

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

In the Matter of)
)
Lifeline and Link Up Reform and Modernization) WC Docket No. 11-42

ORDER

Adopted: August 17, 2020

Released: August 17, 2020

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. The coronavirus COVID-19 pandemic is an outbreak of a respiratory illness that has spread throughout the United States.¹ Efforts to slow the spread of the disease have resulted in the dramatic disruption of many aspects of Americans' lives, including social distancing measures to prevent person-to-person transmission that have required the closure of businesses across the country for indefinite periods of time. Telemedicine, telework, and online learning continue to be necessary social distancing measures, which has emphasized the importance of access to affordable communications services for low-income consumers.

2. In light of the ongoing pandemic, we find good cause to extend, on our own motion, our prior waivers of certain Lifeline program rules governing recertification, reverification, general de-enrollment, subscriber usage, income documentation, and documentation requirements for subscribers residing in rural areas on Tribal lands through November 30, 2020.² We will continue to monitor the situation to determine whether any additional extension of these waivers is appropriate.

II. DISCUSSION

3. The Commission's rules may be waived for good cause shown.³ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁴ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy.⁵

¹ See Centers for Disease Control and Prevention, Coronavirus (COVID-19) (last visited Aug. 17, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

² See *Lifeline and Link Up Reform and Modernization*, Order, 35 FCC Rcd 2729 (WCB Mar. 17, 2020) (*First Lifeline Waiver Order*) (temporarily waiving Lifeline recertification and reverification requirements); *Lifeline and Link Up Reform and Modernization*, Order, 35 FCC Rcd 2950 (WCB Mar. 30, 2020) (*Second Lifeline Waiver Order*) (temporarily waiving Lifeline usage and general de-enrollment requirements and directing the Universal Service Administrative Company (USAC) to suspend periodic reviews); *Lifeline and Link Up Reform and Modernization*, Order, 35 FCC Rcd 4482 (WCB Apr. 29, 2020) (*Third Lifeline Waiver Order*) (temporarily waiving three-month documentation requirement for subscribers to demonstrate income eligibility); *Lifeline and Link Up Reform and Modernization*, Order, 35 FCC Rcd 5510 (WCB June 1, 2020) (*Fourth Lifeline Waiver Order*) (temporarily waiving documentation requirements for subscribers residing in rural areas on Tribal lands).

³ 47 CFR § 1.3.

⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

4. The Lifeline program provides qualifying low-income consumers discounts on voice or broadband Internet access service to help ensure that all Americans have access to affordable communications service.⁶ We find that good cause exists to extend through November 30, 2020 our recent waivers of certain Lifeline program rules governing recertification, reverification, general de-enrollment, subscriber usage, income documentation, and documentation requirements for subscribers residing in rural areas on Tribal lands.⁷ The circumstances necessitating those prior waivers have not materially changed, and we therefore find that this extension is warranted to ensure that no Lifeline subscribers are involuntarily de-enrolled from the Lifeline program during this unprecedented national pandemic.

5. Extension of the waiver of the recertification and reverification rules will prevent the de-enrollment of any Lifeline subscribers who would otherwise have been required to certify their continued eligibility to the National Lifeline Eligibility Verifier (National Verifier) during the waiver period. Because the National Verifier sends recertification notices to subscribers 90 days prior to their anniversary dates, this waiver will impact Lifeline subscribers with anniversary dates that fall on or between April 14, 2020 and February 28, 2021. Similarly, USAC also conducts a one-time reverification of eligibility for each existing Lifeline subscriber around the time that the National Verifier is hard launched in a state or territory. We direct USAC to not de-enroll any Lifeline subscriber for failure to successfully respond to a reverification documentation request for those subscribers with documentation deadlines falling on or before November 30, 2020. We also direct USAC to not open any new reverification documentation requests on or before November 30, 2020 and to provide impacted subscribers a new opportunity to provide any necessary eligibility documentation after the end of the waiver period.

