

On April 2, the Federal Communications Commission (FCC) released a Report and Order that included approval of a new connected care services pilot program within the Universal Service Fund (USF or Fund). The Connected Care Pilot Program (Pilot Program), which is the outgrowth of an FCC inquiry started in 2018, will make available “up to \$100 million over three years to examine how the Fund can help support the trend towards connected care services, particularly for low income Americans and veterans.” The Pilot Program will help defray eligible health care providers’ costs of providing connected care services, with a particular emphasis on supporting these services for eligible low-income Americans and veterans.

This alert is intended to provide an overview of key aspects of the Pilot Program, which presents a longer-term opportunity for connected care services support. Note, it is not intended to be exhaustive or a substitute for consultation with the specific terms of the Report and Order.

Defining Connected Care for Purposes of the Pilot Program

For purposes of the Pilot Program, the Report and Order defines “connected care” as “a subset of telehealth that uses broadband Internet access service-enabled technologies to deliver directly to patients remote medical, diagnostic, and treatment-related services outside of traditional brick and mortar medical facilities – specifically to patients at their mobile location or residence.” Connected care services can be provided by doctors, nurses or other healthcare professionals.

- **Telehealth** is defined as the “broad range of health care-related applications that depend upon broadband connectivity, including telemedicine; exchange of electronic health records; collection of data through Health Information Exchanges and other entities; exchange of large image files (e.g., X-ray, MRIs, and CAT scans); and the use of real-time and delayed video conferencing for a wide range of telemedicine, consultation, training, and other health care purposes.” Health care providers will have “the flexibility to identify the medical conditions to be treated through their proposed pilot projects, and whether to treat a single medical condition or multiple medical conditions.”
- **Medical conditions** include “any condition, whether physical or mental, including but not limited to any condition resulting from illness, injury (whether or not the injury is accidental), pregnancy, or congenital malformation.” The FCC made clear, however, that in reviewing applications, it is interested in targeting funding “towards pilot projects that are primarily focused on treating public health epidemics, opioid dependency, mental health conditions, high-risk pregnancy, or chronic or recurring conditions that typically require at least several months to treat, including, but not limited to, diabetes, cancer, kidney disease, heart disease, and stroke recovery.”

Structure of the Program

The Pilot Program is a limited duration program that will be administered by the Universal Services Administrative Company (USAC) under the rules set by the FCC, acting through its the Wireline Competition Bureau (Bureau).

A. Eligible Applicants and Service Providers

1. Eligibility

Participation in the Pilot Program is limited to entities that first qualify as a “health care provider,” which is a defined under section 254(h)(7)(B) of the Communications Act as:

- Postsecondary educational institutions offering health care instruction, teaching hospitals and medical schools
- Community health centers or health centers providing health care to migrants
- Local health departments or agencies
- Community mental health centers
- Not-for-profit hospitals
- Rural health clinics
- Skilled nursing facilities, and
- Consortia of health care providers consisting of one or more entities falling into the first seven categories

2. Other Restrictions and Criteria

- Eligible health care providers can be located in rural or non-rural areas.
- Eligible health care providers may not request or receive funding for broadband data connections for which they already receive funding through other federal programs, including the Healthcare Connect Fund Program, and eligible health care providers that become recipients of funds under the Pilot Program may not request funding through the Healthcare Connect Fund Program or other federal programs for broadband data connections funded by the Pilot Program.
- Eligible health care providers that participate in the Pilot Program can receive support for eligible broadband services from any provider and are not limited to providers that are designated as eligible telecommunications carriers (ETCs).

