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- Audio and video are muted for all participants
- Use the Q&A feature to ask questions
- Moderator will read questions to the speaker
- Presentation slides are posted at https://nrtrc.org/sessions. Recordings will be posted after the conference.

Telehealth Policy Panel

- Moderator: Cathy Britain and Deb LaMarche
- Presenters:
  - Jeffrey Mitchell, JD, Counsel, Fletcher, Heald & Hildreth, PLC
  - Rene Quashie, JD, Vice President, Policy & Regulatory Affairs, Digital Health, Consumer Technology Association
  - Emily Wein, JD, Of Counsel, Foley & Lardner LLC
  - Mei Wa Kwong, JD, Executive Director, Center for Connected Health Policy

COVID-19
Broadband Policy Update

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April 16, 2020

Agenda

- FCC COVID-19 Telehealth Program ($200 million)

- FCC Connect Care Pilot Program ($100 million)

- FCC Rural Health Care Program ($605 million)

- USDA Distance Learning and Telemedicine (DLT)
  - $72 million (includes $25 million from CARES Act)
  - Application deadline extended = July 13, 2020

FCC Programs: Eligibility

- Participation limited to the following health care provider categories:

  1. Post-secondary educational institutions offering health care instruction, teaching hospitals and medical schools;

  2. Community health centers or health centers providing health care to migrants;

  3. Local health departments or agencies;

  4. Community mental health centers;

  5. Not-for-profit hospitals;

  6. *Rural* health clinics (includes ED's in rural for-profit hospitals)

  7. Skilled nursing facilities; and

  8. Consortia of one or more of the above.

- Open to rural and non-rural providers (with caveats)

FCC $200 million COVID-19 Telehealth Program

- **Funded by COVID-19 phase 3 stimulus package (a.k.a. CARES Act)**
  - Goal to provide *immediate* funds to eligible health care providers responding to the COVID-19 pandemic by *fully funding* their telecom services, information services, and devices.
  - FCC application portal now open: https://www.fcc.gov/covid-19-telehealth-program
- **Timing and Funding Limits**
  - Funding available now for services purchased <u>in response to COVID-19</u> after March 13, 2020, until funding exhausted.
  - Monthly recurring charges covered through September 30, 2020.
  - NOT limited to health care providers treating COVID-19 patients, but need to justify how using funding to treat non COVID-19 patients helps respond to pandemic.
  - Maximum $1 million per applicant

FCC $200 million COVID-19 Telehealth Program

- ## *What types of services or equipment are eligible?*

  - "**Connected care services**" that use broadband-enabled technologies to deliver remote medical services directly to patients.

    - **Telecommunications and broadband connectivity services**: voice & internet connectivity services for health care providers <u>and their patients</u>.

    - **Information services**: remote patient monitoring platforms and services; patient-reported outcome platforms; store and forward services (asynchronous transfer of patient images and data for interpretation by a physician; platforms and services to provide synchronous video consultation).

    - **Internet Connected Devices/Equipment**: tablets, smartphones, or connected devices that enable connected care services at home (*e.g.*, blood pressure monitor that is broadband enabled, *etc.*)

      - Excludes <u>unconnected</u> devices that patients use at home and then share results with their doctors remotely

  - *Competitive procurement not required; should have process that ensures cost-effectiveness; no gift rules*

FCC $200 million COVID-19 Telehealth Program

- ## *Preliminary Steps*

  1. **Receive an eligibility determination from USAC by filling out Form 460**

     - Not necessary if you are already approved to receive funding through the FCC's Rural Health Care Program Healthcare Connect Fund.

     - You can apply prior to receiving a USAC Form 460 eligibility decision

     - Consortium applicants may file Form 460 on behalf of member health care providers if they have a Letter of Agency.

  2. **Obtain an FCC Registration Number (FRN) by registering with CORES**

  3. **Register with federal System for Award Management (SAM)**

     - May take up to 10 business days for registration to become active, even though unregistered entities can still apply.

     - Only those registered through SAM can receive funding.

FCC $200 million COVID-19 Telehealth Program

- ***Application Information***
  - Online portal or PDF form can be emailed; both available at https://www.fcc.gov/covid-19-telehealth-program
  - Information to be entered includes:
    - Health Care Provider info (including # of total patients, # of patients to be served)
    - Medical Services to be provided (remote monitoring, consult, diagnostics, treatment)
    - Conditions to be treated (COVID-19 or non-COVID-19)
    - Goals & objectives for use of the funding (including freeing up resources to treat COVID-19)
    - Timeline for deployment of services or devices
    - Factors/metrics used to help measure impact
    - How COVID-19 has affected health care providers in your area
    - Info about geographic area and population served (ID any preexisting strains on local health system)
    - Targeting high-risk and vulnerable patient populations (e.g., underserved, low income, no broadband)?
    - Requested funding amount and funding for devices (with explanation for device usage)
    - Summarize the expected costs, may include invoice or quote from vendor/service provider; description of the service or device, its eligibility category, quantity ordered, upfront and recurring expenses
  - Applications decision to be posted in FCC ECFS Docket 20-89

FCC $100 million Connected Care Pilot Program

➢ **Status: Launched April 2020**

  ➢ Discount program: 85% subsidy for eligible services (must be competitively bid)

  ➢ 3-year period to utilize funding (plus 6 month start-up wind-down period)

  ➢ Applications due the later of July 31, 2020, or 45 days after the rules become effective.

