February 2, 2018

Chairman Ajit Pai
Commissioner Mignon Clyburn
Commissioner Michael O'Reilly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

In the Matter of Promoting Telehealth in Rural America - WC Docket No. 17-310

Dear Chairman Pai and FCC Commissioners

Introduction: We appreciate the opportunity to respond and thank you for your support of the Rural Health Care Program ("RHCP"). ADS supports both native tribal and non-tribal Health Care Providers ("HCP") manage and memorialize the RHCP process by keeping beneficiaries informed, mitigating risks, and providing guidance to assure business continuity. ADS does not select vendors, but has developed online tools to help document the competitive bidding process by working to keep the process open, fair and transparent. Transparency is important from a services perspective, a beneficiary's participation perspective, and the Administrator's decision making perspective.

HCPs depend on support from the RHCP and any mishap or consequence of a funding shortfall, proration or otherwise, is disastrous. ADS works hard to eliminate waste, fraud and abuse and supports improving meaningful oversight, especially in the Telecommunications Program ("TP"). ADS believes the enforcement of program rules is paramount.

The underlying concept of Universal Service means all Americans should have availability to and affordable access of telecommunications. The share of a rural HCP's cost of telecommunications should be in line with urban HCPs. Rural HCPs should not have to pay more for the same or similar telecommunication services. Please note that percentages do not really represent fairness in terms of support, especially in Alaska. ADS believes the primary goal of the RHCP is to defray the cost of supported services for rural HCPs.

Funding Levels:

The Telecommunications Program ("TP") should not be capped – some may view this position as a prioritization. All of our native tribal based HCPs use the TP. HCP's that rely on the TP cannot afford to pay prorated amounts and need protection against financial uncertainty. Eliminating a cap on the TP is in the best interest of the RHCP and the communities in which the RHCP is designed to support.

If the TP program is not capped, then ADS suggests a starting point for an HCFP cap of 400M plus increases for inflation – take the original cap and adjust for inflation. After the initial adjustment for inflation the cap should be adjusted every year. Unused dollars could be rolled forward accordingly or used for trial programs. ADS requests administrative expenses be excluded from funding caps.

It is important to include consideration for the increasing number of eligible beneficiaries (like skilled nursing facilities) and for advances in technology (such as technology centric Telehealth options, including home based services, as well as many other initiatives based on technology and cloud based services). These two factors shall increase demand on the fund.

ADS supports reallocating unallocated funds of any year to the next year or future year. Unused support (like over commitments) should be recaptured by the fund (returned by the beneficiary, or otherwise). Unused funds, regardless of origin, should be rolled forward and disbursed per program rules.

Promoting Efficient Operation of the RHCP to prevent Waste, Fraud and Abuse

When looking to provide all Americans with the best health care service possible, percentages (with respect to discounts) may be misleading. The TP should continue to utilize the difference between urban and rural rate. Rural HCP's cost for telecommunications should be similar to the costs of urban HCPs. In order to eliminate waste fraud and abuse, actual consumption or utilization become important factors. For instance, the high cost per megabytes of service may not always indicate waste, fraud or abuse. Purchasing excessive bandwidth may be wasteful in some cases. In other cases, it may prove more cost effective. A process to upgrade services may be necessary in order to ensure bandwidth availability. Perhaps the management of resources or the seeking of additional resources is addressed with multiple filing windows. A second filing window could be utilized to allow for upgrades to existing services, or to seek support for new services at new locations.

Middle mile and last mile options need to be addressed, especially in remote locations. Community based solutions could be at the center of modernization, or at least given support for success. Short and long term goals could make it easier for beneficiaries to utilize support from multiple programs. Eligible services and rules under various programs do not always align, but networks should be built from the community perspective for the community. Perhaps the concept falls out of scope, but ADS hopes modernization is friendly to long term strategic thinking in addition to addressing the immediate tactical concerns. Coupled with appropriate oversight, a streamlined set of options to use multiple programs in building community based networks would help eliminate waste, fraud and abuse.

All RHCP data should be available to the public (such as the Schools and Library Division ("SLD") Date Retrieval Tool), allowing better understanding of the data. Organizational types could be tracked on the application and included in a reporting structure. We look forward to utilizing the USAC Open Data website and interacting with USAC to upload data directly to USAC systems. API technology (JSON) could be utilized to send raw data for all fields of an Application or Form.
The creation of an Eligible Technologies Service List and Eligible Locations List would help provide transparency and eliminate waste fraud and abuse by removing questions concerning the services and functionality performed at locations available for support. Eligibility lists could set expectation as to what beneficiaries may seek and provide guidance as to what service providers may propose. It may also make the Administrator's job less cumbersome.

- Services perspective - Some beneficiaries may unknowingly apply for ineligible services while others may apply for "everything" in hopes of "everything" being funded – others may try to manipulate program rules for financial advantage.

