



Policy Brief

The Federal Communication Commissions' Response to COVID-19 Implications for People with Disabilities

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Introduction

The structure and operation of society are reliant on human interaction. The COVID-19 public health crisis of 2020 underscored the importance of federal agencies taking innovative approaches to address public needs. The global pandemic disrupted daily life as people sheltered in place and reduced in-person interactions to the bare necessities. The near-ubiquitous shift to virtual interactions in employment, education, and commerce, demonstrated that for lifestyle continuity, there was a critical need for universal access to broadband and wireless services.

Industries rapidly explored and deployed virtual mechanisms and workflows to ensure continued productivity. For many companies, the successful transition from in-office to work-from-home settings is largely dependent on employees having reliable access to technology services and equipment, including enterprise software, collaborative tools, digital devices, and internet connectivity. Likewise, for virtual education, computers in the household and connectivity are the doorways to classrooms. However, the COVID-19 pandemic brought into sharp focus the digital inequities that disproportionately impact people with disabilities' access to not only the technology itself but access to employment, education, goods and services.

The Federal Communications Commission's (FCC) policies and regulations in response to COVID-19 had the opportunity to profoundly shape digital experiences and social outcomes for Americans with disabilities. However, the FCC's response must be met with an equal effort by other stakeholders to fully realize the intended outcomes. This policy brief identifies and describes the FCC's response to the global health pandemic and the implications of the same for people with disabilities.

Connectivity Efforts & Initiatives

In recognition of the critical role that connectivity plays, the FCC has undertaken a number of outreach and regulatory initiatives. Of note, on March 13th, the FCC announced the *Keep Americans Connected Initiative* [WC Docket No. 11-42]. The first step of the initiative was the [Keep Americans Connected](#)

[The Rehabilitation Engineering Research Center for Wireless Inclusive Technologies \(Wireless RERC\)](#) is sponsored by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR grant number 90RE5025-01). NIDILRR is within the Administration for Community Living (ACL), Department of Health and Human Services (HHS). The contents of this paper do not necessarily represent the policy of NIDILRR, ACL, HHS, and you should not assume endorsement by the Federal Government.

[Pledge](#) (KACP), which initiated mass digital connectivity efforts. U.S. service providers who participated in the KACP committed to following three measures: (1) to not disconnect Americans from their broadband and telephone services due to financial hardship caused by COVID-19; (2) to waive late fees; and (3) to open Wi-Fi hotspot access to individuals who need them. The Keep American Connected Pledge policy set the tone for subsequent FCC regulations and policies published over the last six months.

The FCC also furthered the Keep Americans Connected Initiatives objectives through rulemaking. In the Order [**WC Docket No. 11-42**], the Wireline Competition Bureau (WCB) waived the Lifeline program's recertification and re-verification requirements for participating low-income consumers for 60 days. This waiver prevented the de-enrollment of any Lifeline subscribers who would otherwise have been required to certify their continued eligibility to the National Verifier.

Customers with low incomes were not the only ones affected by connectivity issues. In March, to address the sudden uptick in broadband usage, the FCC granted wireless internet service providers (WISPs) temporary access to the 5.9 GHz spectrum. This access was granted under a Special Temporary Authority (STA) decision and sought to eliminate the strain placed on wireless providers' infrastructure. The STA was granted to over 100 WISPs to increase wireless access.

By June, the COVID-19 pandemic revealed shortfalls in access to digital services on tribal lands. As a result, the FCC eased Lifeline program application requirements and streamlined the enrollment process for low-income consumers living on rural tribal lands. To further streamline the process of enrolling those most impacted on rural tribal lands, the WCB also gave Lifeline carriers a temporary waiver to begin immediately providing services even if the consumers had not provided all of the necessary documentation. Lifeline carriers could count these individuals as Lifeline subscribers and receive reimbursement from the Universal Service Fund after the subscriber provided all necessary documentation and approval.

