December 5, 2023

SUBMITTED ELECTRONICALLY VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

<u>Re: Ex Parte Filing</u>
Promoting Telehealth in Rural America, WC Docket No. 17-310

Dear Madam Secretary:

Pursuant to Federal Communications Commission's *ex parte* rules, I hereby submit the following summary of our December 4, 2023 conversation with Marco Peraza, Wireline Advisor, Office of Commissioner Nathan Simington; our December 5, 2023 conversation with Lauren Garry, Legal Advisor, Office of Commissioner Brendan Carr; our December 5, 2023 conversation with Elizabeth Cuttner, Legal Advisor, Wireline and Enforcement and Rashann Duvall, Legal Advisor, Affordable Connectivity Program, and Wireline, Office of Chairwoman Rosenworcel; and our December 5, 2023 conversation with Justin Faulb, Chief of Staff and Legal Advisor for Wireline and National Security, Office of Commissioner Geoffrey Starks to discuss the draft Third Report and Order (Draft Order) in the Rural Health Care (RHC) Program.

The following individuals from the Schools, Health & Libraries Broadband Coalition (collectively "SHLB") participated in the call:

- John Windhausen, Jr., SHLB Coalition
- Kristen Corra, SHLB Coalition
- Rob Jenkins, Colorado Hospital Association
- Marci White, Redbud Consulting
- Jeff Mitchell, Mitchell Law, PLLC
- Dan Kettwich, Advanced Data Services, Inc.[1]

SHLB applauds the Commission and Wireline Competition Bureau (WCB) for proposing to resolve several items in the draft Order that SHLB members supported to improve the RHC Program. For example, we appreciate the Commission aligning the Service Provider Identification Number (SPIN) change filing deadline with the invoice filing deadline and permitting health care providers to request changes in dates associated with evergreen contracts following a funding commitment. Both items will simplify and streamline certain procedural

[1] Mr. Kettwich was not present on the December 4, 2023 meeting with Marco Peraza.

issues that currently affect application processing. We also greatly appreciate the Commission enabling entities that do not yet meet all eligibility requirements at the time they seek eligibility determinations – but expect to become eligible in the near future – to obtain conditional approval of eligibility, conduct competitive bidding, and request funding. This change will ensure the RHC Program is working in tandem with the needs of health care providers.

To continue to improve the RHC Program, we respectfully ask the Commission to address a few additional items below in the final Order:

1. We are grateful that the Commission's SPIN deadline change can be effective for funding year 2023. We additionally ask that the Commission include in the final Order a blanket waiver for SPIN change applications submitted for funding years 2021 and 2022. This allowance would help resolve outstanding waivers that still require a decision for prior funding years.

2. The Draft Order does not address questions asked in the current rulemaking proceeding concerning whether to allow equipment that is eligible through the Healthcare Connect Fund (HCF) to also support Telecom Program-funded circuits. This issue was raised in comments filed in response to the FNPRM earlier this year, and SHLB supported this allowance. This change would not expand the list of equipment eligible, it would simply eliminate the need for cost allocation when delivering Internet services to rural health care providers by way of a Telecom Program-funded circuit.[2] This change would substantially enhance network efficiency and intelligent network design within the RHC Program, without imposing a significant financial burden. This is a large issue in Alaska where such a clarification could significantly shift reliance from very high-cost dedicated transport modes such as geosynchronous satellite toward lower cost best-efforts services. We believe this would bring the two programs into closer alignment with what Congress originally intended and

[2] We propose no changes to Section 54.613(a) but rather suggest the Commission add the following language at the end of Section 54.617(d)(2) which addresses "Ineligible components of a single service or piece of equipment": "Notwithstanding the foregoing, for any piece of equipment necessary to make an eligible service functional pursuant to s. 54.613(a), no cost allocation is required for any portion of that equipment which is used to make functional a service supported under the Telecommunications Program."

could even reduce overall program funding demand.[3] We strongly urge implementing this change in time for the filing window seeking reimbursement on services for 2024-25.[4]

3. The provision in the Draft Order establishing a July 1, 2024 invoicing deadline for Telecom Program participants to submit invoices for funding years 2019 and earlier does not mention items under appeal. We ask the Commission to include a footnote or language in the final Order acknowledging that this deadline would not apply to funding requests under appeal.

Finally, we suggest that the Commission examine and address the annual $30,000 cap on recurring charges and $70,000 cap every five years on non-recurring charges for non-rural hospitals with 400 or more patient beds and the $10,000 cap on exempt filings. It is our understanding that the $30,000/$70,000 caps were set in 2012 and the $10,000 cap was set in 2019, and have not been adjusted for inflation. We note that this item would need to be included in a future Notice of Proposed Rulemaking as it was not an item discussed in the recent rulemaking proceeding.

---

[3] The following simplified example, based on data from current Telecom Program funding commitments, illustrates how cost savings could be realized:

- Monthly rate for a 25 Mbps geosynchronous satellite service (symmetrical) = $47,000 (rural rate less urban rate); annualized cost = $564,000.
- Monthly rate for a 10 Mbps geosynchronous satellite service (symmetrical) = $19,000; annualized cost = $228,000.
- If an HCP were able cut its bandwidth reliance on dedicated GEO satellite service from 25 Mbps to 10 Mbps, the annualized savings to the Telecom Program would be $336,000.
- A current commercial best-efforts Low Earth Orbit (LEO) satellite plan offering asymmetrical internet access service (40-220 Mbps down/8-25 Mbps up) is around $2,250 per month, or $27,000 per year (supported through the HCF).

The proposed rule modification would promote the integration using a single piece of equipment of a lower cost best efforts LEO service, supported through HCF, and a higher-cost dedicated service, supported through the Telecom Program, into a single service offering (from the perspective of the end user) that would allow downward adjustment of the more costly dedicated service, without the loss of reliability a dedicated service offering provides.

[4] If the Commission is concerned about the amount of demand imposed on the RHC Program by allowing this change, we suggest that it could implement a limited pilot program to use to gather data. We would suggest allowing HCPs to utilize the proposed cost allocation exemption for a three-year period after any current long-term contract under which they are bound expires.

Sincerely,

Kristen Corra

Kristen Corra
Policy Counsel
Schools, Health & Libraries Broadband (SHLB) Coalition
1250 Connecticut Ave. NW Suite 700
Washington, DC 20036
kcorra@shlb.org / 571-306-3757

cc via email: Marco Peraza
Lauren Garry
Elizabeth Cuttner
Rashann Duvall
Justin Faulb
Allison Baker
Bryan Boyle
John Windhausen, Jr.
Rob Jenkins
Marci White
Jeff Mitchell
Dan Kettwich