

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

In the Matter of
Promoting Telehealth for Low-Income Consumers
WC Docket No. 18-213

ORDER

Adopted: October 28, 2024

Released: October 28, 2024

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we establish a uniform completion deadline of December 31, 2025, for all projects funded by the Connected Care Pilot Program (Pilot Program) and waive, on our own motion, the previous completion deadline of three years from each project’s start date. We take this action to ensure that Pilot Program participants can fully implement their approved projects, thus maximizing the Commission’s ability to assess the Pilot Program’s efficiency, efficacy, and impact. All factors considered, this action will improve administrability of the Pilot Program and generate a more fulsome body of data for the Commission’s upcoming program assessment.

II. BACKGROUND

2. The Connected Care Pilot Program made up to \$100 million available for selected pilot projects to defray the cost of providing connected care services for eligible entities.1 The Commission identified “connected care” services as a subset of telehealth that uses broadband Internet access service-enabled technologies to deliver remote medical, diagnostic, patient-centered, and treatment-related services directly to patients outside of traditional brick and mortar medical facilities, including specifically to patients at their mobile location or residence.2 Non-profit or public health care providers that fall within the enumerated categories in section 254(h)(7)(B) of the Communications Act were eligible for Pilot Program support.3 The Pilot Program was conceived prior to the COVID-19 pandemic and was established to support the delivery of connected care to patients, with a focus on low-income and veteran patients, as well as to generate data about whether and how Universal Service Fund support could be used to enable adoption of connected care services.4 The Pilot Program application window opened

1 Promoting Telehealth for Low-Income Consumers COVID-19 Telehealth Program, WC Docket Nos. 18-213 and 20-89, Report and Order, 35 FCC Rcd 3366, 3387, 3397, paras. 41, 55 (2020) (First Connected Care Report and Order).

2 First Connected Care Report and Order, 35 FCC Rcd at 3375, 3385, paras. 14, 39.

3 See 47 U.S.C. § 254(h)(7)(B). Projects were selected from eligible non-profit or public health care provider applicants and funded to cover 85% of eligible costs for broadband connectivity, network equipment, and information services. Projects were selected with the intention primarily to benefit low-income or veteran patients. First Connected Care Report and Order, 35 FCC Rcd at 3384, para. 38; Promoting Telehealth for Low-Income Consumers, WC Docket No. 18-213, Second Report and Order, 36 FCC Rcd 10642, 10643-5, paras. 4-5, 8 (2021) (Second Connected Care Report and Order).

4 See Promoting Telehealth for Low-Income Consumers, WC Docket No. 18-213, Notice of Inquiry, 33 FCC Rcd 7825 (2018) (Connected Care Notice of Inquiry); Promoting Telehealth for Low-Income Consumers, WC Docket

(continued....)

November 6, 2020, and closed December 7, 2020.⁵ The Commission announced selections from January 2021 to March 2022.⁶

3. In the *Second Connected Care Report and Order*, the Commission required that each Pilot Program project was to end three years from each project's start date, which is defined as the first date that supported services are provided, and no later than June 30, 2025.⁷ The Commission delegated to the Wireline Competition Bureau (Bureau) the authority to waive Pilot Program deadlines and to grant limited deadline extensions for some or all selectees consistent with the goals of the program.⁸ On May 20, 2022, the Bureau announced that with some projects scheduled to start in the fall of that year, the completion deadline would be adjusted such that all projects were to end after three years and no later than December 31, 2025.⁹ These deadlines were established to ensure finality for the Pilot Program and were based on belief that three years would provide sufficient time for participants to fully implement and execute their projects. Three Pilot Program selectees have since requested extensions of their project end dates beyond the three-year completion deadline.¹⁰

III. DISCUSSION

4. We waive the Pilot Program's existing three-year completion deadline and extend a uniform deadline applicable to all pilot projects to December 31, 2025. The Commission's rules "may be waived by the Commission on its own motion or on petition" for good cause shown.¹¹ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent

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No. 18-213, Notice of Proposed Rulemaking, 34 FCC Rcd 5620 (2019) (*Connected Care Notice*); *First Connected Care Report and Order*, 35 FCC Rcd at 3367-69, 3375, 3384 paras. 2-6, 13, 37.

⁵ *Wireline Competition Bureau Announces Connected Care Pilot Program Application Filing Window Opening*, WC Docket No. 18-213, Public Notice, 35 FCC Rcd 12751 (2020) (*Application Filing Window Notice*).