B. Eligible Services and Devices

The FCC declared that eligible services and equipment under the Pilot Program consist of the following categories:

- **Patient Broadband Internet Access Services** – The Pilot Program will provide funding for participating health care providers to “purchase mobile or fixed broadband Internet access service for participating patients who do not already have broadband Internet access service or who lack sufficient broadband Internet access service necessary to participate in the specific pilot project. Insufficient broadband for connected care services could include subscriptions to low-bandwidth connections, low usage allowances, or other inadequate service levels – all of which negatively impact patients’ and health care providers’ ability to use telehealth services.” The applicant who seeks support for these services must provide information regarding the number of connections and how it plans to access whether a patient has inadequate service.
- **Health Care Provider Broadband Data Connections** – The Pilot Program will provide “support for eligible, participating health care providers to purchase the broadband data connections needed to provide connected care services under the Pilot Program.” This includes disbursements “to health care providers specifically for purposes of providing connected care services directly to their patients.”
- **Other Connected Care Information Services** – The Pilot Program will provide “support for information services other than broadband connectivity that eligible, participating health care providers use for connected care as part of the Pilot Program.” The FCC did not provide a specific list of such services, but directed applicants to describe the nature of the information services in their applications.
- **Network Equipment** – The Pilot Program will provide funding for “necessary network equipment for broadband connectivity funded through the Pilot Program for connected care services.” This would include, for example, “routers and servers necessary to make a supported service functional and for consortium applicants to fund network equipment necessary to manage, control, or maintain a supported broadband service.” The equipment may only be used in connection with the Pilot Program project.

Pilot Program funding cannot be used for end-user devices or medical equipment. Nor can funding be used for “health care provider administrative costs associated with participating in the Pilot Program (e.g., costs associated with completing Pilot Program applications and other submissions) or other miscellaneous expenses (e.g., doctor and staff time spent on the Pilot Program and outreach).”

With respect to the procurement of eligible services and devices, the FCC requires the following:

- Absent an exemption, applicants will have to seek competitive bids for services and equipment. They will be required to follow the existing Rural Health Care Program’s competitive bidding requirements, which include submitting a Request for Services and Request for Proposal (as applicable) for USAC to post on its website, seeking bids, waiting 28 days before selecting a service provider, conducting a bid evaluation to select a service provider and selecting the most-cost effective service.

- All potential bidders must have access to the same information and be treated in the same manner during the competitive bidding period to ensure that the process is “fair and open.”
- Gifts from service providers will also be prohibited.

C. Funding Support per Applicant

The Pilot Program will provide support for 85% of the cost of eligible services and equipment. In other words, the applicant will be required to cover 15% of the cost of the approved eligible services and equipment.

Health care providers must pay their share of costs from “eligible sources,” which include the applicant, another eligible health care provider, participating patients or state, federal or Tribal funding or grants, and not “ineligible sources,” which include direct payments from vendors or service providers.

Participating patients may only participate in one pilot project and cannot participate in multiple pilot projects as part of the Pilot Program.

D. Limits on Awards and Numbers of Projects

The FCC did not limit the number of projects that may be selected for the Pilot Program or the amount of support that may be requested per pilot project. The FCC, however, intends to be “mindful of the total Pilot Program budget and the funding needs of each pilot project when selecting pilot projects to ensure that each pilot project will have enough financial support to be successful.” Further, the FCC does not “anticipate allocating all of the Pilot Program funds on one or two large projects.”

E. Funding Duration and Transition Periods

The Pilot Program will provide funding to selected projects for three years, with separate transition periods of up to six months before and after the three-year funding period. Participants will have “up to six months from the date of their initial funding commitment letter from USAC to organize and start their pilot projects (including, but not limited to procuring eligible services or network equipment), and up to six months after the funding end date on their final funding commitment letters to wind down their pilot projects and complete any necessary administrative tasks.”

F. Application, Evaluation and Selection Process

1. Timing

Pilot Program applications must be submitted electronically through the FCC’s Electronic Comment Filing System (ECFS) under WC Docket No. 18-213. They will be due 45 days from the effective date of the Pilot Program rules or 120 days from the release of the Report and Order, whichever is later. The Bureau will issue a public notice announcing the effective date of the Pilot Program rules and the deadline for submitting applications. Interested parties may not submit applications prior to the effective date of the Pilot Program rules.