Telecommunications Providers

As it pertains to telecommunication services for people with disabilities, the FCC adopted an Order [[CG Docket No. 03-123](#)]¹ granting increased flexibility to telecommunications relay service (TRS) providers to preserve communications access for Americans with hearing and speech disabilities. TRS providers were given temporary waivers that allowed American Sign Language (ASL) interpreters to work from home to maintain uninterrupted relay services during COVID-19. However, because the nature of video relay service (VRS) providers' work varies from TRS providers, the FCC provided specific waivers for VRS workers. Several pertinent provisions of the VRS pilot program were altered in response to COVID-19. Changes included a cap waiver of the number of conversations conducted by VRS providers and a waiver for workstation restrictions. Under the VRS pilot program, VRS providers had stringent workstation requirements that were unfeasible while sheltering-in-place. Previously, at-home communications

¹ Federal Communications Commission (2020). Keep Americans Connected Pledge. <https://www.fcc.gov/keep-americans-connected>

assistants' (CAs) workstation access had to be restricted solely to the communications assistant. With children and other household members learning and working in the same home, that restriction was rendered impractical. In addition, the VRS provider had to: (1) inspect and approve each at-home workstation before activating it for use by the CA, and (2) conduct random and unannounced inspections of at least five percent (5%) of activated at-home workstations during every 12 months. During this pandemic, requiring in-home inspections would be counterproductive to efforts to reduce the spread of COVID-19. The waiver is valid under the condition that VRS providers inspect workstations after the waiver period if they remain in use. Finally, the FCC temporarily granted a [waiver](#) that allowed VRS providers to contract additional qualified ASL interpretation services to meet increased demand.

Telehealth Funding

The COVID-19 pandemic response for social distancing and stay-at-home orders hindered the ability of hospitals and healthcare facilities to provide even minimal general and mental healthcare services. In efforts to reduce exposure risks, doctor's offices began limiting their appointments to critical emergency services, leaving many people with chronic health conditions without access to healthcare. The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act granted the FCC \$200 million for the [COVID-19 Telehealth²](#) program. This program provided health workers with funds to supply patients with telemedicine services. The COVID-19 Telehealth program aimed to address digital platform and equipment inadequacies and provide "immediate support to eligible health care providers responding to the COVID-19 pandemic by fully funding their telecommunications services, information services, and devices necessary to provide critical connected care services." In the same Report and Order, the FCC established the [Connected Care Pilot Program³](#). The pilot program designated \$100 million over three years to help support the adoption of connected healthcare services targeting low-income Americans and veterans.

The FCC adopted an Order that granted Rural Health Care (RHC)⁴ program providers, during the current funding year, with an additional \$42.19 million to ensure that these healthcare professionals had the means to provide services to patients in rural areas. On June 30th, the FCC issued a [Public Notice⁵](#) that RHC providers would have access to up to \$197.98 million in unused funds from prior fiscal years. The

² Federal Communications Commission (2020). *FCC Approves Final Set of COVID-19 Telehealth Program Applications*. [Press Release] <https://docs.fcc.gov/public/attachments/DOC-365417A1.pdf>

³ Federal Communications Commission: Promoting Telehealth for Low-Income Consumers; COVID-19 Telehealth Program. WC Docket No. 18-213; WC Docket No. 20-89. (2020) <https://docs.fcc.gov/public/attachments/FCC-20-44A1.pdf>

⁴ The Rural Health Care Program (RHC) grants funding to eligible health care providers which include: (1) post-secondary educational institutions offering health care instruction, teaching hospitals, and 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 (as defined in section 395i-3(a) of title 42 and (8) consortium of health care providers consisting of one or more entities falling into the first seven categories. Eligible health care providers must be non-profit or public.

⁵ Federal Communications Commission (2020). *FCC announces funding increase in rural health care program for funding year 2020*. [Press Release] <https://docs.fcc.gov/public/attachments/DOC-365250A1.pdf>

increased availability of funds for the RHC program brings the FY2020 funding cap from a total of \$604.76 million to \$802.74 million.

Furthermore, the FCC waived "gift rules" for broadband providers. The "[gift rule](#)" waiver allows RHC and E-Rate⁶ service and broadband providers to solicit and accept digital equipment, as well as an improved connection for remote engagement. The waiver was extended until September 30, 2020. [Waivers](#) were also granted to GE Healthcare and Massachusetts Institute of Technology (MIT) to accelerate the provision of medical equipment and supplies from new providers.

