54.407(c)(2), at least once during the service month being claimed prior in order to claim that subscriber for reimbursement in that month.

(d) A participating provider that, in addition to providing the Emergency Broadband Benefit to an eligible household, provides such household with a connected device may be reimbursed up to \$100.00 for such connected device, if the charge to such eligible household is more than \$10.00 but less than \$50.00 for such connected device, except that a participating provider may receive reimbursement for no more than one (1) connected device per eligible household.

(e) In order to receive Emergency Broadband Benefit Program reimbursement, an officer of the participating provider must certify, as

part of each request for reimbursement, that:

(1) The officer is authorized to submit the request on behalf of the participating provider;

(2) The officer has read the instructions relating to reimbursements and the funds sought in the reimbursement request are for services and/or devices that were provided in accordance with the Emergency Broadband Benefit Program rules and requirements;

(3) The participating provider is in compliance with all of the rules in this subpart;

(4) The participating provider has obtained valid certification and application forms as required by the rules in this subpart for each of the subscribers for whom it is seeking reimbursement;

(5) The amount for which the participating provider is seeking reimbursement from the Emergency Broadband Connectivity Fund is not more than the standard rate;

(6) Each eligible household for which the participating provider is seeking reimbursement for providing an internet service offering—

(i) Has not been and will not be charged—

(A) For such offering, if the standard rate for such offering is less than or equal to the amount of the emergency broadband benefit for such household; or

(B) More for such offering than the difference between the standard rate for such offering and the amount of the emergency broadband benefit for such household;

(ii) Will not be required to pay an early termination fee if such eligible household elects to enter into a contract to receive such internet service offering if such household later terminates such contract;

(iii) Was not, after the date of the enactment of the Consolidated Appropriations Act, subject to a mandatory waiting period for such internet service offering based on having previously received broadband internet access service from such participating provider; and

(iv) Will otherwise be subject to the participating provider's generally applicable terms and conditions as applied to other customers.

(7) Each eligible household for which the participating provider is seeking reimbursement for supplying such household with a connected device was charged by the provider more than \$10.00 but less than \$50.00 for such connected device;

(8) That the connected device claimed meets the Commission's requirements, that the reimbursement claim amount reflects the market value of the device, and that the connected device has been delivered to the household;

(9) The process used by the participating provider to verify that a household is eligible for the Emergency Broadband Benefit Program, if the provider elects an alternative verification process and that such verification process was designed to avoid waste, fraud, and abuse.

(10) The provider has retained the relevant supporting documents that demonstrate the connected devices requested are eligible for reimbursement;

(11) All documentation associated with the reimbursement form, including all records for services and/or connected devices provided, will be retained for a period of at least six years after the last date of delivery of the supported services and/or connected devices provided through the Emergency Broadband Benefit Program, and are subject to audit;

(12) The provider neither received nor paid kickbacks, as defined by 41 U.S.C. 8701, in connection with the Emergency Broadband Benefit Program;

(13) The information contained in this form is true, complete, and accurate to the best of the officer's knowledge, information, and belief, and is based on information known to the officer or provided to officer by employees responsible for the information being submitted;

(14) The officer is aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject the officer to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (18 U.S.C. 286–287, 1001, 1341, 31 U.S.C. 3729–3730, 3801–3812.); and

(15) No service costs or devices sought for reimbursement have been waived, paid, or promised to be paid by another entity, including any Federal program.

(f) In order to receive Emergency Broadband Benefit Program reimbursement, a participating provider must keep accurate records of the revenues it forgoes in providing Emergency Broadband Benefit-supported services. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this subpart.

(g) In order to receive reimbursement, participating providers shall submit

certified reimbursement claims through Lifeline Claims System by the 15th of each month, or the following business day in the event the 15th is a holiday or falls on a weekend. If the participating provider fails to submit a certified reimbursement claim by the deadline for that month, the reimbursement claim will not be processed.

