

116TH CONGRESS
2D SESSION

S. 3838

To provide for the expansion of the Rural Health Care Program of the Federal Communications Commission in response to COVID–19, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2020

Mr. SCHATZ (for himself, Ms. MURKOWSKI, Mr. BOOZMAN, Mr. PETERS, Mr. KING, Mr. SULLIVAN, Mr. CRAMER, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide for the expansion of the Rural Health Care Program of the Federal Communications Commission in response to COVID–19, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Care Broad-
5 band Expansion During COVID–19 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) COMMISSION.—The term “Commission”
2 means the Federal Communications Commission.

3 (2) ELIGIBLE EQUIPMENT.—The term “eligible
4 equipment” means the equipment described in sec-
5 tion 54.613 of title 47, Code of Federal Regulations,
6 or any successor regulation.

7 (3) ELIGIBLE SERVICE PROVIDER.—The term
8 “eligible service provider” means a provider de-
9 scribed in section 54.608 of title 47, Code of Federal
10 Regulations, or any successor regulation.

11 (4) FUNDING YEAR.—The term “funding year”
12 has the meaning given the term in section 54.600(a)
13 of title 47, Code of Federal Regulations, or any suc-
14 cessor regulation.

15 (5) HEALTH CARE PROVIDER.—The term
16 “health care provider” has the meaning given the
17 term in section 54.600(b) of title 47, Code of Fed-
18 eral Regulations, or any successor regulation.

19 (6) HEALTHCARE CONNECT FUND PROGRAM.—
20 The term “Healthcare Connect Fund Program”
21 means the program described in section 54.602(b) of
22 title 47, Code of Federal Regulations, or any suc-
23 cessor regulation.

24 (7) MULTI-YEAR COMMITMENTS.—The term
25 “multi-year commitments” means the commitments

1 described in section 54.620(c) of title 47, Code of
2 Federal Regulations, or any successor regulation.

3 (8) RURAL AREA.—The term “rural area” has
4 the meaning given the term in section 54.600(e) of
5 title 47, Code of Federal Regulations, or any suc-
6 cessor regulation.

7 (9) RURAL HEALTH CARE PROGRAM.—The
8 term “Rural Health Care Program” means the pro-
9 gram described in subpart G of part 54 of title 47,
10 Code of Federal Regulations, or any successor regu-
11 lation.

12 (10) RURAL HEALTH CARE PROVIDER.—The
13 term “rural health care provider” has the meaning
14 given the term in section 54.600(f) of title 47, Code
15 of Federal Regulations, or any successor regulation.

16 (11) TELECOMMUNICATIONS PROGRAM.—The
17 term “Telecommunications Program” has the mean-
18 ing given such term in section 54.602(a) of title 47,
19 Code of Federal Regulations, or any successor regu-
20 lation.

21 (12) UPFRONT PAYMENTS.—The term “upfront
22 payments” means the payments described in section
23 54.616 of title 47, Code of Federal Regulations, or
24 any successor regulation.

1 **SEC. 3. EXPANSION OF RURAL HEALTH CARE PROGRAM OF**
2 **FCC IN RESPONSE TO COVID-19.**

3 (a) PROMULGATION OF REGULATIONS REQUIRED.—

4 Not later than 7 days after the date of enactment of this
5 Act, the Commission shall promulgate regulations modi-
6 fying the requirements in subpart G of part 54 of title
7 47, Code of Federal Regulations, in the following manner:

8 (1) A health care provider not located in a rural
9 area shall be treated as a rural health care provider
10 for the purposes of the Healthcare Connect Fund
11 Program.

12 (2) The discount rate for an eligible expense
13 through the Healthcare Connect Fund Program (as
14 described in section 54.611(a) of title 47, Code of
15 Federal Regulations, or any successor regulation)
16 shall be increased to 85 percent in funding years
17 2019, 2020, and 2021 for eligible equipment pur-
18 chased or eligible services rendered in such funding
19 years, including for eligible equipment, upfront pay-
20 ments, and multi-year commitments without limita-
21 tion.