6. The series of waivers provided by the Bureau since the start of the pandemic has resulted in recertification delays for a majority of the Lifeline program subscribers and re-starting the recertification process for most of the Lifeline population simultaneously at the end of the waiver period would present an unreasonable administrative challenge for USAC and the three state administrators. Therefore, while we expect USAC and the state administrators to begin recertifications promptly after the expiration of the waiver period, whenever that may occur, we will provide some flexibility for USAC and the state administrators to re-start the recertification process in staggered batches. We therefore direct USAC and the state administrators to finish re-starting the recertification process for all subscribers impacted by the waivers no later than 90 days after the expiration of the waiver period.

7. For the same reasons set forth in our *Fourth Lifeline Waiver Order*, we similarly extend through November 30, 2020 our direction to USAC to pause its periodic, targeted reviews to identify and de-enroll ineligible subscribers.⁸ USAC should not involuntarily de-enroll any subscriber nor seek additional documentation from an eligible telecommunications carrier or subscriber as part of those reviews until that date.

8. We similarly extend through November 30, 2020 our recent waiver of the Lifeline program's requirement that consumers seeking to demonstrate income-based qualification for the Lifeline program must provide at least three consecutive months of documentation to confirm their income.⁹ The circumstances necessitating this prior waiver have not changed, and we therefore find that this extension is warranted to ensure that consumers are able to successfully complete the Lifeline enrollment process.

⁶ See *Bridging the Digital Divide for Low-Income Consumers*, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 34 FCC Rcd 10886, 10887, para. 3 (2019) (*2019 Lifeline Order*).

⁷ *Second Lifeline Waiver Order*, 35 FCC Rcd at 2952-53, paras. 7-11.

⁸ See *Fourth Lifeline Waiver Order*, 35 FCC Rcd at 5515, para. 15.

⁹ *Third Lifeline Waiver Order*, 35 FCC Rcd at 4484, paras. 8-10.

9. Finally, we also extend through November 30, 2020 our latest waiver for consumers residing in rural areas on Tribal lands of the requirement that such consumers submit the necessary documentation to correct an automated check error(s) prior to enrolling in the Lifeline program and receiving Lifeline service.¹⁰ The circumstances necessitating this waiver have not changed, and we find that this extension is warranted to ensure that eligible telecommunications carriers may begin immediately providing Lifeline-supported service to any consumer residing in a rural area on Tribal lands who applies for Lifeline but is unable to provide the necessary documentation to resolve a failed automated check at the time of application. The consumer will have 45 days from the time of application to provide such documentation, but if the consumer does not submit the necessary documentation, USAC will de-enroll the consumer from the Lifeline program.

10. *Preventing Waste, Fraud, and Abuse.* We are committed to guarding against waste, fraud, and abuse in the Universal Service Fund (USF) programs. Although we grant the limited waiver described herein, service providers remain otherwise subject to audits and investigations to determine compliance with Lifeline program rules and requirements. We will require USAC to recover funds that we discover were not used properly through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the USF programs and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred, and that recovery is warranted. In the case of the rural areas in Tribal lands waiver extended in this Order, we note that Lifeline subscribers residing in rural areas on Tribal lands currently comprise approximately 2% of total Lifeline subscribership, and we thus expect that USAC will be able to sufficiently monitor the claims made pursuant to this waiver for potential waste, fraud, and abuse. Additionally, in the event we discover any improper activity resulting from our action today, we will subject the offending party to all available penalties at our disposal, and will direct USAC to recover funds, assess retroactive fees and/or interest, or both. In the case of suspected fraudulent activity, USAC retains its ability to recover funds, de-enroll fraudulent accounts, and prevent persons engaging in such activity from accessing the USAC Lifeline systems, as appropriate. We remain committed to ensuring the integrity of the Lifeline program and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies. Finally, we direct USAC to include demonstration of eligibility under this waiver in its risk-based sampling for USAC's periodic, targeted reviews after this waiver expires and USAC resumes such reviews.

¹⁰ *Fourth Lifeline Waiver Order*, 35 FCC Rcd at 5512-14, paras. 7-11.

III. ORDERING CLAUSES

11. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that sections 47 CFR 54.405(e)(1), 54.405(e)(3), 54.405(e)(4), 54.407(c)(2), 54.410(a), 54.410(b)(1)(i)(B), and 54.410(f) of the Commission's rules are waived to the limited extent provided herein.

12. IT IS FURTHER ORDERED, that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief
Wireline Competition Bureau