⁶ *Federal Communications Commission Announces Initial Projects Selected for the Connected Care Pilot Program*, WC Docket No. 18-213, Public Notice, 36 FCC Rcd 593 (2021) (*Initial Project Selection Notice*); *Federal Communications Commission Announces Second Set of Projects Selected for the Connected Care Pilot Program*, WC Docket No. 18-213, Public Notice, 36 FCC Rcd 10533 (2021); *Federal Communications Commission Announces Third Set of Projects Selected for the Connected Care Pilot Program*, WC Docket No. 18-213, Public Notice, 36 FCC Rcd 15952 (2021); and *Federal Communications Commission Announces Final Set of Projects Selected for the Connected Care Pilot Program*, WC Docket 18-213, Public Notice, 37 FCC Rcd 4358 (2022) (*Final Project Selection Notice*).

⁷ *Second Connected Care Report and Order*, 36 FCC Rcd at 10655, para. 28 and n.74 ("The beginning of the Pilot project is the first day that supported services are provided.").

⁸ See *First Connected Care Report and Order*, 35 FCC Rcd at 3390, para. 46 (delegating authority to the Bureau to "consistent with the goals of the Pilot Program, grant limited extensions of deadlines for some or, if necessary, all of the projects in order to ensure the successful operation of the Pilot Program."); *Second Connected Care Report and Order*, 36 FCC Rcd at 10662, para. 48 (delegating authority to the Bureau to "waive certain program deadlines, clarify any inconsistencies or ambiguities in the Pilot Program rules, adjust Pilot project funding commitments, or to perform other administrative tasks as may be necessary for the smooth operation of the Pilot Program").

⁹ *Wireline Competition Bureau Announces Key Deadlines for Connected Care Pilot Program*, WC Docket 18-213, Public Notice, 37 FCC Rcd 6386 (2022) (*Key Deadlines Notice*).

¹⁰ See Request for Waiver of Temple University Hospital, WC Docket No 18-213 (filed May 9, 2024) (requesting that the end date of Temple University's Pilot Program project be moved from August 31, 2024, to December 31, 2025) (Temple Waiver Request); Request for Waiver of CommonSpirit Health, WC Docket No 18-213 (filed May 21, 2024) (requesting that the end date of CommonSpirit's Pilot Program project be extended to an unspecified date) (CommonSpirit Waiver Request); and Petition for Waiver of University of Virginia Health System, WC Docket 18-213 (filed June 28, 2024) (requesting that the end date of its Pilot Program project be extended from June 30, 2024, to September 30, 2024, with no increase in funding) (UVA Waiver Request).

¹¹ 47 CFR § 1.3.

with the public interest.¹² In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹³ Waiver of the Commission's rules is appropriate if both (i) special circumstances warrant a deviation from the general rule and (ii) such deviation will serve the public interest.¹⁴

5. Special circumstances resulting from the unprecedented impact of the COVID-19 pandemic warrant deviation from the initial deadline to complete Connected Care Pilot Program projects. Though the COVID-19 emergency period has formally ended,¹⁵ implementation of the Connected Care Pilot Program has been affected in multiple ways by the exigencies of the pandemic, from the timing of the initial application window to the adjustment of certain deadlines.¹⁶ Further, the effects of the pandemic impacted many health care providers' participation in the Pilot Program. All of the Pilot projects were started during the pandemic emergency period. Although the pandemic has ended, Pilot participants have reported that the effects of the pandemic continue to impact their participation in the Pilot Program. For example, CommonSpirit cites difficulties in securing match funds while the organization was coping with "deep budget cuts being made to recover from the pandemic," and Temple University Hospital says its pace of recovery from the pandemic slowed down its ability to execute certain administrative tasks related to its Pilot project launch in a timely manner.¹⁷ The University of Virginia says its pace of rollout to rural and low-income Virginians was slower than anticipated but that additional time will provide extended services to thousands of recipients and generate more program data.¹⁸ Extending the deadline to complete projects will help to mitigate the impacts of the COVID-19 pandemic on participants' implementation and execution of their projects. In addition, we recognize that as a result of the effects of the pandemic on participants' operations, timely completion of reports and adherence to Pilot Program deadlines continues to pose challenges for many awardees.

¹² *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

¹³ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹⁴ *Northeast Cellular*, 897 F.2d at 1166.

¹⁵ The White House, Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, 85 Fed. Reg. 15337 (Mar. 13, 2020). See National Archives and Records Administration, Federal Register, <https://www.federalregister.gov/d/2020-05794>; The White House, Briefing Room, <https://www.whitehouse.gov/briefing-room/legislation/2023/04/10/bill-signed-h-j-res-7/> (Apr. 10, 2023). A related public health emergency lasted slightly longer and was terminated by the Secretary of Health and Human Services on May 11, 2023. See Department of Health and Human Services, COVID-19 Public Health Emergency, <https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html> (last visited Oct. 28, 2024).

