

DATE: March 31, 2020

CARES Act Broadband & Related Provisions

On Friday, March 27, President Trump signed the *Coronavirus Aid, Relief, and Economic Security* or “CARES Act” (“the Act”) into law ([P.L. 116-136](#)). The \$2.2 trillion economic stimulus package is the third and latest stimulus bill passed by Congress to help provide relief to the U.S. economy hemorrhaging from the COVID-19 pandemic. The wide-ranging Act includes direct payments to individual Americans, relief for both large corporations and small businesses, and funding for state, local, and tribal governments, to name a few. The closures of most work places and schools nationwide has made clear the importance of broadband access for all Americans, as the nation continues to navigate the impacts of the pandemic on everyday life. Although the Act provides additional funding for broadband infrastructure deployment, distance learning, and telehealth services, it is clearly insufficient to meet current critical needs. More support will likely be addressed in subsequent stimulus efforts, which could include an infrastructure package.

Rural Broadband Deployment

Rural Utilities Service - ReConnect Loan and Grant Program

The Act provides an additional \$100 million for the U.S. Department of Agriculture (USDA) Rural Utilities Service (RUS) ReConnect Loan and Grant Program to “prevent, prepare for, and respond to coronavirus.” The funds will remain available until September 30, 2021. RUS launched an initial application window for the pilot program in March 2019, for grants, loans, and combination grant-loan packages and has awarded \$621.1 million to date. The application window for the second round of funding opened on January 31, 2020, and the deadline was just [extended](#) from March 15 to April 15. USDA will make available up to \$200 million for grants, up to \$200 million for 50/50 grant-loan combinations, and up to \$200 million for low-interest loans.

ReConnect funds can be used for the cost of construction, improvement, or acquisition of facilities and equipment needed to provide broadband service in eligible rural areas. At least 90 percent of the households to be served by a project receiving a grant must be in a rural area without “sufficient” access to broadband, which is defined as 10 Mbps downstream and 1 Mbps upstream. Grants cannot be used to overbuild or duplicate broadband expansion efforts made by any entity that has already received a broadband loan from RUS. Priority consideration for grants will be given to previous applicants now eligible as a result of adjusted eligibility requirements.

Distance Learning and Telehealth Services

Rural Utilities Service - Distance Learning and Telehealth

The Act appropriates an additional \$25 million for the Distance Learning, Telemedicine, and Broadband Program (DLT), to remain available until expended. The goal is to improve access to distance learning and telemedicine in rural areas during the national emergency. The program is currently funded at \$87 million in FY 2020, up \$17.1 million over FY 2019, and is part of the USDA RUS Rural Telecommunications Program. DLT grants do not principally support connectivity, but rather serve as the initial capital assets for equipment and software that operate via telecommunications to rural end-users of telemedicine and distance learning. Grant funds may be used for audio, video, and interactive video equipment; terminal and data terminal equipment; computer hardware, network components, and software; inside wiring and similar infrastructure; acquisition of instructional programming; broadband facilities; and technical assistance. Eligible applicants include most entities in rural areas that provide education or health care through telecommunications, including most state and local governmental entities, federally recognized tribes, nonprofits, for-profit businesses, and consortia of eligible entities.

Department of Education - Distance Learning

The Act appropriates \$30.7 billion to the Department of Education to establish an Education Stabilization Fund, to remain available through September 30, 2021. About 44 percent of that funding, or \$13.5 billion, is allocated through formula funds directly to the states for an Elementary and Secondary School Emergency Relief Fund and largely delivered as subgrants to local education agencies. Individual schools can use the funds to purchase educational technology (e.g., hardware, software, and connectivity) that helps in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment. Schools can also use the funding to plan and implement activities related to summer learning and supplemental after school programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.

Institute of Museum and Library Services – Distance Learning

The Act provides an additional \$50 million to the Institute of Museum and Library Services to remain available until September 30, 2021, to “prevent, prepare for, and respond to coronavirus,” including grants to States, territories and tribes to expand digital network access, purchase internet accessible devices, and provide technical support services.

Corporation for Public Broadcasting – Distance Learning

The Act includes \$75 million for the Corporation for Public Broadcasting to make fiscal stabilization grants to maintain programming services and to preserve small and rural public telecommunications stations facing declines in non-Federal revenues.

Federal Communications Commission – Telehealth Services

The Act appropriates an additional \$200 million for “salaries and expenses” to support efforts of health care providers to address the coronavirus by providing telecommunications services, information services, and devices necessary to enable the provision of telehealth services. On March 30, FCC Chairman Ajit Pai [announced](#) that the appropriated funding will be used to support a new COVID-19 Telehealth Program, which would help eligible health care providers purchase telecommunications, broadband connectivity, and devices necessary for providing telehealth services. The funds will support telehealth in areas already hit hard by the coronavirus pandemic. While health care providers can use this funding to treat COVID-19 patients through connected care technologies, they can also use these funds and telehealth technologies to treat other patients and conditions as part of their efforts to free up hospital space and resources for COVID-19 patients.

Department of Health and Human Services – Telehealth Services

Supports Telehealth Network and Reauthorizes Telehealth Resource Centers Grant Program

The Act includes \$275 million for the Health Resources and Services Administration (HRSA), including \$185 million to support rural critical access hospitals, rural tribal health and telehealth programs, and poison control centers. It also reauthorizes the HRSA Telehealth Resource Centers (TRC) Grant programs, which provides expert and customized telehealth technical assistance across the country.

