

## Technical Appendix: Low-Income Program

In 1984, the Commission established the Lifeline program to promote universal service by providing low-income individuals with discounts on the monthly cost of telephone service.<sup>1</sup> The Commission expanded that program in 1985.<sup>2</sup> After passage of the Telecommunications Act of 1996 (1996 Act),<sup>3</sup> the Commission adopted expanded universal service low-income rules, including rules to facilitate Link Up support to help low-income households pay the initial costs of commencing telephone service.<sup>4</sup> In June 2000, the Commission further expanded the Lifeline and Link Up programs to address the particularly dire needs of low-income households living on Tribal lands.<sup>5</sup> In April 2004, the Commission released a report and order expanding the federal default eligibility criteria to include an income-based criterion and additional means-tested programs.<sup>6</sup> The report and order adopted federal certification and verification procedures that require states, under certain circumstances, to establish procedures to minimize potential abuse in the program. To target low-income consumers more effectively, the Commission adopted outreach guidelines and issued a voluntary survey to gather data and information from states regarding the administration of Lifeline/Link Up programs. The report and order also contained a further notice of proposed rulemaking which proposed adding a broader income-based standard than the one adopted in the order to further increase penetration rates.

On June 21, 2011, the Commission issued the *2011 Duplicative Program Payments Order*.<sup>7</sup> In that order, the Commission amended the Lifeline program rules to clarify that qualifying Lifeline

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<sup>1</sup> *MTS and WATS Market Structure, and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72 and 80-286, Recommended Decision, 49 Fed. Reg. 48325 (rel. Nov. 23, 1984) (recommending the adoption of federal Lifeline assistance measures); *MTS and WATS Market Structure, and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72 and 80-286, Decision and Order, FCC 84-637, 50 Fed. Reg. 939 (rel. Dec. 28, 1984) (adopting the Joint Board's recommendation).

<sup>2</sup> *MTS and WATS Market Structure, and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72 and 80-286, Decision and Order, FCC 85-643, 51 Fed. Reg. 1371 (rel. Dec. 27, 1985).

<sup>3</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996 Act), *codified at* 47 U.S.C. §§ 151 *et seq.* We refer to the Communications Act of 1934, as amended, as “the Communications Act” or “the Act” or “the 1934 Act.”

<sup>4</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157, 12 FCC Rcd 8776, 8952-94, paras. 326-409 (1997) (*1997 Universal Service Order*).

<sup>5</sup> *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order and Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, FCC 00-208, 15 FCC Rcd 12208 (2000) (*Twelfth Report and Order*).

<sup>6</sup> *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302 (2004).

<sup>7</sup> *See Lifeline and Link Up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link Up*, CC Docket No. 96-45, Report and Order, WC Docket Nos. 11-42, 03-109, 26 FCC Rcd 9022 (2011) (*2011 Duplicative Program Payments Order*).

consumers may not receive more than one Lifeline-supported service at the same time.<sup>8</sup> In conjunction with the *2011 Duplicative Program Payments Order*, the Commission also issued the *June 21 Guidance Letter*, which set forth a process that the Universal Service Administrative Company (USAC), the entity that administers the Lifeline program for the government, must follow to identify and resolve duplicative claims for Lifeline support through the in-depth data validation (IDV) process.<sup>9</sup> Through IDVs, USAC has eliminated millions of dollars in duplicative support.

On February 6, 2012, the Commission released the *Lifeline Reform Order*, which took significant steps to reform the low-income program.<sup>10</sup> These reforms include establishing a new interim flat Lifeline support amount of \$9.25 per subscriber per-month in non-Tribal areas<sup>11</sup>; restricting Link Up support to only Eligible Telecommunications Carriers (ETCs) receiving high cost support on Tribal lands<sup>12</sup>; capping Toll Limitation Support at \$3.00 per-month and eliminating support by the end of 2013<sup>13</sup>; directing USAC to continue with IDVs; and requiring consumers to provide proof of eligibility, certify their eligibility at sign up and recertify eligibility on an annual basis.<sup>14</sup> The *Lifeline Reform Order* also establishes a pilot program to provide broadband service to low-income consumers as well as a savings target of \$200 million as compared to what would have been spent in the absence of reform.<sup>15</sup> Through these and other reforms, the Commission sought to eliminate waste and inefficiency, and increase accountability. The *Lifeline Reform Order* represents another step in the Commission's ongoing efforts to overhaul all USF programs to promote the availability of modern networks and the capability of all American consumers to access and use those networks. The changes to the low-income program as a result of the 2012 *Lifeline Reform Order* are not reflected in the data in this year's report, which covers the period through 2011.