Reach: By July 2020, the FCC had dispensed the \$200 million to 539 health care providers around the country. These monies funded telemedicine carts, laptops, computers, tablets, video monitors, network upgrades, videoconference equipment, remote monitoring devices, and remote monitoring platforms to ensure secure remote telehealth services. To maximize the social impact of these telehealth services, healthcare providers had to ensure that their new systems were accessible⁷ to and usable⁸ by people with disabilities, as mandated by Section 716 of the Communications and Video Accessibility Act (CVAA). The social impact of these programs has been increased through utilizing public resources such as the CDC's guide to "[Use Telehealth to Expand Access to Essential Health Services during the COVID-19 Pandemic](#)."⁹ The RHC and E-Rate programs focused on rural and medically underserved individuals and healthcare clinics seeking to ensure connectivity via telemedicine despite facility closures. Telehealth programs, like RHC and E-Rate, targeting people with disabilities in rural areas are known to "improve access to care, reduce costs, and enhance patient satisfaction."¹⁰ Systematic reviews of existing studies show that most people with disabilities in rural areas who utilize telehealth had a positive opinion of the

⁶ The "E-Rate" program, formally known as the Schools and Libraries Program, provides up to 90% discounts to help eligible schools and libraries in the United States obtain affordable telecommunications and internet access. Federal Communications Commission (2020) E-Rate - Schools & Libraries USF Program. <https://www.fcc.gov/general/e-rate-schools-libraries-usf-program>

⁷ The FCC defines accessible as the ability of people with disabilities to "locate, identify, and operate the input, control, and mechanical functions of a product or service, and be able to access the output or display of all information necessary to operate and use the product or service." Federal Communications Commission (2020) Advanced Communications Access for Individuals with Disabilities. <https://www.fcc.gov/consumers/guides/advanced-communications-access-individuals-disabilities>

⁸ Per the FCC, to be *usable*, individuals with disabilities must be able to learn about and operate the product or service's features and must be able to access information and documentation for the product or service, including instructions and user guides. Federal Communications Commission (2020) Advanced Communications Access for Individuals with Disabilities. <https://www.fcc.gov/consumers/guides/advanced-communications-access-individuals-disabilities>

⁹ Center for Disease Control (2020) Using Telehealth Services. <https://www.cdc.gov/coronavirus/2019-ncov/hcp/telehealth.html>

¹⁰ Christensen, K. M., & Bezyak, J. (2020). Telehealth use among rural individuals with disabilities. <https://www.rockymountainada.org/sites/default/files/2020-02/Rural%20Telehealth%20Rapid%20Response%20Report.pdf>

experience.¹¹ Connectivity through these programs is generally recognized as helping to expand access to health interventions that may otherwise be inaccessible, particularly during COVID-19.

Consumer Resources: Coronavirus Scams

The FCC noted that during the COVID-19 pandemic, there was a rise of scam text-message campaigns (as well as robocalls) that continues to take advantage of pandemic-related fears and concerns. Some of the text and voice scams offered fake COVID-19 tests. They also advertised a cure for the virus. Other nefarious behaviors aimed to capitalize on fears concerning health and financial impacts related to COVID-19. The FCC noted that many COVID-19 scammers focused their efforts on elderly Americans. To combat these coronavirus scams, the FCC provided the public with [tips¹²](#) on their webpage and on their social media accounts that help the elderly recognize and avoid these scams. The FCC also provides the public with the option to file an [online complaint](#).

However, information about coronavirus scams that target the elderly should be accessible for all older Americans, including those aging with or into disabilities. To be aware that the elderly are being targeted, one has to be connected to the source of official information, which currently is more often than not, online. When individuals in the targeted population have limited access to the internet *and* might be unaware that they are being targeted, they may be more vulnerable to robocallers. To address this and extend the reach, the FCC and other stakeholders should disseminate information in a variety of accessible formats (e.g., print, audio, ASL video) and modalities such as mailings and public broadcasts on television and radio.