- Locations perspective - The critical needs of administering health care may create debate, but obviously there are entities, especially rural entities, unable to do everything required to provide quality health care under one roof. A basic definition as to eligible locations and functionality to receive support would clarify eligibility. Consider Annexes in the E-rate Program.
- Contract perspective - Beneficiaries would not have to sign contracts in order to determine eligibility, or figure out how to undo contracts if services or locations are deemed ineligible.

Eligibility lists increase transparency and help keep waste, fraud and abuse in check. The lists may even speed the delivery of the funding commitments by decreasing the Administrator's cycles during review. One of the worst possible outcomes for a beneficiary is commitment adjustment or demand letter ("COMAD") and these lists may help to avoid COMADs. An audit preparedness document could emerge as a byproduct of the creating eligibility lists.

All participants should be held accountable for their actions and should work to eliminate waste, fraud and abuse. Beneficiaries do not have a means to control what the telecommunications companies charge for services. The beneficiaries do not have control over pricing and they do not advocate high rates.

With respect to the SLD and E-rate, pricing information is made public and is not considered confidential. ADS believes this was done to promote competition and drive pricing down. Perhaps something similar can be done in the RHCP. This may be difficult as program rules are different, and each program supports different components of service. E-rate discounts Non-Reoccurring Costs ("NRC") or setup fees, and the RHCP does not cover these expenses. Perhaps modernization allows the TP and HCFP beneficiaries the ability to seek reimbursement on NRCs or provides options to work with other funding mechanisms.

In an effort to eliminate waste, fraud and abuse, referencing various orders or established best practices to define intent and acceptable policy (such as the Tennessee Order, Brooklyn Order, or the Bishop Perry Order) could be considered.

In terms of calculating an Urban rate, it is hard to comment without understanding all of the financial details. If it is agreed the urban rate is similar across all geographic urban areas, then use a single urban rate in order to determine the discount rate. The urban rate could be the average cost of service in the largest 25 Metropolitan Service Areas. One urban rate may simplify the determination of discount process, make pricing more transparent, and eliminate some of the work required by the Administrator in terms of reviewing applications. Another benefit includes a quicker, more streamlined issuance of funding commitments.

The concept of similar services could be taken into consideration during the competitive bid process. Some of the defining factors may include: guaranteed throughput, latency, resiliency / hardened, quality, and uptime. The characteristics of a service may impact cost-effectiveness.

Regarding the issue of cost-effectiveness, while in concept it is appropriate, RHCP should not subsidize more services than a HCP needs to provide to deliver optimal patient care. More importantly, cost controls should not deter an HCP from providing state of the art health care. HCPs should be encouraged to provide the best possible care, and not attempt to address minimum needs. Improving the use of technology into health care is paramount to improving patient care. Rural

America cannot be expected to improve the health care of the people in their community if only allowed the minimum.

A beneficiary should be able to use as few or as many evaluation factors as deemed necessary, and assign percentages or points to the factors used to reflect their relative importance, so long as local and state procurement process is followed. However, price of the eligible products and/or services could serve as the highest weighted factor. If there were 9 criteria, one could be cost at 20% and the other 8 could all be 10%, or 30% for cost, 20% for Experience, 20% for Other Cost Factors, 20% for Personnel/Management, Qualifications, and Capability and 10% for Local Vendor. Cost should not have to be 51% or greater - cheapest does not mean most cost effective.

Improving Oversight of the RHCP

ADS supports improving the Oversight of the RHCP, especially in the TP.

Consultants should be treated the same as any other entity working within the RHCP. Best practices from the SLD E-rate Program should be applied. Many RHCP Consultants already work with SLD E-rate Program and have Consultant Registration Numbers. Utilizing the same numbers may be a quick and efficient way to start.

If gifting is a concern, eliminate all forms of gifting, or at minimum utilize the SLD E-rate Program gifting guidelines. ADS encourages all gifts be politely declined.

ADS supports streamlining the application process while improving oversight and eliminating waste, fraud and abuse. Proven best practices should be used to standardize process. Change must follow the proper process. Web based updates that are effectively Form updates should be managed and approved accordingly. New forms and guidance should be made available in advance of publication and adoption. Instruction for the proper use of all Forms should be published as well. Transparency helps improve effectiveness and efficiency.

Summary

The TP should not be capped and ADS suggests the starting point for an HCFP cap be 400M plus a factor for inflation (initial cap of 400M plus an inflation adjustment). After the initial adjustment for inflation is added into the cap, the cap should be adjusted every year for inflation. When considering the cap, it is important to consider the increasing number of eligible beneficiaries and the advances in technology.

Promoting efficient and transparent operation of the RHCP to prevent waste, fraud and abuse while improving oversight of the TP is required. The best practices of other programs should be included with modernizing the RHCP.

ADS hopes comments provided are helpful and produce positive impact. Transparency is a must, in all directions on all issues - increased transparency shall provide positive results.

With respect, Dan Kettwich on behalf of ADS Advanced Data Services, Inc.

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