Expands Medicare Telehealth Flexibilities

The Act removes the definition of telehealth under the COVID-19 waiver as real-time audio/visual technology, providing the Secretary of HHS additional authority to give flexibility to providers to use audio-only telehealth.

It also removes the COVID-19 Medicare telehealth waiver requirement that a provider must have seen the patient within the last three years.

The Act provides the Secretary with expanded authority to waive additional *Social Security Act 1834(m)* statutory restrictions on Medicare telehealth services, which limit the use of telehealth to certain services, providers, technology (mainly live video) and patient locations (needing to be in certain types of healthcare facilities in rural areas).

Allows Federally Qualified Health Centers and Rural Health Clinics to Furnish Telehealth in Medicare

The Act allows Federally Qualified Health Centers and Rural Health Clinics to serve as a distant site for telehealth during the COVID-19 emergency period.

Encourages Use of Telecommunications Systems for Home Health Services

For home health services furnished during an emergency period, the Act requires the Secretary of Health and Human Services to consider ways to encourage the use of "telecommunications systems," including remote patient monitoring and other communications or monitoring systems consistent with the plan of care for the individual.

Department of Veterans Affairs - Telehealth Services

Use of Information Technology

The Act provides \$2.15 billion to the Department of Veterans Affairs for information technology to support increased telework, telehealth, and call center capabilities to deliver healthcare services directly related to coronavirus and mitigate the risk of virus transmission. The funds can be used to purchase devices and enhanced system bandwidth and support.

Expands Tele-Mental Health Services for Isolated Veterans

The Secretary of Veterans Affairs may enter into short-term agreements or contracts with telecommunications companies to provide temporary, complimentary, or subsidized fixed and mobile broadband services to provide expanded mental health services to isolated veterans through telehealth or VA Video Connect. Priority is given to eligible veterans who are in unserved or underserved areas or who reside in rural and highly rural areas as defined by the USDA Rural-Urban Commuting [Areas](#).

Congressional Next Steps

Broadband Blueprint for Fourth Stimulus Package

When Senate Republicans and Democrats failed to move their own stimulus package last week, House Speaker Nancy Pelosi introduced the *Take Responsibility for Workers and Families Act* ([H.R. 6379](#)). The \$2.5 trillion House bill included more broadband access provisions funded at higher levels, as compared to those in the CARES Act, in most cases.

ReConnect Program and Distance Learning and Telemedicine (DLT)

The bill provided an additional \$258 million for the ReConnect program to fund broadband deployment and \$25 million for DLT grants to expand investments in distance learning and telemedicine, both in eligible rural areas. The CARES Act appropriated an additional \$100 million for ReConnect and \$25 million for DLT grants.

Emergency Connectivity Fund

The bill created an “Emergency Connectivity Fund” and authorized \$2 billion for the FCC to provide broadband hotspots and connected devices to facilitate distance learning and connectivity. The CARES Act funded an additional \$25 million in DLT grants, \$50 million more for the Institute of Museum and Library Services to fund digital access, and \$13.5 billion for the Elementary and Secondary School Emergency Relief Fund, which can be used to purchase educational technology.

Emergency Broadband Connectivity Fund

The bill also created an “Emergency Broadband Connectivity Fund” and authorized \$1 billion for the FCC to expand access to the Lifeline broadband benefit for low-income Americans. The CARES Act did not provide any funding for the Lifeline program.

Telemedicine and Telehealth

The bill authorized \$200 million for the FCC to provide health care providers with connected devices to facilitate telemedicine services and free up hospital beds. The CARES Act also provided \$200 million, as well as funding for HHS and Veterans Affairs to support telehealth access.

Keep Americans Connected Pledge

The bill also codified and expanded the FCC's "Keep Americans Connected Pledge," in which broadband providers promised not to terminate internet service because of inability to pay. The CARES Act did not codify the pledge.

Telecommunications Consumer Protections

The bill makes certain practices, including terminating telephone or broadband services, if a consumer is unable to pay for reasons related to the COVID-19 emergency, unlawful during the public health emergency. The CARES Act did not include telecommunications consumer protections language.

There has been criticism that the CARES Act did not adequately address broadband funding that ensures all Americans have broadband access, especially during the pandemic.

"Today's bill spares just \$100 million in grants for rural broadband construction, for networks offering speeds that people would have considered slow a decade ago," said Free Press general counsel Matt Wood. "Rural buildout alone will not close the digital divide, as millions of people in urban and rural areas alike cannot afford to connect right now."

"The FCC must closely examine its statutory authority and funding resources and take bold action to respond to the current crisis," said FCC Commissioner Geoffrey Starks. "As I've called for previously, the Lifeline and E-rate programs must be expanded to meet the needs of struggling Americans that need connectivity."

In numerous recent interviews, Speaker Pelosi said Congress will be working on a fourth virus relief package focused on recovery issues, such as infrastructure investment, including broadband. Senate Republican Policy Committee Chairman Roy Blunt (R-MO) said he also expects another relief bill soon. As House Democrats begin drafting language, it is instructive to review the broadband provisions highlighted in the *Take Responsibility for Workers and Families Act* and a bill previously introduced by House Energy and Commerce Committee Chairman Frank Pallone (D-NJ), the *Leading Infrastructure For Tomorrow's America (LIFT) Act* ([H.R. 2741](#)), which includes \$40 billion for the deployment of secure and resilient high-speed broadband internet service.

NATaT will advocate for additional broadband funding and welcomes your feedback as lawmakers begin crafting another stimulus package. It will also continue to monitor and provide updates on federal legislative and regulatory broadband actions related to the COVID-19 pandemic and any resulting impacts on local governments and their citizens.

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