Implications

Technology is not the sole driver of socioeconomic mobility and access to opportunities; however, limited access to technology can be. The COVID-19 pandemic illustrated the importance of wireless connectivity and access to digital technologies. As government agencies at various levels in the U.S. encouraged a range of "lockdowns" of its citizens, those without wireless technology reportedly struggled to comply with stay-at-home orders. In contrast, those who could readily continue daily activities digitally, such as ordering groceries, online shopping, receiving telehealth services, and working from home fared better during the pandemic. This digital divide is further illustrated by reports of low-

¹¹ Christensen, K. M., & Bezyak, J. (2020). Telehealth use among rural individuals with disabilities. <https://www.rockymountainada.org/sites/default/files/2020-02/Rural%20Telehealth%20Rapid%20Response%20Report.pdf>

¹² Federal Communications Commission (2020) Coronavirus Scams - Consumer Resources. <https://www.fcc.gov/covid-scams>

income and housing insecure families who could not ensure reliable connectivity for their children's online education.¹³

For many school districts, it quickly became clear that efforts to shift to digital learning exacerbated educational inequities and the achievement gap.¹⁴ Evidence of this appears as school districts report that students are struggling to connect. At the end of March, Los Angeles reported that approximately a third of its high school students were not logging in for classes.¹⁵ Los Angeles is the nation's second-largest school district. They quickly learned that a vast majority of their students from low-income families could not connect because of a lack of computers and internet access. In the rural parts of our country, like Minford, Ohio, many students live in remote areas unserved by internet providers. As a result, for school districts that deployed a virtual learning model, educators indicated that some students and parents dropped out of touch with schools completely.¹⁶ These school districts also note the challenges with meeting the individual needs of students, particularly students with disabilities. Most school districts did receive funds from the CARES Act to purchase assistive and adaptive educational technologies and accessible online learning for students with disabilities. However, the Department of Education issued rules in June 2020 that redefined how the funds should be allocated and determined that the funds meant for students with disabilities could be diverted to private schools instead.¹⁷ Thus, the problem of access to digital learning and accommodations continues for students with disabilities.

Notwithstanding, it is important to note that as a result of this global health crisis, existing policies and regulations needed restructuring to make digital integration into society more equitable. Common challenges to digital integration include lack of comfort with technology use, unawareness of broadband programs for low-income households, and inaccessible technologies and digital services. Many low-income internet users, for instance, were unaware that they were eligible for the FCC's Lifeline¹⁸

¹³ Fishbane, L., Tomer, A. (2020) As Classes Move Online During COVID-19, What are Disconnected Students to do? Brookings. <https://www.brookings.edu/blog/the-avenue/2020/03/20/as-classes-move-online-during-covid-19-what-are-disconnected-students-to-do/>

¹⁴ Strauss, V. (2020) Why COVID-19 will 'explode' existing academic achievement gaps. <https://www.washingtonpost.com/education/2020/04/17/why-covid-19-will-explode-existing-academic-achievement-gaps/>

¹⁵ Blume, H., Kohl, S. 15,000 L.A. High School Students are AWOL online, 40,000 fail to check in daily amid coronavirus closures. <https://www.latimes.com/california/story/2020-03-30/coronavirus-los-angeles-schools-15000-high-school-students-absent>

¹⁶ Goldstein, D., Popescu, A., Hannah-Jones, N. (2020) As School Moves Online, Many Students Stay Logged Out. <https://www.nytimes.com/2020/04/06/us/coronavirus-schools-attendance-absent.html?referringSource=articleShare>

¹⁷ Consequentially, the Department of Education is being sued over this ruling and its impacts on students with disabilities.

