
How Your Nonprofit Can Access \$200M FCC Funding for Telehealth and Connected Care

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As [discussed previously](#), the Secretary of the U.S. Department of Health and Human Services declared a public health emergency in response to the COVID-19 pandemic. As part of the federal government's effort to tackle the crisis, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which appropriated \$200 million in funds to the Federal Communications Commission (FCC) to establish a COVID-19 Telehealth Program to support healthcare providers responding to the ongoing pandemic. The COVID-19 Telehealth Program, aimed at addressing the immediate needs of the pandemic, will use these funds "to help eligible health care providers maximize their provision of connected care services during the COVID-19 pandemic."

But the FCC has not stopped there. In addition to the Telehealth Program, the FCC also established a three-year \$100 million Connected Care Pilot Program (Pilot Program), within the Universal Service Fund (USF) that aims to provide "universal service support to help defray health care providers' qualifying costs of providing connected care services, with a primary focus on providing those services to low-income or veteran patients."

On March 20, 2020, the FCC issued a Declaratory Order confirming that calls from hospitals, healthcare providers, state and local health officials, and other government officials relating to the COVID-19 pandemic constitute "emergency purpose" communications exempt from the prior consent requirements of the Telephone Consumer Protection Act (TCPA).

I. COVID-19 Telehealth Program

On April 8, 2020, the FCC's Wireline Competition Bureau, by public notice, released guidance on how eligible healthcare providers can apply for funding through the COVID-19 Telehealth Program. The application portal is open as of Monday, April 13, 2020.

Who is eligible?

The Telehealth Program is limited to **nonprofit and public healthcare providers** falling within the categories of healthcare providers as defined in the Communications Act:

- Post-secondary educational institutions offering healthcare instruction, teaching hospitals, and medical schools;
- Community health centers or health centers providing healthcare to migrants;
- Local health departments or agencies;
- Community mental health centers;
- Not-for-profit hospitals;
- Rural health clinics; and
- Consortia of healthcare providers consisting of one or more of the entities described above.

47 U.S.C. § 254(h)(7)(B).¹

Additionally, the FCC will prioritize funding for areas hardest hit by COVID-19, but will not target funding toward specific medical conditions, patient populations, or geographic areas.

Healthcare providers that suffer from pre-existing strain (i.e., large underserved or low-income patient population; healthcare provider shortages; rural hospital closures; limited broadband access and/or Internet adoption) should document those factors in their applications.

How much funding am I eligible for?

Applications will be selected on a rolling basis until funding is exhausted or until the pandemic has ended. In other words, funding is available on a first come, first served basis.

Moreover, the FCC does “not anticipate awarding more than \$1 million to any single applicant,” and “will award support to eligible applicants based on the estimated costs of the supported services and connected devices they intend to purchase” as described in the health provider’s application. Providers will not, however, be limited to purchasing services and connected devices identified in their applications.

How to apply?

There are three steps to preparing an application for funding through the COVID-19 Telehealth Program.

Step 1: Eligibility Determination

First, healthcare providers must obtain an eligibility determination from the Universal Service Administrative Company (USAC) for each healthcare provider site that they include in their application.

- To do so, you must file an FCC [Form 460](#) with USAC. The form asks for basic information about the individual healthcare provider. Significantly, a healthcare provider with a pending FCC Form 460 may proceed with its application for Telepath Program funding.
- If you are a healthcare provider that USAC has already deemed eligible to participate in the FCC’s existing Rural Health Care (RHC) programs, you may rely on that eligibility determination for the COVID-19 Telehealth Program.

Step 2: Obtain an FCC Registration Number (FRN)

Second, all applicants must register for an FRN in the Commission Registration System (CORES). An FRN is a 10-digit number that is assigned to a business or individual registering with the FCC. It is used to identify the registrant’s business dealings with the FCC.

- Applicants can register with CORES [here](#).
- First, you will create a username and account. The user will receive an automated email titled “FCC Account Request Verification.” You must verify your account email address as prompted.
- Second, once you login to CORES, select “Register New FRN” or “Associate Username to FRN” from the menu options.