The Commission's low income program rules are designed to satisfy the 1996 Act's mandates that rates be "affordable" and access be provided to "low-income consumers" in all regions of the nation. The rules require low-income support to be competitively and technologically neutral by requiring equitable and nondiscriminatory contributions from all providers of interstate telecommunications services and by allowing all ETCs, including wireless carriers, to receive support for offering Lifeline and Link Up service.<sup>16</sup>

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<sup>8</sup> *2011 Duplicative Program Payments Order*, 26 FCC Rcd at 9026-27, paras. 7-8.

<sup>9</sup> See Letter from Sharon E. Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, to D. Scott Barash, Acting Chief Executive Officer, Universal Service Administrative Company, 26 FCC Rcd 8588 (Wireline Comp. Bur. June 21, 2011) (*June 21 Guidance Letter*).

<sup>10</sup> *Lifeline and Link Up Reform and Modernization, et al.*, WC Dkt. Nos. 11-42 *et al.*, CC Dkt. No. 96-45, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (*Lifeline Reform Order*).

<sup>11</sup> See 47 C.F.R. § 54.403(a)(1).

<sup>12</sup> See 47 C.F.R. § 54.413(a).

<sup>13</sup> See 47 C.F.R. § 54.403(c).

<sup>14</sup> See *Lifeline Reform Order* 27 FCC Rcd at 6747, para. 211; 47 C.F.R. § 54.410.

<sup>15</sup> See *Lifeline Reform Order* 27 FCC Rcd at 6794-6811, paras. 321-360.

<sup>16</sup> *1997 Universal Service Order*, 12 FCC Rcd at 8968-73. See 47 U.S.C. § 254(d), (e).

## Eligibility for Lifeline

Prior to the *Lifeline Reform Order*, in states that provided low income support from state funds, Lifeline and Link Up support was available to all subscribers that met state eligibility requirements. Although states had some latitude determining eligibility for low income support, state commissions were required to establish narrowly-targeted qualification criteria based solely on income or factors directly related to income. In addition, such states with geographic areas classified as Tribal lands were required to ensure that their qualification criteria were reasonably designed to apply to low-income residents of Tribal lands.

To receive Lifeline and Link Up in a state that did not mandate state Lifeline support, consumers were required to certify that their household income is at or below 135% of the Federal Poverty Guidelines (FPG), or that they participate in one of the following seven federal programs: Medicaid, Food Stamps, Supplemental Security Income (SSI), Federal Public Housing Assistance (Section 8), the Low-Income Home Energy Assistance Program (LIHEAP), the National School Lunch Program's free lunch program, or Temporary Assistance for Needy Families (TANF). In such states, carriers had to obtain signed statements from the consumer certifying that he or she receives benefits from one of these programs.

In all states, low-income consumers living on Tribal lands qualified to receive enhanced Lifeline support (i.e., Tier 4 as described below) if (1) they qualified under state criteria in a state that provides Lifeline support; (2) their household income was at or below 135% of the FPG; (3) they received benefits from one of the seven federal programs listed above; or (4) they participated in one of the following Tribal-specific federal assistance programs: Bureau of Indian Affairs General Assistance (GA), Tribally-administered Temporary Assistance for Needy Families (Tribal TANF), or Head Start (meeting the income-qualifying standard).

The *Lifeline Reform Order* made a number of changes to the eligibility rules. The Order clarifies that each household may only receive one Lifeline supported service at a time and establishes uniform eligibility criteria for Lifeline.<sup>17</sup> In all states, consumers are eligible for Lifeline if they or a member of their household is enrolled in one of seven government benefit programs listed above or have an income of 135% or less of the FPG.<sup>18</sup> States may expand eligibility to enrollees of other programs so long as eligibility for those qualifying programs are income-based or related to income.<sup>19</sup> Consumers living on Tribal lands and whose household is receiving benefits under the Food Distribution Program on Indian Reservations or one of the Tribal-specific federal assistance programs described above are eligible to receive enhanced Lifeline support (formerly Tier 4 as described below).<sup>20</sup> At the time of enrollment, consumers must provide proof of income or participation in a qualifying program.<sup>21</sup> A subscriber's

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<sup>17</sup> See 47 C.F.R. § 54.400(g).

<sup>18</sup> See 47 C.F.R. § 54.409(a) (1)-(2).

<sup>19</sup> See 47 C.F.R. § 54.409(a)(3).

<sup>20</sup> See 47 C.F.R. § 54.409 (b).