¹⁸ The Lifeline program provides broadband and internet service at a low cost to eligible low-income customers.

program. In 2017, the average Lifeline participation rate across the country was 28%.¹⁹ In 2020, less than a fifth of the 38 million households (~18%) qualifying for Lifeline enrolled.²⁰

Further, many organizational and government policies that were in place were largely inadequate. To illustrate, many disability advocates and scholars have long espoused the potential of digital services to increase job opportunities for people with disabilities and improve independent living and quality of life, with an important caveat: the need for the inclusive design of these services. Most recently, electronic ballots, voting by mail, and working from home have been topics of interest in the media. Before COVID-19, various reasons were regularly cited to counter why neither activity could be nor should be conducted digitally. For example, companies have long believed that physical presence at work constituted an "essential function" of the position and that working from home could lower work performance.²¹ In one case, a woman with a health issue was denied the opportunity to work from home while recovering because they did not feel the person could adequately do their job if they were not in the office.²² However, the pandemic revealed the holes in the arguments against telework as an accommodation and, to some extent, electronic ballots. *Necessity is the mother of invention*, and perception of need is the midwife that coaxes delivery of said invention. In this case, it wasn't until telework was perceived as necessary to business continuity and, by extension, the economic viability of the nation, did swift and exacting change in telework policies occur.

As noted above, the FCC embraced several critical policies to ensure that Americans remained connected to vital services and opportunities. The Lifeline program saw enrollment increase from 6.7 million households in February to 7.2 million in May. To spur the usage of the Lifeline program, the FCC began to promote it with other federal agencies, such as the U.S. Department of Agriculture, to ensure people were aware of their eligibility. However, in the middle of a global pandemic where digital accessibility is almost paramount to survival, the Lifeline program is not robust enough to address the digital divide.²³ At a cap of \$9.25, the Lifeline program does not give the subscribers more than a low-cost phone and a maximum of two GBs of data. In a world that is reliant on digital connectivity for practically every facet of life, Lifeline's data maximum is insufficient. A coalition of advocates urged the FCC to provide support

¹⁹ USAC (2020) Program Data: Lifeline Participation. <https://www.usac.org/lifeline/learn/program-data/>

²⁰ McGill, M.H. (2020) Broadband's underused lifeline for low-income users. <https://www.axios.com/fcc-lifeline-broadband-underused-during-coronavirus-pandemic-1e04ad19-3ea6-496b-a9ae-0e0260ac71ff.html>

²¹ Wiletsky, M. (2012) Working from Home – Not a Reasonable Accommodation. <https://www.employerslawyersblog.com/2012/09/working-from-home-not-a-reasonable-accommodation.html>

²² Ibid.

²³ In the GAO Report (2015) FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program, the GAO declared that "the Lifeline program, as currently structured, may be a rather inefficient and costly mechanism to increase telephone subscribership among low-income households" because a marginal reduction in price does not increase the value or likelihood that low-income people will enter the market (broadband and internet). <https://www.gao.gov/products/GAO-15-335>

for "unlimited talk and texting for recipients" during the pandemic.²⁴ Other policies, such as the FCC's loosened enrollment requirements for Native Lifeline eligible users on Tribal lands, assisted with increased connectivity. The positive connectivity outcomes occurred, in part, because of companies' buy-in, to the Keep Americans Connected Initiative, as the Pledge²⁵ that service providers took was optional. The FCC's response was timely, but regulations to ensure wireless connectivity effectiveness is linked to stakeholders' level of implementation.

Arguably, the most prominent policy of the FCC during the pandemic was the financial support of implementing telehealth services around the country. Some telehealth program applications did include language around purchasing equipment that "increase the accessibility of safe medical care for its patient population," which is particularly important considering the populations that many of these providers are serving.²⁶ But the FCC did not establish or cite regulations ensuring telehealth accessibility for patients with disabilities. If they did, they were not publicly published for interested stakeholders. Despite the FCC's subsidies to fund telehealth for marginalized populations, without proper guidance, people with disabilities who received these services likely experienced access barriers.²⁷ According to Annaswamy et al. (2020), most telehealth platforms do not have customizable accessibility features for people with hearing or vision impairment. Neither do these platform owners currently intend to conform to the needs of people with cognitive disabilities.²⁸ Therefore, although these healthcare providers aimed to help populations vulnerable to disparate healthcare access, such as people with disabilities, they may not have been aware of the accessibility and usability requirements for telehealth platforms to serve people with disabilities successfully, or the Americans with Disabilities Act, Title III obligations to provide nondiscriminatory access to "goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation."²⁹ As a result, the FCC should collaborate with other agencies, such as the Department of Justice and state entities, to establish guidance for telemedicine platform developers and healthcare providers.

