

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:

Telecommunications Relay)	
Services and Speech-to-Speech)	
Services for Individuals with)	
Hearing and Speech Disabilities)	
Structure and Practices of the)	CG Docket No. 03-123
Video Relay Service Program)	CG Docket No. 10-51
Implementation of the Twenty-)	CG Docket No. 10-210
First Century Communications and)	
Video Accessibility Act of 2010,)	
Section 105, Relay Services for)	
Deaf-Blind Individuals)	

**Petition for Emergency Waiver and Declaratory Ruling of
Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)
American Association of the Deaf-Blind (AADB)
National Association of the Deaf (NAD)
Hearing Loss Association of America (HLAA)
Association of Late-Deafened Adults (ALDA)
Cerebral Palsy and Deaf Organization (CPADO)
American Deafness and Rehabilitation Association (ADARA)
Deaf Seniors of America (DSA)
Rehabilitation Engineering Research Center on Technology for the Deaf and Hard
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Discussion

Consistent with the Commission's ongoing efforts to ensure access to communications during the coronavirus (COVID-19) pandemic¹ and to "ensure the uninterrupted availability of telecommunications relay services (TRS),"² the above-signed Consumer Groups and accessibility researchers urge the Commission to:

1. Temporarily waive the relay service registration and pre-call verification rules to the extent necessary to ensure that all legitimate users can use the relay system under emergency circumstances; and
2. Issue a declaratory ruling clarifying that software necessary for DeafBlind users to access the relay system can be provided by relay providers and reimbursed from the TRS Fund as well as being distributed via the National Deaf-Blind Equipment Distribution Program (NDBEDP) for those who qualify for the income threshold.

For millions of Americans who are deaf, hard of hearing, or DeafBlind and those who have additional disabilities, accessible telecommunications services are the only window to social interaction with the outside world as they practice social distancing in the midst of the coronavirus (COVID-19) pandemic. The pandemic's effects will be further exacerbated absent swift action from the Commission to ensure that the relay system can be accessed under emergency circumstances, including communication with medical

¹ See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, Docket Nos. 03-123 & 10-51 (Mar. 16, 2020) ("COVID-19 At-Home Call Handling Waiver"), <https://www.fcc.gov/document/fcc-grants-temporary-waiver-certain-trs-rules-during-coronavirus>; *Lifeline and Link Up Reform and Modernization Order*, Docket No. 11-42 (Mar. 17 2020) ("COVID-19 Lifeline Waiver Order"), <https://www.fcc.gov/document/lifelines-recertification-and-reverification-waived-60-days>.

² COVID-19 At-Home Call Handling Waiver at ¶ 1.

professionals in increasingly chaotic healthcare scenarios where typical accessibility measures such as in-person interpreters are not available.³

We applaud the Commission for recognizing hurdles imposed by the pandemic in waiving other TRS rules.⁴ Those waivers have allowed for the people who make relay services possible to work from home consistent with social distancing mandates and helped ensure that consumers' rights to communicate on equal terms have been fulfilled during this chaotic period.

Consistent with the Commission's recognition of the "overwhelming interest" in "ensuring the continued availability of TRS services during this national emergency,"⁵ the Commission should also temporarily waive the relay service registration and pre-call verification rules to the extent necessary to ensure that all legitimate users can use the relay system under emergency circumstances. Likewise, the Commission should issue a declaratory ruling clarifying that software necessary for DeafBlind users to access the relay system can be provided by relay providers and reimbursed from the TRS Fund as well as being distributed via the National Deaf-Blind Equipment Distribution Program (NDBEDP).

I. The Commission should temporarily waive the relay service registration and pre-call verification rules to the extent necessary to ensure that all legitimate users can use the relay system under emergency circumstances.

We are routinely receiving reports that relay service rules are impeding legitimate deaf and hard of hearing users, particularly DeafBlind users, from signing up and using relay service during the course of the pandemic. The Commission should waive its

³ *COVID-19: Deaf and Hard of Hearing Communication Access Recommendations for the Hospital*, available at <https://tdiforaccess.org/covid-19-hospitals/> and <https://www.nad.org/covid19-communication-medical-access-for-deaf-hard-of-hearing/>; Video Remote Interpreting (VRI) Guidelines for HealthCare, <https://deafseniors.us/2019-vri-guidelines/>.