  ➢ Eligible entities: same as COVID-19 program

    ➢ Proposed projects must be "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."

  ➢ Strong preference for projects:

    ➢ "that can demonstrate that they will primarily benefit **veterans** or **low-income individuals**."

    ➢ that have either (1) experience with providing telehealth or connected care services to patients or (2) a partnership with another health care provider, government agency, or designated telehealth resource center with such experience.

FCC $100 million Connected Care Pilot Program

➤ *What is eligible for the subsidy?*

(1) patient **broadband Internet access services** (mobile or fixed)

- Must "assess whether a patient lacks broadband service or has insufficient broadband Internet access service for the proposed connected care service based on speed, technology, [etc.]"

- Service must be "**primarily** used for activities that are integral, immediate, and proximate to the provision of connected care services" -- cost allocation for ineligible use not required

(2) health care provider **broadband data connections** (*needed for patient connected care*)

(3) other connected care **information services**

- Services whose primary purpose is to **capture, transmit, or store data** "to facilitate connected care", e.g., "store-and-forward" technology or RPM capabilities;

- Mobile apps 'to the extent that they are part of a qualifying information service."

- Excludes medical or professional review services

(4) certain **network equipment**

- "necessary to make Pilot Program funded broadband services for connected care services functional, or to operate, manage, or control such services, and must not be used for purposes other than providing connected care services under the Pilot Program"

FCC $100 million Connected Care Pilot Program

➢ *What is NOT eligible for the subsidy?*

    (1) End-user medical devices and equipment

    (2) Administrative and other miscellaneous expenses

➢ *Application Process*

- Submit application to FCC; FCC will select projects and award funding
- After award, obtain one or more funding commitments from USAC
  - Must follow HCF "fair and open" competitive bid process (request for services; bid evaluation and selection, etc.)
  - Gift rules apply (can't except anything of value from a vendor)
  - Multi-year contracts and commitment allowed

- *Post-Project Data Reporting*
  - E.g.: "reductions in emergency room or urgent care visits in a particular geographic area or among a certain class of patients; decreases in hospital admissions or re-admissions for a certain patient group; condition-specific outcomes such as reductions in premature births or acute incidents among sufferers of a chronic illness; and patient satisfaction as to health status."

FCC Rural Health Care Programs

Program	Telecommunications Program	Healthcare Connect Fund
Authority	47 U.S.C. section 254(h)(1)(A)	47 U.S.C. section 254(h)(2)(A)
Discount	Urban-rural differential (cost parity)	65% flat rate subsidy
Eligibility	◉ Eligible <u>rural</u> health care providers	◉ Eligible rural health care providers and consortia ◉ <u>Non-rural</u> if part of a *majority-rural consortium*

Eligible services	◉ Telecommunications (*i.e.* common carrier services)
	◉ Customary installation charges
		◉ Broadband services and equipment
		◉ Customary installation charges ($5K)
		◉ *Additional options for consortia*
		  ◉ Multi-year funding commitments
		  ◉ Network services & equipment (NOCs)
		  ◉ Upfront costs: IRUs, Long Term Leases, Network construction (in some situations)

Ineligible services	◉ "Private carriage" ◉ Special construction (infrastructure) ◉ End-user equipment (VOIP systems, etc.)	
Vender Eligibility	◉ Telecommunications providers only	◉ Any vendor that provides eligible services
2018 Spend	**$36 million***	**$233 million**

Funding Cap: *$605 million for FY 2019 ($153 million sub-cap for HCF upfront and multi-year support)*

RHC Program: Recent Actions

- **2019 Cap Waiver** (March 13)
  - Fully funded program for 2019 with unused funding from prior years
  - $719 million in total demand (2019 cap = $594 million)
    - Includes $210 million demand for HCF multiyear commitments and upfront support (2019 sub-cap = $150 million)
    - $18 million in USAC administrative expenses
- **Gift Rule Waiver** (March 18) *thru Sept. 30, 2020*
  - Service providers can forgive payments and provide free services or equipment
- **Program Deadline Waivers** (March 26)
  - Application filing window — extended to 6/30/2020
  - Evergreen contracts — 1 year extension allowed (i.e., into FY 2020) even if contract terms don't contemplate
  - Information requests — 28 additional days to respond to USAC information requests waived; information can be provided after deadline expiration if "reasonably attribute[d]" to COVID-19.
  - Service delivery deadline — extended one-year (to June 30, 2021).
  - Invoice filing deadline — extended 180 days.
  - Appeals and waiver requests — deadlines extended additional 60 days (at USAC and FCC).