2. Processing

To participate in the Pilot Program, a prospective health care provider must first obtain an eligibility determination from USAC by submitting an FCC Form 460 (Eligibility and Registration Form) along with supporting documentation to USAC to verify its eligibility to participate. The FCC directed the Bureau to “consult with the FCC’s Office of Economics and Analytics, [Office of Managing Director], Office of General Counsel, and the FCC Connect2Health Task Force, as needed, and to recommend pilot project selections to the Commission.” It also encouraged the Bureau “to consult with federal agencies with expertise in telehealth or the federally designated Telehealth Resource Centers.”

After the FCC selects the projects to participate in the Pilot Program, the Bureau will announce them.

3. Evaluation Criteria

The FCC indicated that it had “a strong preference for health care providers that have either (1) experience with providing telehealth or connected care services to patients (e.g., remote patient monitoring, store-and-forward imaging, or video conferencing) beyond using electronic health records, or (2) a partnership with another health care provider, government agency, or designated telehealth resource center with such experience that will work with the health care provider to implement its proposed pilot project.”

In addition to the criteria reflected in the information requested as part of the application, the FCC provided the following guidance that is instructive as to what it would consider important in an application:

- “We have a strong preference for pilot projects that can demonstrate that they will primarily benefit veterans or low-income individuals.”
- “Veteran and low-income patients are more likely to have complex, high-cost health care needs, reside in areas with physician shortages, and may not have mobile or residential Internet access for connected care services.”
- “[E]mphasizing pilot projects that will primarily benefit low-income patients or veterans is appropriate as it will expand connected care services to individuals who are less likely to have access to these innovative services without universal service support.”
- “An application that intends to provide connected care services to only a de minimis number of low-income or veteran patients will not be selected.”

Finally, in selecting awardees, the FCC directed the Bureau to consider the funding sought by each applicant compared to the total Pilot Program budget. The Bureau will not evaluate applications based solely on requested funding, but will seek to select an array of pilot projects that can be funded within the Pilot Program’s budget.

4. Minimum Application Content

Applications must, at a minimum, contain the following information:

- Names and addresses of all health care providers that will participate in the proposed pilot project and identify the lead health care provider for proposals involving multiple health care providers.

- Contact information for the individual that will be responsible for the management and operation of the proposed pilot project (i.e., telephone number, mailing address and email address).
- Health care provider number(s) and type(s) (e.g., not-for-profit hospital, community mental health center, community health center, rural health clinic), for each health care provider included in proposal.
- Description of each participating health care provider’s previous experience with providing telehealth services (other than electronic health records) or experience and name of a partnering health care provider or organization.
- Description of the plan for implementing and operating the pilot project, including how the pilot project intends to recruit patients, estimated amount of ramp-up time necessary for the pilot project (not to exceed six months), plans to obtain any necessary end-user devices (e.g., tablets, smartphones) and medical devices for the connected care services that the pilot project will provide, and to what extent the pilot project can be self-sustaining once established.
- Description of the connected care services the proposed pilot project will provide, the conditions to be treated, the health care provider’s experience with treating those conditions, the goals and objectives of the proposed pilot project (including the health care provider’s anticipated goals with respect to reaching new or additional patients, and improved patient health outcomes), expected health care benefits to the patients, health care provider or the health care industry that will result from the proposed pilot project, and how the pilot project will achieve each of the goals of the Pilot Program.
- Documentation of the participating health care provider(s)’ financial health (e.g., recent audited balance sheets and income statements that are no more than two years old).
- Description of the estimated number of patients to be treated.
- Description of any commitments from community partners, including physicians, hospitals, health systems and home health/community providers to the success of the proposed pilot project.
- Description of the anticipated level of broadband service required for the proposed pilot project, including the necessary speeds, the technologies to be used (e.g., mobile or fixed broadband) and any other relevant service characteristics (e.g., LTE service).
- Description of the estimated number of patient broadband connections that the healthcare provider intends to purchase for purposes of providing connected care services to patients who lack broadband service or have insufficient broadband services. This description must include an explanation of how the health care provider plans to assess whether a patient lacks broadband service or has insufficient broadband Internet access service for the indicated connected care service based on speed, technology or data cap limitations.
- If seeking support for an information service used to provide connected care, other than broadband connectivity, used to provide connected care, a description of the service, including a description of the primary function(s) of the service, and whether it facilitates the capturing, transmission and storage of data for connected care.