⁴ See COVID-19 At-Home Call Handling Waiver at ¶ 1.

⁵ *Id.* at ¶ 8

registration and pre-call verification rules to the extent necessary to ensure that all Americans entitled to a “functional[ly] equivalent” service are able to communicate with ease during the pandemic.⁶ Under Rule 1.3, the Commission may grant these waivers upon a showing of good cause.⁷

Relay rules have impeded legitimate registration for and use of the relay system under a variety of circumstances during the pandemic:

1. Providers have been required to deny registration to new users when they receive fail codes from the User Registration Database (URD).
2. Fail codes cannot be cleared with supplemental documentation that might be available under normal circumstances because it cannot be easily obtained or submitted during the pandemic. For example, DeafBlind people have been asked to provide copies of physical documentation, such as driver’s licenses or other identification, which cannot be provided without access to in-person Support Service Providers whose appointments have been canceled under shelter-in-place, stay-at-home, and other isolation orders.
3. Sudden changes in location of work have caused confusion and disruption to enterprise phone verification and registration.
4. Providers have been reluctant or unwilling to provide service to people with failure codes or other registration issues out of fear of not being reimbursed.

Accordingly, the Commission should temporarily waive any and all registration requirements that impede or have the potential to impede legitimate access to relay services⁸ to the extent necessary to ensure that users are not denied access to service in the emergency circumstances of the pandemic. These waivers should include URD rules

⁶ See 47 U.S.C. § 225(a)(3).

⁷ 47 C.F.R. § 1.3

⁸ See, e.g., 47 C.F.R. §§ 64.611(b) (requiring VRS and IP Relay providers to register new users of the service), 64.611(j) (imposing URD registration requirements for IP CTS).

that prohibit continued use—and provider reimbursement of that use—pending verification.⁹ By waiving the URD requirements for this period, the Commission could preemptively ensure that there will not be individuals precluded from communicating because of the registration requirements.

Temporary waiver of any registration requirements that impede service is especially pertinent during this time of crisis as many people will need to access healthcare systems that are already overwhelmed. This will disproportionately impact people who are deaf, hard of hearing, or deaf blind, as medical staff may have even fewer resources to communicate with them at this time. This will place an even higher burden on relay service accessibility as more people may need to use VRS services to communicate with their doctor or other medical providers.¹⁰

To address any concerns around waste, fraud, and abuse, the Commission could grant these waivers but require relay providers to assign a provisional status to new registrants during the pandemic period. When the emergency period ends,¹¹ the Commission could require providers to retroactively comply with all of all the pertinent registration rules. Likewise, at the end of the emergency period, the Commission should require all provisionally registered users to register with the providers in full compliance with the rules as a condition for continued reimbursement. These limitations will ensure

⁹ See e.g. 47 C.F.R. §§ 64.611(a)(5), (b), (j)(1), (j)(3), 64.615(a)(1), (a)(2).

¹⁰ See *COVID-19: Deaf and Hard of Hearing Communication Access Recommendations for the Hospital*, available at <https://tdiforaccess.org/covid-19-hospitals/> and <https://www.nad.org/covid19-communication-medical-access-for-deaf-hard-of-hearing/>.

¹¹ This period should be consistent with the period of the other waivers. See *COVID-19 At-Home Call Handling Waiver* at ¶ 1 (“the waivers granted herein are retroactive to March 13, 2020 (the date of the President’s declaration of a National Emergency), and will continue until May 15, 2020 (60 days from adoption of this Order, consistent with the Centers for Disease Control and Prevention (CDC) guidance.”); *Lifeline Order* at ¶ 2 (“[w]e will continue to monitor the situation to determine whether any additional waiver of these rules and deadlines is needed,” giving the Commission room to change the cutoff as the pandemic progresses).

that the Commission has the authority after the fact to investigate potential fraud, but at the same time ensuring that users are not unduly delayed or barred altogether from obtaining service under the current crisis.