RHC Program: Major Changes

- **Funding Prioritization** (FY 2020) – New scheme based on rurality and whether medically underserved:
  - Rurality tiers based on existing RHC program definitions of "rural"
  - MUA/P = Medically Underserved Area or Population (for primary care)
    - Maintained by HRSA

Health Care Provider Site is Located in:	MUA/P	Not in MUA/P
Extremely Rural Tier	*Priority 1*	*Priority 4*
Rural Tier	*Priority 2*	*Priority 5*
Less Rural Tier	*Priority 3*	*Priority 6*
Non-Rural Area[351]	*Priority 7*	*Priority 8*

  - If cap exceeded, each priority category will be fully funded until funding is exhausted; pro-rata reductions within final funded priority category.

Fig. 6: Map Showing Prioritization Areas in the Continental U.S., Alaska, Hawaii, and Puerto Rico[352]

Questions?

Fletcher, Heald & Hildreth
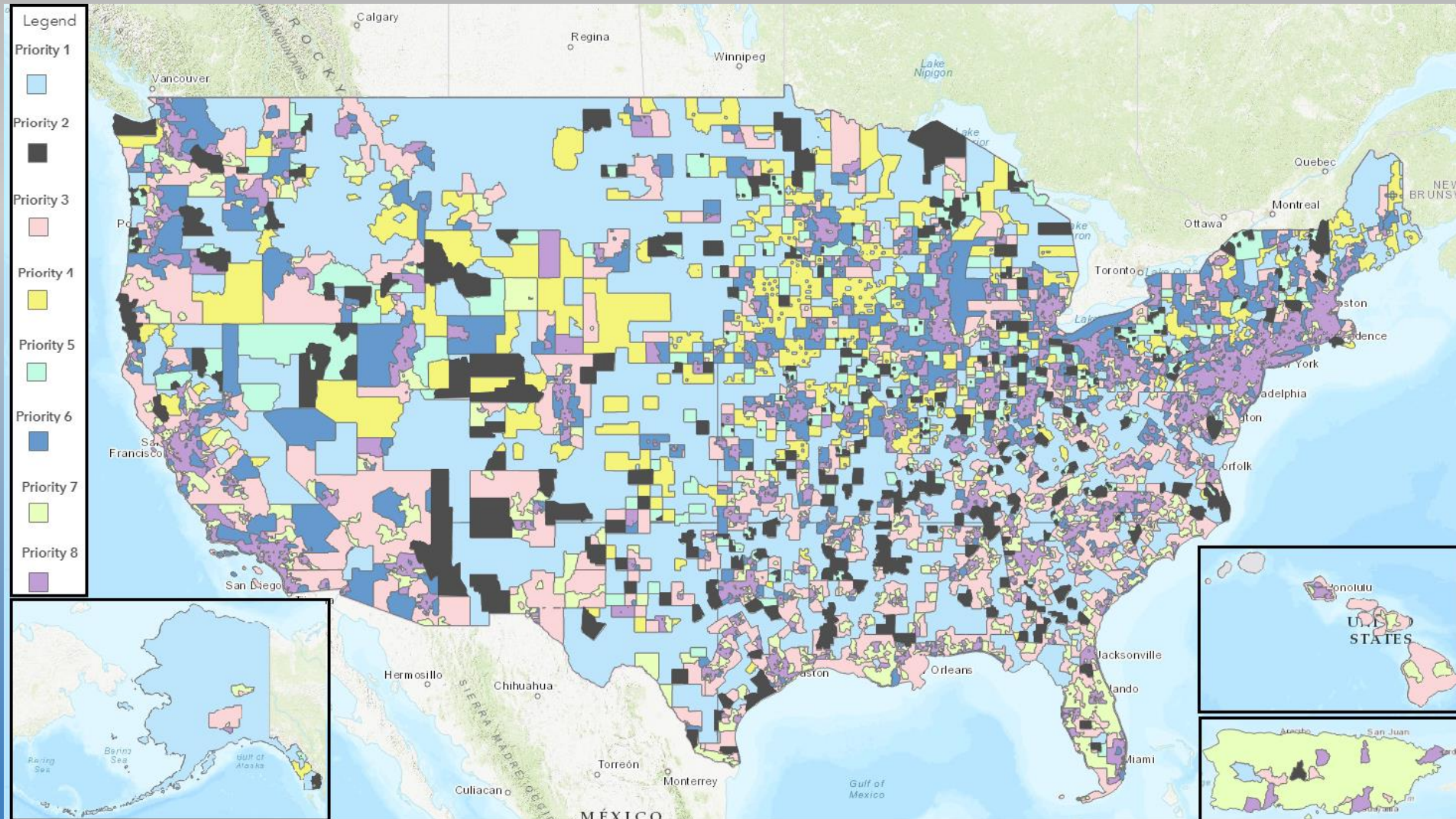
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