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The FCC to Propose Major Changes to Its Rural Health Care Funding Programs

The Federal Communications Commission (FCC) is launching a major revision to its Rural Health Care (“RHC”) subsidy programs. These revisions would address two main issues, the level of funding and ways to make the programs more efficient by reducing “waste, fraud and abuse.” Stakeholders will have an opportunity to comment on the myriad proposals, which the FCC is scheduled to adopt at its Dec. 14, 2017 Open Meeting.

What is the Rural Health Care Program?

The FCC operates two rural health care funding programs, the Rural HealthCare Connect Fund (HCF) and the Rural Health Care Telecommunications Program. The overall goal of the programs is to facilitate the use of telehealth and telemedicine in medically underserved rural and tribal areas. The HCF program pays for up to 65 percent of the cost of high-speed broadband services. Funding recipients must contribute the remaining 35 percent. One of the goals of the program is to encourage the creation of health care consortia that enable rural health facilities to connect with more specialized and technologically sophisticated urban health centers. The Telecommunications Program subsidizes the cost of telecommunications services so that rural health care providers do not have to pay more for such services, including high-speed connections, than their urban counterparts. The Telecommunications Program has not been substantially revised since its inception in 1997. The FCC allocates \$400 million annually for both programs, \$150 million of which is set aside for the upfront infrastructure costs and ongoing service payments to broadband network providers.

Who is eligible for funding?

Nonprofit or public health care providers (HCPs) located in designated rural areas are eligible to receive funding. For broadband connections, however, urban HCPs may also receive funding as part of a consortium with rural HCPs to create networks supporting telemedicine and telehealth. Consortia are highly encouraged as they provide access to specialists at larger HCPs, lower administrative costs, offer remote training and facilitate sharing of electronic health records. The following types of HCPs are eligible for both the HCF and the Telecommunications Program: (1) post-secondary educational institutions offering health care instruction, including teaching hospitals or 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; (7) skilled nursing facilities; or (8) consortia of health care providers consisting of one or more of the entities described above including those located in urban areas as long as a majority of the entities in the consortium are located in rural areas.

What kinds of services are eligible for funding?

The Rural HealthCare Connect Fund subsidizes the cost of broadband services and connections and related equipment. Connections to off-site administrative offices, data centers and research and educational networks are covered as well. For HCPs in consortia, the fund will cover upfront connection costs and provide for multiyear funding commitments, eliminating the need for annual applications. Broadband services and connections are typically obtained through broadband providers through a competitive bidding process, but self-constructed and owned facilities are also eligible.

What changes is the FCC proposing and why?

Demand for funding has begun to exceed the \$400 million annual cap, causing recipients to receive less funding. The funding is also highly concentrated. In the 2016 funding year, 5 percent of the health care providers received 52 percent of the Telecommunications Program funding and almost one-third of all funding goes to providers in Alaska. The FCC is proposing various solutions, including potentially raising the \$400 million funding cap to reflect inflation and different ways to prioritize funding when the cap is reached. To ensure the recipients are making the most efficient use of the funds, the FCC is proposing to establish benchmarks that can be used to identify “outlier”

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funding requests. Once identified, the FCC proposes to either subject such requests to enhanced review or cap funding at the benchmark level.

Apart from addressing funding levels, the FCC is proposing a host of substantive and process reforms including revising the way urban and rural rate differentials are calculated for funding under the Telecommunications Program, redefining what constitutes a “rural” area, reassessing what constitutes the most “cost-effective” bid in response to a health care provider request for proposal from telecommunications service providers, and streamlining the application process.

What are the next steps?

The FCC is expected to release its proposals for public comment at its Dec. 14, 2017 Open Meeting and set a comment deadline at sometime early next year. Following receipt of comments, the FCC may adopt some version of its proposals later in 2018. Health care providers that either currently receive funding or plan to seek funds in the future should carefully review the proposals and consider participating in the process. The FCC is particularly interested in hearing how its proposals might affect health care providers serving tribal areas.

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