22 (3) A temporary, mobile, or satellite health care
23 delivery site shall be treated as a health care pro-
24 vider or an eligible site of a health care provider for
25 purposes of determining eligibility for the Healthcare

1 Connect Fund Program or the Telecommunications
2 Program.

3 (4) The waiver of the application window speci-
4 fied in section 54.621(a) of title 47, Code of Federal
5 Regulations, or any successor regulation, for funding
6 year 2019.

7 (5) The adoption and implementation of a roll-
8 ing application process to allow a health care pro-
9 vider to apply for funding.

10 (6) The following changes to certain bidding re-
11 quirements:

12 (A) A waiver of any requirement under
13 section 54.622 of title 47, Code of Federal Reg-
14 ulations, or any successor regulation, for a
15 health care provider upgrading an existing sup-
16 ported service at a particular location, effective
17 as of the date of declaration of the public health
18 emergency pursuant to section 319 of the Pub-
19 lic Health Service Act (42 U.S.C. 247d) as a
20 result of confirmed cases of COVID-19, if the
21 health care provider maintains the same eligible
22 service provider to provide the upgraded service
23 at such location.

24 (B) Reduction of the 28-day waiting period
25 described in section 54.622(g) of title 47, Code

1 of Federal Regulations, or any successor regula-
2 tion, to a 14-day waiting period.

3 (C) Modification of the requirements in
4 section 54.622 of title 47, Code of Federal Reg-
5 ulations, or any successor regulation, to—

6 (i) provide that bid evaluation criteria
7 may give additional consideration to the
8 speed with which an eligible service pro-
9 vider can initiate service; and

10 (ii) encourage applicants to consider
11 bids from different providers to provide
12 service to different locations of such appli-
13 cants, if considering bids in this manner
14 would expedite the overall timeline for ini-
15 tiating or expanding service to individual
16 locations.

17 (7) Issuance of a decision on each application
18 for funding not later than 60 days after the date on
19 which the application is filed.

20 (8) Release of funding not later than 30 days
21 after the date on which an invoice is submitted with
22 respect to an application that is approved, applicable
23 services have been provided, and required invoices
24 have been submitted as required under program
25 rules.

1 (b) ADDITIONAL CHANGES TO RURAL HEALTH CARE
2 PROGRAM.—

3 (1) RELEASE OF FUNDING FOR OUTSTANDING
4 FUNDING REQUESTS.—

5 (A) IN GENERAL.—The Commission shall
6 ensure the release of funding for all requests
7 (outstanding as of the date of enactment of this
8 Act) under the Rural Health Care Program not
9 later than 60 days after the date of enactment
10 of this Act, except that for outstanding funding
11 requests that are subject to a review of the ap-
12 plicable urban and rural rates, the Commission
13 shall ensure the release of interim funding not
14 later than 60 days after the date of enactment
15 of this Act, disbursed at 65 percent of the fund-
16 ing request, subject to a true-up following the
17 completion of such review.

18 (B) LIMITATION.—This paragraph shall
19 not apply to any party or successor-in-interest
20 to any party to which the Commission, during
21 the period beginning on the date that is 1 year
22 before the date of enactment of this Act and
23 ending on January 31, 2020, has issued a Let-
24 ter of Inquiry, Notice of Apparent Liability, or
25 Forfeiture Order relating to the party's partici-

1 pation in the Rural Health Care Program, pur-
 2 suant to section 503(b) of the Communications
 3 Act of 1934 (47 U.S.C. 503(b)).

4 (C) REQUIRED REPAYMENT.—In the case
 5 of an eligible service provider that receives
 6 funding through the Rural Health Care Pro-
 7 gram pursuant to this paragraph to which the
 8 eligible service provider is not entitled, the
 9 Commission shall require the eligible service
 10 provider to repay such funds.