#### **§ 54.1609 De-enrollment from the Emergency Broadband Benefit Program.**

(a) *De-enrollment generally.* If a participating provider has a reasonable basis to believe that an Emergency Broadband Benefit Program subscriber does not meet or no longer meets the criteria to be considered an eligible household under 47 CFR 54.1605, the participating provider must notify the subscriber of impending termination of his or her Emergency Broadband Benefit discount. Notification of impending termination must be sent in writing separate from the subscriber's monthly bill, if one is provided, and must be written in clear, easily understood language. The participating provider must allow a subscriber 30 days following the date of the impending termination letter to demonstrate continued eligibility. A subscriber making such a demonstration must present proof of continued eligibility to the National Verifier or the participating provider consistent with the participating provider's approved alternative verification process. A participating provider must de-enroll any subscriber who fails to demonstrate eligibility within five business days after the expiration of the subscriber's deadline to respond.

(b) *De-enrollment for duplicative support.* Notwithstanding paragraph (a) of this section, upon notification by the Administrator to any participating provider that a subscriber is receiving the Emergency Broadband Benefit discount from another participating provider, or that more than one member of a subscriber's household is receiving the Emergency Broadband Benefit discount and that the subscriber should be de-enrolled from participation in that provider's Emergency Broadband Benefit program, the participating provider must de-enroll the subscriber from participation in that provider's Emergency Broadband Benefit discount within five business days. A participating provider shall not claim any de-enrolled subscriber for Emergency Broadband Benefit reimbursement following the date of that subscriber's de-enrollment.

(c) *De-enrollment requested by subscriber.* If a participating provider

receives a request from a subscriber to de-enroll, it must de-enroll the subscriber within two business days after the request.

#### **§ 54.1610 Expiration of Emergency Broadband Benefit Program.**

(a) Prior to the conclusion of the Emergency Broadband Benefit Program, the Administrator will notify participating providers of the projected final service month for which participating providers will be eligible to receive reimbursement for valid reimbursement claims submitted pursuant to 47 CFR 54.1608. In that final month when valid reimbursement claims exceed remaining funds, the amount disbursed for both service and connected device claims to participating providers will be reduced on a pro-rata basis but will be no less than 50% of the total support amount for timely filed claims for service and connected devices provided to households.

(b) Concurrent with release of the notice by the Administrator pursuant to paragraph (a) of this section, no new households shall be enrolled in the Emergency Broadband Benefit Program.

(c) No later than 15 days after the Administrator provides notice pursuant to paragraph (a) of this section, participating providers shall give notice to subscribers receiving the Emergency Broadband Benefit of the last date or service month that the full benefit will apply to the household's bill, the last date or service month that the partial, final-month benefit will apply to their bill, and the expected rate of the broadband service once the benefit expires.

(d) At least 30 days before the end of the Emergency Broadband Benefit Program, as indicated in the notice sent by the Administrator pursuant to paragraph (a) of this section, participating providers must notify households about the upcoming end to the Emergency Broadband Benefit Program and clearly state that the household will be subject to the participating provider's generally applicable terms and conditions at the conclusion of the Emergency Broadband Benefit Program if the household elects to continue receiving broadband service from the participating provider.

#### **§ 54.1611 Recordkeeping requirements.**

Participating providers must maintain records to document compliance with all Commission requirements governing the Emergency Broadband Benefit Program for the six full preceding calendar years and provide that documentation to the Commission or Administrator upon request.

Participating providers must maintain the documentation related to the eligibility determination and reimbursement claims for an Emergency Broadband Benefit Program subscriber for as long as the subscriber receives the Emergency Broadband Benefit discount from that participating provider, but for no less than the six full preceding calendar years.

**§ 54.1612 Validity of electronic signatures.**

(a) For the purposes of this subpart, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(b) For the purposes of this subpart, an electronic record, defined by the Electronic Signatures in Global and National Commerce Act as a contract or other record created, generated, sent, communicated, received, or stored by electronic means, constitutes a record.

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