- Estimated total project costs, including costs eligible for support through the Pilot Program and costs not eligible for Pilot Program support but still necessary to implement the proposed pilot project. This entry must include the total estimated eligible funding (which is limited to 85% of eligible costs) to be requested from the Pilot Program per year over the three-year funding period.
- A list of anticipated sources of financial support for the pilot project costs not covered by the Pilot Program.
- Description of the metrics for the proposed pilot project that are relevant to the Pilot Program goals and how the participating providers will collect those metrics. Examples of the types of metrics the FCC is interested in include: reductions in potential emergency room or urgent care visits; decreases in hospital admissions or readmissions; condition-specific outcomes, such as reductions in premature births or acute incidents among sufferers of a chronic illness, and patient satisfaction as to with their overall health status.
- Description of how the health care provider intends to collect, track and store the required Pilot Program data.
Applicants should also provide the following information, as applicable:
- Description of whether the health care provider is located in a rural area, on Tribal lands or is associated with a Tribe, or part of the Indian Health Service. If the healthcare provider is not located in a rural area, include a description of whether the healthcare provider will primarily serve veterans or low-income patients located in rural areas as defined in the Rural Health Care Program rules, and identify those specific rural areas.
- Listing of all Department of Health and Human Services, Health Resources & Services Administration (HRSA)-designated Health Professional Shortage Areas (for primary care or mental health care only) or HRSA designated Medically Underserved Areas that will be served by the proposed project.
- Description of whether the pilot project will primarily benefit low-income or veteran patients, and if so, the estimated number or percentage of those patients the project will serve compared to the total number of patients that the pilot project estimates serving.
- Description of whether the primary purpose of the proposed pilot project is to provide connected care services to respond to a public health epidemic, or to provide connected care services for opioid dependency, high-risk pregnancy/maternal mortality, mental health conditions (e.g., substance abuse, depression, anxiety disorders, schizophrenia, eating disorders and addictive behavior) or conditions of a chronic or long-term nature (including, but not limited to heart diseases, diabetes, cancer, stroke).

5. Certifications and Document Retention

Applicants will be required, “at the time of submission of their application, to certify, among other things, that they will comply with the Health Insurance Portability and Accountability Act (HIPAA) and other applicable privacy and reimbursement laws and regulations, and applicable medical licensing laws and regulations, as well as all applicable Pilot Program requirements and procedures, including the requirement to retain records to demonstrate compliance with the Pilot Program rules and requirement for five years, subject to audit.”

6. Application Form

In order to facilitate the application process, the FCC plans to provide an application form titled, “Connected Care Pilot Program Application” that applicants must use when submitting their project proposals to the FCC. As indicated above, applications will be due 45 days from the effective date of the Pilot Program rules or 120 days from the release date of the Report and Order, whichever comes later. Applicants must complete each section of the application and make the required certifications at the end of the application. Applicants may request that any materials or information submitted to the FCC in the application be withheld from public inspection pursuant to the procedures set forth in section 0.459 of the FCC’s rules.

7. Invoicing and Funding Disbursement

The Pilot Program requires providers of services and/or equipment, in conjunction with the participating health care provider, to make certain certifications and submit invoicing forms and supporting documentation to USAC on a monthly basis to receive reimbursement for the cost of the eligible services and/or equipment. USAC will review the forms and supporting documentation and make disbursements to the applicable service or equipment providers. Pilot Program participants will also be required to make certifications as part of the form submissions to USAC to ensure that funds are used for their intended purpose and to ensure that all participating health care providers and service providers are in compliance with the FCC’s rules and procedures.

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