¹⁶ The Report and Order creating the Pilot Program was adopted and released in April 2020, and the application window was open from November to December 2020. See *Application Filing Window Notice*. The initial Request for Funding filing deadline for selectees was extended in March 2022. See *Final Project Selection Notice*, 37 FCC Rcd at 4360, para. 9. The deadline for selectees to file initial funding requests was waived and extended in response to pandemic-related issues raised by participants, such as "supply-chain delays and discontinuities, staff absences due to COVID, and challenges with state government purchasing regulations." See *Promoting Telehealth for Low-Income Consumers*, WC Docket No. 18-213, Order, 37 FCC Rcd 326, 327 para. 3 (WCB 2022). As previously noted, all projects were given three years for completion or until June 30, 2025 at the latest, but the deadline was later extended to December 31, 2025, at the latest. See *Key Deadlines Notice*, 37 FCC Rcd at 6386.

¹⁷ See CommonSpirit Waiver Request (noting that among the organization's "significant challenges which delayed progress" was locating matching funds "during a critical time in our organization during deep cuts being made to recover from the pandemic"). See also E-mail from Kanchana Perera, Manager, IT Finance/Business Operations, Temple Health IT to Clinton Highfill, Attorney-Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau (Aug. 23, 2024, 6:41 p.m.) ("Additionally, I'd like to emphasize that delays in filing funding requests were largely due to the COVID-19 pandemic.") (Temple Email).

¹⁸ See UVA Waiver Request at 4, 6 (stating that while support has been drawn down more slowly than anticipated, a time extension would enable UVA Health "to continue providing connected care services to thousands of patients").

6. Extending the deadline to complete Pilot Program projects will also advance the public interest. The Commission adopted three specific goals for the Pilot Program — to determine how USF support can enable health care providers to: (1) improve health outcomes through connected care; (2) reduce health care costs for patients, facilities, and the health care system; and (3) support the trend towards connected care everywhere.¹⁹ The Commission specifically sought to provide benefits to low-income and veteran patients with health challenges and to defray the costs of providing connected care services.²⁰ The Pilot Program was also structured to “incentivize participation from a wide range of eligible health care providers, their patients, and a variety of broadband service providers.”²¹ From the experience gathered through the various approved projects, the Commission seeks to collect meaningful data about the USF’s potential to support connected care.²² Extending the deadline to complete all Pilot projects to December 31, 2025, furthers these public interest goals. For instance, Temple University and University of Virginia Health state that they will be able to extend their services and, in some cases, serve additional patients if they receive an extension of time for project completion.²³ Extending the deadline to complete pilot projects also furthers the public interest because allowing full implementation of the approved projects will lead to more meaningful and comprehensive data from the program participants and allow for a more fulsome assessment of the Pilot Program’s efficiency, efficacy, and impact. We conclude that the public interest in meaningful Pilot Program data is best served by ensuring the successful completion of a wide variety of selectee projects. Further, since other Pilot projects are scheduled to end as late as December 31, 2025, extending the deadline for all projects will not impact the Commission’s efficient administration of the program or its efforts to assess the Pilot Program’s outcome in a timely fashion, and we expect the change overall to have a net positive effect on program administration.

7. Pursuant to our authority to extend limited extensions of Pilot Program deadlines, we establish a new deadline of December 31, 2025, by which each approved project must be completed.²⁴ Our waiver of the previous deadline and adoption of a new extended deadline to complete Pilot Program projects does not create risk of waste, fraud, or abuse because funding levels, compliance requirements, and scope of individual projects remain unchanged. This waiver merely permits projects to continue using their pre-approved program budgets through the end of 2025 at the latest.²⁵ Selected projects remain subject to all other Pilot Program rules including competitive bidding rules, funding request and commitment procedures, data reporting requirements, and document retention requirements.²⁶

IV. ORDERING CLAUSES

8. 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 pursuant to sections 0.91, 0.291, and 1.3 of the Commission’s rules, 47 CFR §§ 0.91, 0.291, and 1.3, that the prior

¹⁹ *First Connected Care Report and Order*, 35 FCC Rcd at 3415, para. 83.

²⁰ *Id.* at 3368, para 5.

²¹ *Id.* at 3384, para. 37.

²² *Id.*

²³ See Temple Waiver Request; CommonSpirit Waiver Request; and UVA Waiver Request. Funding commitment amounts will not be increased for selectees that extend their services. See *infra* para. 7.

²⁴ See *First Connected Care Report and Order*, 35 FCC Rcd at 3390, para 46.

²⁵ The Bureau’s delegated authority is limited to administrative changes “necessary to ensure a successful Pilot Program.” See *Second Connected Care Report and Order*, 36 FCC Rcd at 10662, para. 48.

²⁶ See *Second Connected Care Report and Order*, 36 FCC Rcd at 10648-59, paras. 19-38.

deadline for all Connected Care Pilot program participants to complete their approved projects IS WAIVED and the deadline is extended for all until December 31, 2025.

9. 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

Trent B. Harkrader
Chief
Wireline Competition Bureau