11 (2) DELAY OF IMPLEMENTATION SCHEDULE.—

12 The Commission shall—

13 (A) delay by 1 year the implementation of
 14 sections 54.604 and 54.605 of title 47, Code of
 15 Federal Regulations, or any successor regula-
 16 tion, as adopted in the Report and Order in the
 17 matter of Promoting Telehealth in Rural Amer-
 18 ica (FCC 19–78) that was adopted by the Com-
 19 mission on August 1, 2019; and

20 (B) delay application of the new definition
 21 of “similar services” as described in paragraphs
 22 14 through 20 of such Report and Order until
 23 the implementation of the sections described in
 24 subparagraph (A).

1 (c) EFFECTIVE DATE OF REGULATIONS.—The regu-
 2 lations required under subsection (a) shall take effect on
 3 the date on which the regulations are promulgated.

4 (d) TERMINATION OF REGULATIONS.—Except to the
 5 extent that the Commission determines that some or all
 6 of the regulations promulgated under subsection (a)
 7 should remain in effect (excluding any regulation promul-
 8 gated under paragraph (1) of such subsection), the regula-
 9 tions shall terminate on the later of—

10 (1) the earlier of—

11 (A) the date that is 60 days after the ter-
 12 mination of the declaration, or any renewal
 13 thereof, of the public health emergency pursu-
 14 ant to section 319 of the Public Health Service
 15 Act (42 U.S.C. 247d) as a result of confirmed
 16 cases of COVID-19; and

17 (B) the date of the expiration of the appro-
 18 priation in subsection (f)(2); and

19 (2) the date that is 9 months after the date of
 20 enactment of this Act.

21 (e) EXEMPTIONS.—

22 (1) NOTICE AND COMMENT RULEMAKING RE-
 23 QUIREMENTS.—Subsections (b), (c), and (d) of sec-
 24 tion 553 of title 5, United States Code, shall not

1 apply to a regulation promulgated under subsection
2 (a) or a rulemaking to promulgate such a regulation.

3 (2) PAPERWORK REDUCTION ACT REQUIRE-
4 MENTS.—A collection of information conducted or
5 sponsored under the regulations required by sub-
6 section (a), or under section 254 of the Communica-
7 tions Act of 1934 (47 U.S.C. 254) in connection
8 with universal service support provided under such
9 regulations, shall not constitute a collection of infor-
10 mation for the purposes of subchapter I of chapter
11 35 of title 44, United States Code (commonly re-
12 ferred to as the “Paperwork Reduction Act”).

13 (f) EMERGENCY RURAL HEALTH CARE
14 CONNECTIVITY FUND.—

15 (1) ESTABLISHMENT.—There is established in
16 the Treasury of the United States a fund to be
17 known as the Emergency Rural Health Care
18 Connectivity Fund.

19 (2) APPROPRIATION.—There is appropriated to
20 the Emergency Rural Health Care Connectivity
21 Fund, out of any money in the Treasury not other-
22 wise appropriated, \$2,000,000,000 for fiscal year
23 2020, to remain available through fiscal year 2022.

24 (3) USE OF FUNDS.—Amounts in the Emer-
25 gency Rural Health Care Connectivity Fund shall be

1 available to the Commission to carry out the Rural
2 Health Care Program, as modified by the regula-
3 tions promulgated under subsection (a).

4 (4) RELATIONSHIP TO UNIVERSAL SERVICE
5 CONTRIBUTIONS.—Support provided under the regu-
6 lations required by paragraphs (1) through (3) of
7 subsection (a) shall be—

8 (A) provided from amounts made available
9 under paragraph (3) of this subsection and not
10 from contributions under section 254(d) of the
11 Communications Act of 1934 (47 U.S.C.
12 254(d)); and

13 (B) in addition to, and not in replacement
14 of, funds authorized by the Commission for the
15 Rural Health Care Program as of the date of
16 enactment of this Act from contributions under
17 section 254(d) of the Communications Act of
18 1934 (47 U.S.C. 254(d)).

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