
FCC Seeks Industry and Tribal Input on New Programs to Fund Rural and Tribal Health Care Broadband Services

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Under pending proposals, many more health care organizations would be eligible for funds from a total allotment of \$400 million per year. Comments are due 30 days from Federal Register publication.

On July 15, 2010, the Federal Communications Commission released a Notice of Proposed Rulemaking on reforms to the universal service health care support mechanism. The reforms were originally recommended in the National Broadband Plan released by the FCC in March and include:

- Creating a health infrastructure program that would support up to 85% of the construction costs of new regional or statewide networks to serve public and non-profit health care providers where broadband is unavailable or insufficient;
- Creating a health broadband services program that would subsidize 50% of the monthly recurring costs of access to broadband services for eligible public or non-profit rural health care providers;
- Expanding the class of health care providers eligible to receive these funds to include skilled nursing facilities, renal dialysis centers and facilities, and certain off-site administrative offices and data storage centers that perform support functions for health care providers.

The FCC established a Rural Health Care Pilot Program in 2007 to fund deployment of new broadband telehealth networks connecting rural and urban health care providers within a state or region, as well as on Tribal lands. Under that program, 62 projects have been found eligible for funding, with 29 now having received funding commitments. The remaining projects are in various stages of the process to secure vendors for their build-out. The projects include state and regional networks that serve more than 200 Tribes in 16 states. Participants in this program may be uniquely positioned to provide input into the Commission's current inquiry.

The FCC seeks comment on very specific proposals regarding how those seeking funds describe and justify their proposed projects, budget for their projects, demonstrate a dedicated commitment for their matching 15% of the construction funds, enter into contracts with vendors for the construction or lease of facilities needed for the project, and determine project milestones.

All potentially eligible health care providers and Tribes will be interested in the FCC's fundamental inquiries into what projects warrant funding. Specifically, the FCC seeks comment on what standards it should set for projects that are funded such as setting a minimum network speed. The FCC also asks whether, and to what extent, funded projects should be allowed to share any excess capacity with non-eligible entities.

Currently, the FCC has programs that (1) subsidize the rates rural health care providers pay for telecommunications services to equalize them with rates in urban areas of their state, and (2) provide a discount of either 25% or 50% on monthly Internet access for rural providers. Under its proposals, the FCC will set the discount rate at 50% for all recipients. In addition, the FCC proposes to make the program more flexible by funding access to any advanced telecommunications and information services that provide point-to-point broadband connectivity, which would include the public Internet, private dedicated networks, and the lease of dark or lit fiber from any provider when that is the most cost effective solution.

The FCC also proposes to expand the pool of potential grant recipients. Given the increased use of off-site administrative offices and data storage centers, as well as the migration of services to free-standing facilities such as skilled nursing facilities and renal dialysis centers, the FCC would expand eligibility to these types of facilities. It seeks comment on how to prevent use of the funds for non-eligible activities at these facilities; for example, how it should distinguish custodial care from skilled nursing care or identify administrative operations unrelated to the provision of health care or shared with non-eligible entities.

The FCC proposes allotting \$100 million per year to construction projects and \$300 million per year for recurring costs. It asks for comment on these caps, and whether it should cap the number of infrastructure projects it funds per year, noting that it is easier to manage a smaller number of projects. The FCC asks how it should prioritize if grant requests exceed the annual caps. Among the options being considered: allocating funds pro-rata among all eligible applicants, or basing decisions on the Health and Human Services department's Health Professional Shortage Area scores for primary care.

To evaluate whether programs are meeting its goals, the FCC proposes recordkeeping and status reporting requirements. It seeks input on the performance measures for this evaluation and the frequency and form of such reports. The FCC specifically asks whether it should adopt the "Meaningful Use" criteria being developed by HHS and condition receipt of funds on the applicant's compliance with those criteria.

The FCC's inquiry is an opportunity for health care providers to help shape programs that will spur broadband deployment and adoption. It is also an opportunity for Tribal governments (whose input the FCC expressly requests) to address their unique circumstances. Comments are due within 30 days from the Federal Register's publication of the Notice. Reply comments are due 15 days later.

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