¹ The FCC states that “limiting the COVID-19 Telehealth Program to public and nonprofit health care providers that fall within these statutory categories is in the public interest because it will facilitate the administration of this program and ensure that funding is targeted to health care providers that are likely to be most in need of funding to respond to this pandemic while helping [the FCC] ensure that funding is used for its intended purposes.”

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- Third, provide your taxpayer identification number (TIN). Your TIN is the nine-digit number that the IRS requires of all individuals and businesses to identify their tax accounts with the IRS.
 - Last, once you provide all required information, click “Submit”; this will generate a new FRN or associate your existing FRN with this account.

Step 3: System for Award Management

Third, to receive payments through the COVID-19 Telehealth Program, applicants must be registered with the federal System for Award Management (SAM). Applicants can register with SAM [here](#) and will need to provide the following information:

- A Data Universal Number System (DUNS) number, a unique nine-character number used to identify your organization;
- Your TIN number (or Employment Identification Number (EID)); and
- Bank account information—routing number, account number, and type of account—to set up Electronic Funds Transfer (EFT).

If you are already registered with SAM, you need not re-register with the system. If you are not yet registered, it may take up to 10 business days for a registration to become active.

Submitting Your Application for Funding

Applicants for COVID-19 Telehealth Program Funding will be required to submit Applicant Information (name, FRN, and other information), Contact Information, Health Care Provider Information (including facility name, address, FRN, etc.), Medical Services to be Provided, Conditions to be Treated with COVID-19 Telehealth Funding, Additional Information Concerning Requested Services and Devices, Request Funding Items, and Supporting Documentation.

Eligible healthcare providers that purchased eligible services or devices in response to the COVID-19 pandemic after March 13, 2020 may apply to receive funding support through the Telehealth Program. Funding will also be available to eligible providers for services that require monthly recurring charges, through September 30, 2020.

COVID-19 Telehealth Program applications must reference **WC Docket No. 20-89** and must be filed electronically [here](#), with a courtesy copy sent by email to EmergencyTelehealthSupport@fcc.gov.

II. The Connected Care Pilot Program

The Pilot Program is aimed at addressing the more long-term needs of the pandemic. The Pilot Program will distribute \$100 million over a three-year period to selected pilot projects and will cover 85% of the eligible costs of broadband connectivity, network equipment, and information services that are necessary to provide connected care services to the intended patient population. Healthcare providers must contribute their share of the remaining 15% of costs from defined eligible sources, including “applicants, eligible health care providers, participating patients, or state, federal, or Tribal funding or grants.” The Pilot Program will also provide separate transition periods of up to six months before and after the three-year funding period to permit pilot projects to finalize and close out.

Who is eligible?

Participation in the Pilot Program is limited to the same statutorily enumerated categories of “health care provider” as the Telehealth Program outlined above. The FCC declined to set a limit on the number of pilot projects it will select, or the amount of support requested per pilot project before evaluation and selection. However, support from the Pilot Program will be targeted to vulnerable and medically underserved patients, regardless of whether these patients or their health providers are located in

rural or non-rural areas. Thus, in selecting pilot projects, the FCC will exercise a strong preference for healthcare providers that have either:

1. Experience with providing telehealth or connected care services to patients beyond the use of electronic health records; or
2. A partnership with another healthcare provider, government agency, or designated telehealth resource center with such experience, that will facilitate the healthcare provider's proposed pilot project.

What are eligible services and equipment?

The Pilot Program will provide 85% of the qualifying costs incurred by eligible healthcare providers. In addition, the FCC made clear that the Pilot Program would not provide funding for certain categories of services and equipment.

Patient Broadband Internet Access Service. The Pilot Program will provide funding for participating healthcare 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 to participate in the specific pilot project.

Healthcare Provider Broadband Data Connections. The Pilot Program will disburse funding to eligible healthcare providers to receive broadband data connections specifically for the purpose of providing connected care services directly to their patients. This new or additional broadband data connection is necessary to participate in a Pilot Program.