<sup>21</sup> See 47. C.F.R. § 54.410(b)-(c).

eligibility may be determined by accessing a state database if available.<sup>22</sup> All subscribers must attest to certain requirements on a certification form.<sup>23</sup> The subscriber's eligibility must be recertified on an annual basis thereafter.<sup>24</sup>

### Lifeline Support

ETCs receive monthly universal service support reimbursement for each qualifying low-income consumer served.<sup>25</sup> Prior to the *2012 Lifeline Reform Order*, there were four tiers of federal Lifeline support under the Commission's rules. Under those rules, all ETCs received Tier 1 support, which provided a discount to the consumer equal to the incumbent carrier's subscriber line charge. Tier 2 support provided an additional \$1.75 per month in federal support, if all relevant state regulatory authorities approved such a reduction (all fifty states approved).

Tier 3 of federal support was based on the amount of additional support mandated by the relevant state or otherwise provided by a carrier. Federal support was available to match one-half of the non-federal support provided, up to a maximum of \$1.75 per month in federal support, assuming that the carrier obtained all necessary approvals to pass on the full amount of this total support in discounts to subscribers. Only eligible residents in states that have established their own Lifeline/Link Up programs were eligible to receive Tier 3 support.

Eligible residents of Tribal lands also qualified to receive Tier 4 support if they met the Tribal lands eligibility standard described above. Tier 4 support provided up to an additional \$25 per month towards reducing basic local service rates. Eligible residents of Tribal lands that received Tier 4 support were required to be charged at least \$1 per month for local phone service after the discount.

Under the *2012 Lifeline Reform Order*, Tiers 1-3 were eliminated and replaced with a flat-rate support amount of \$9.25 per subscriber on non-Tribal lands.<sup>26</sup> Consumers on Tribal lands continue to be eligible to receive up to \$25 in support per month, but the \$1 minimum charge was eliminated.<sup>27</sup>

### Link Up Support

Prior to the *2012 Lifeline Reform Order*, Link Up provided qualified low-income individuals with a one-time discount on initial connection charges (up to a maximum of \$30 or one-half of the customary connection charge, whichever is less). Eligible residents of Tribal lands could receive additional Link Up support to fully cover any charges between \$60 and \$130, representing up to a maximum of \$100 in discounts on initial connection charges of \$130 or more.

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<sup>22</sup> See *id.*

<sup>23</sup> See 47 C.F.R. § 54.410(d).

<sup>24</sup> See 47 C.F.R. § 54.410(f).

<sup>25</sup> See 47 C.F.R. § 54.403(a).

<sup>26</sup> See 47 C.F.R. § 54.403(a)(1).

<sup>27</sup> See 47 C.F.R. § 54.403(a)(2).

Under the 2012 *Lifeline Reform Order*, Link Up is restricted to subscribers of ETCs receiving high cost support on Tribal lands.<sup>28</sup> As was the case prior to the *Lifeline Reform Order*, Link Up subscribers can choose to schedule deferred payments of up to \$200 over a one-year period, with the customary interest charges paid by federal support.<sup>29</sup>

### Services Designated for Support

The low income program supports voice telephony service.<sup>30</sup> Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers.<sup>31</sup>

### Advertising

ETCs offering Lifeline and Link Up are required to publicize the availability of those programs using media of general distribution "in a manner reasonably designed to reach those most likely to qualify for support."<sup>32</sup> Under the *Lifeline Reform Order*, ETCs must also indicate on all advertising materials that their service is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household.<sup>33</sup>

### Support Mechanism

The low income program is funded by the federal universal service support mechanisms, which include contributions from providers of interstate and international telecommunications, including payphone aggregators and private network operators that offer service to others for a fee on a non-common-carrier basis. These carriers and service providers may pass on contribution expenses to their customers.

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<sup>28</sup> See 47 C.F.R. § 54.413(a).

<sup>29</sup> See 47 C.F.R. § 54.413(a)(i).

<sup>30</sup> See 47 C.F.R. § 54.101(a); *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carrier,; High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link Up, Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, WT Docket No. 10-208, Order on Reconsideration, 26 FCC Rcd 17633 (2011) (*USF/ICC Order on Reconsideration*).

<sup>31</sup> See 47 C.F.R. § 54.101(a); *USF/ICC Order on Reconsideration*, FCC 11-189, at para. 3.

<sup>32</sup> See 47 C.F.R. §§ 54.405(b), 54.411(d). See also *Twelfth Report and Order*, 15 FCC Rcd at 12250, para.78 (amending sections 54.405 and 54.411 of the Commission's rules).

<sup>33</sup> See 47 C.F.R. § 54.405(c).