The Commission should likewise temporarily waive pre-call verification rules during the pandemic to ensure that provisionally registered users can access the service without being rejected by the URD.¹² The Commission should use the same aforementioned safeguards against fraud, waste, and abuse.

II. The Commission should issue a declaratory ruling clarifying that software necessary for DeafBlind users to access the relay system can be provided by relay providers and reimbursed from the TRS Fund.

As part of its effort to shore up access to the relay service during the pandemic, the Commission should alleviate confusion around how DeafBlind people can acquire the software they need to connect to the relay service. Specifically, the Commission should issue a declaratory ruling pursuant to Rule 1.2¹³ that specialized software for DeafBlind relay access can be reimbursed through the relay fund.

Consistent with Rule 1.2, the Commission may issue a declaratory ruling in order to terminate controversy or remove uncertainty.¹⁴ There exists significant controversy and uncertainty about how specialized software for DeafBlind relay access can be reimbursed. Currently, only one software program allows DeafBlind consumers to access relay services: myMMXdb. This software is typically purchased and distributed to low-income DeafBlind consumers through the NDBEDP.

¹² See e.g. 47 § C.F.R. 64.615(a)(1) (requiring VRS providers to perform user call validation and queries of the URD for each call); 47 § C.F.R. 64.615(a)(2) (requiring VRS providers to validate the registration of an enterprise phone); 47 § C.F.R. 64.611(a)(5) (requiring that VRS providers assign iTRS numbers to hearing point to point video users).

¹³ 47 C.F.R. § 1.2.

¹⁴ *Id.*

However, many people who do not qualify under the NDBEDP's income limitation still need access to this software to use relay services—a problem that is exacerbated by the widespread unemployment and disruption to state government service being wrought by the pandemic. And the Commission has concluded that it cannot adopt a sliding-scale approach to administering the NDBEDP.¹⁵

By adopting this posture, the Commission has created a state of affairs that violates the functional equivalency requirement of Section 225:¹⁶ software such as myMMXdb is essential to accessing the relay service, but many DeafBlind users have effectively been denied access to relay service because they cannot afford the software. The Commission has an obligation to ensure DeafBlind consumers have access to the software. This obligation is independent of the NDBEDP's existence. It is not functionally equivalent for DeafBlind consumers to have to pay to access relay service when Deaf consumers do not.

Fortunately, an alternative solution is available: the Commission should clarify that relay service providers may (a) provide software necessary to connect to the relay service, such as myMMXdb, directly to consumers and (b) directly reimburse the cost of the software from the TRS Fund.

While the Commission has correctly acknowledged that there is a statutory income restriction for the NDBEDP,¹⁷ this does not mean that the NDBEDP can be used as a limitation on the provision of access to relay services for DeafBlind people. Section 225 mandates that the Commission ensure that DeafBlind people have access to relay services that are functionally equivalent. The NDBEDP was created to ensure that low income individuals who are deaf blind have access to specialized equipment, but it does not prevent the Commission from using the TRS Fund to provide software necessary to

¹⁵ *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Notice of Proposed Rulemaking, 30 FCC Rcd 5255, 5276-77, ¶ 46 (2015) (“DeafBlind Relay NPRM”).

¹⁶ 47 U.S.C. § 225(a)(3).

¹⁷ DeafBlind Relay NPRM at 5276-77, ¶46.

access relay services to DeafBlind people who do not fit under the NDBEDP's income limitation.

Accordingly, the Commission should clarify that software such as myMMXdb is reimbursable out of the TRS Fund when provided by a relay provider offering service to DeafBlind people. This would resolve the uncertainty surrounding reimbursement for DeafBlind relay software by allowing either (a) consumers to procure the software via the NDBEDP or (b) relay providers to provide the software to consumers and reimburse the costs of the software from the TRS Fund. This structure would ensure that all DeafBlind Americans are able to access relay services consistent with the functional equivalency requirement of Section 225—an ever-critical issue made even more urgent by the circumstances of the pandemic.