Other Connected Care Information Services. The Pilot Program will provide support for information services other than broadband connectivity that eligible, participating healthcare providers use for connected care as part of the Pilot Program. The FCC will determine whether an information service is eligible based on a description of its primary function(s), and whether and how it facilitates the capture, transmission (including video visits), and storage of data for connected care.

Network Equipment. The Pilot Program will provide funding for network equipment that is necessary to make Pilot Program-funded broadband services for connected care services functional, or to operate, manage, or control such services; this network equipment must not be used for purposes other than providing connected care services under the Pilot Program.

End-User Devices and Medical Equipment. Citing the FCC's long-standing approach to implementing its universal service programs, the Pilot Program will not fund end-user devices or medical equipment. Eligible healthcare providers are encouraged to explore available grant and other funding opportunities, potential partnerships, and other avenues for obtaining these devices and this equipment.

Administrative Expenses and Other Miscellaneous Expenses. The Pilot Program will not fund healthcare provider administrative or miscellaneous expenses and costs associated with participating in the Pilot Program.

How to apply?

To participate in the Pilot Program, a healthcare provider must first obtain an eligibility determination from USAC by submitting an FCC [Form 460](#) (also linked above) along with supporting documentation. Following confirmation of eligibility, the applicant must submit a pilot project proposal to the FCC that presents a clear research and evaluation strategy for meeting the healthcare needs of participating patients through the use of connected care services. The FCC will not select applications that demonstrate an intent to provide connected care services to only a *de minimis* number of low-income or veteran patients. Applicants should be prepared to demonstrate and describe their prior experience with providing telehealth services, their plan for implementing and operating the pilot project, the connected care services to be provided, the medical conditions to be

treated through the project, estimated total project costs, anticipated sources of financial support outside of the Pilot Program, and other required application information.

Applications are due on the later of 45 days from the effective due date of the Pilot Program rules or 120 days from April 2, 2020.

III. COVID-19 TCPA Exception

The Telephone Consumer Protection Act (TCPA) prohibits persons from placing autodialed, prerecorded, or artificial voice calls and text messages without the recipient's consent, but exempts certain communications made for "emergency purposes" that are "necessary to protect the health and safety of citizens." On March 20, 2020, the FCC issued a [Declaratory Ruling](#) confirming that the COVID-19 pandemic qualifies as an emergency under the TCPA, and certain persons may use automated calls and text messages to communicate information about COVID-19 without violating the TPCA.

What's an "emergency purpose"?

The Declaratory Ruling provided a two-factor test for "emergency purpose" calls:

1. **Caller identity.** The caller must be "from a hospital, or be a health care provider, state or local health official, or other government official as well as a person under the express direction of such an organization and acting on its behalf";
2. **Call content.** The call's content must be "solely informational, made necessary because of the COVID-19 outbreak, and directly related to the imminent health or safety risk arising out of the COVID-19 outbreak."

The FCC has provided examples of communications that would fall "squarely within an emergency purpose," such as calls originating from a hospital that contain vital and time-sensitive health information to inform the public on how to mitigate the spread of COVID-19, informational calls to inform and update the public regarding pandemic measures made at the direction of a healthcare provider, and calls from county officials to inform citizens about shelter-in-place requirements, quarantines, testing information, or school closures. In contrast, calls containing advertising or telemarketing services, or to collect any debt, are not made for an "emergency purpose" and thus require the prior express consent of the called party.

Looking Ahead

The Declaratory Order provides some level of assurance to organizations that are seeking to communicate important information with citizens or customers as part of their COVID-19 response. Notwithstanding the specific exception, the FCC noted it is aware of telemarketing and fraudulent robocalls related to the pandemic and warned "unscrupulous callers" that it will be carefully monitoring complaints about these calls and will not hesitate to enforce its rules when appropriate.

Additional Information

You may access additional alerts [here](#). If you have any questions regarding this client alert, or if you would like assistance with any of the requirements described here, please contact us.