²⁴Benton Institute for Broadband and Society (2020) Coalition Calls on FCC to Enhance Lifeline Benefits to Provide Instant COVID-19 Relief. <https://www.benton.org/headlines/coalition-calls-fcc-enhance-lifeline-benefits-provide-instant-covid-19-relief>

²⁵ Federal Communications Commission (2020). Keep Americans Connected Pledge. <https://www.fcc.gov/keep-americans-connected>

²⁶ FCC (2020) FCC Approves 8th Set of COVID-19 Telehealth Program Applications. <https://docs.fcc.gov/public/attachments/DOC-364608A1.pdf>

²⁷ Annaswamy, T.M., Verduzco-Gutierrez, M., Frieden, L. (2020) Telemedicine Barriers and Challenges for Persons with Disabilities: COVID-19 and Beyond. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7346769/>

²⁸ Ibid

²⁹ Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990).

Conclusion

Technology is a mechanism capable of facilitating countless opportunities. However, technology is not exempt from flaws and biases that prevent its potential from being actualized. The policies implemented by the FCC help millions but may fall short if they are abandoned as the effects of COVID-19 subside. Sustainable methods to ensure that all Americans have access to inclusive wireless technology are needed, particularly as this access gap pre-dates COVID-19. The Voluntary Product Accessibility Template (VPAT)³⁰ and the Web Content Accessibility Guidelines (WCAG) are available and accepted as the standard for procuring and creating accessible ICT services, devices, and digital information. This is an area where industry adoption, from small businesses to Fortune 500 companies, could have a massive impact on realizing digital equity. Poor adherence to the WCAG on e-commerce businesses constrains Americans with disabilities' in their ability to navigate these digital shopping environments.³¹

The economic advancement of modern economies in the 21st century is predicated on digital access, adoption, and diffusion of innovation. In the U.S., there must be widespread availability of accessible internet and communications devices, software, and platforms so that Americans, regardless of disability status, can successfully engage with the economic market—as consumers, employees, and business owners. As it pertains to remote workers, the rapid mass exodus to the virtual workplace requires digital labor platforms to consider workers' needs to meaningfully create value to our economy.

Some evidence suggests that a countries' level of benefit from digitalization is contingent on "pre-existing economic and social structures, and on critical mass effects" (pg. 119).³² Consequentially, business enterprises in wealthier nations are more likely to benefit than poorer countries.³³ Initial assessments of the U.S. digital infrastructure suggest that a large portion of the market is excluded, particularly people with disabilities, because of the inaccessibility of these digital marketing and e-commerce platforms. The U.S. must implement the necessary digital infrastructures to be both inclusive and useable. As a wealthy nation, understanding the effects of policy actions on the historically marginalized will result in more competitive U.S.-based business enterprises that can reap the social and economic benefits of digitalization.

The FCC's efforts toward supporting methods and mechanisms that promote digital access and inclusion can better ensure that people with disabilities can more easily navigate between digital environments, whether they are conducting business as an employee or business owner, educating themselves or their children, obtaining healthcare services, or enjoying leisure activities. The FCC's response to COVID-19, at the intersection of wireless technologies and people with disabilities, shows that while government is a

³⁰ VPAT is a template that the Federal government uses to ensure digital content complies with Section 508 requirements of the Rehabilitation Act of 1973

³¹ Berg, K.K. (2019) Website Accessibility & the Law: Why Your Website Must Be Compliant. <https://www.searchenginejournal.com/website-accessibility-law/285199/#close>

³²United Nations Conference on Trade and Development (UNCTAD) (2019). Digital Economy Report: Value Creation and Capture: Implications for Developing Countries. https://unctad.org/en/PublicationsLibrary/der2019_en.pdf

³³ Ibid.

primary force in responding to the needs of the public, it is not a lone shareholder. Public and private sector providers, the wireless industry, other government entities, and many other stakeholders must continue to work in tangent to ensure equitable access to technology, even when there is no pandemic.