



441 G St. N.W.
Washington, DC 20548

B-332099

April 24, 2020

The Honorable Roger Wicker
Chairman
The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Frank Pallone, Jr.
Chairman
The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Federal Communications Commission: Promoting Telehealth for Low-Income Consumers; COVID-19 Telehealth Program*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (the Commission) entitled "Promoting Telehealth for Low-Income Consumers; COVID-19 Telehealth Program" (FCC 20-44). We received the rule on April 9, 2020. It was published in the *Federal Register* as a final order; announcement of effective date on April 9, 2020. 85 Fed. Reg. 19892. The effective date of the rule is May 11, 2020, except for the information collections requiring Office of Management and Budget approval. The portion of the rule implementing the COVID-19 Telehealth Program is effective April 9, 2020.

In the final rule, the Commission established the COVID-19 Telehealth Program and the Connected Care Pilot Program. According to FCC, the COVID-19 Telehealth Program addresses the immediate need for connected care services during the Coronavirus 2019 disease (COVID-19) pandemic, and is designed to distribute a \$200 million appropriation from Congress under the Coronavirus Aid, Relief, and Economic Security (CARES) Act to help health care providers provide connected care services to patients at their homes or mobile locations in response to the COVID-19 pandemic. Pub. L. No. 116-136, 134 Stat. 281 (2020). According to the Commission, the Connected Care Pilot Program will make available up to \$100 million over a 3-year funding period, separate from the budgets of the existing universal service programs, to cover 85 percent of the eligible costs of broadband connectivity, network equipment, and information services necessary to provide connected care services to the intended patient population.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived,

however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. §§ 553(b)(3)(B), 808(2). In the Report and Order submitted to us, the Commission stated the COVID-19 Telehealth Program is a logical outgrowth of issues on which the agency previously sought comment. The Commission determined that using additional notice and comment procedures for this emergency relief and thereby delaying its effectiveness by at least several months would be impracticable and contrary to the public interest.

Enclosed is our assessment of the Commission's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink, reading "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Trent Harkrader
Deputy Bureau Chief
Wireless Competition Bureau
Federal Communications Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
“PROMOTING TELEHEALTH FOR LOW-INCOME CONSUMERS;
COVID-19 TELEHEALTH PROGRAM”
(FCC 20-44)

(i) Cost-benefit analysis

In its submission to us, the Federal Communications Commission (Commission) indicated that it did not prepare an analysis of the costs and benefits of this final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Commission determined that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The Commission found good cause to waive notice and public procedure on the rule implementing the COVID-19 Telehealth Program. In the Report and Order submitted to us, the Commission stated the COVID-19 Telehealth Program is a logical outgrowth of issues on which the agency previously sought comment. The Commission determined that using additional notice and comment procedures for this emergency relief and thereby delaying its effectiveness by at least several months would be impracticable and contrary to the public interest

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The Commission determined that this final rule contains information collection requirements under the Act. According to the Commission, the information collection requirements associated with the COVID-19 Telehealth Program have been approved by Office of Management and Budget (OMB). The Commission states that information collection requirements associated with the Pilot Program will be submitted to OMB for review. The Commission states that it will publish a document in the *Federal Register*, which will serve as the notice announcing OMB approval of the Pilot Program information collection requirements and their effective date. According to the Commission, it assessed the effects of the information collection on small businesses and found that the benefits of providing support to help defray eligible health care providers' costs to provide connected care services to their patients and

COVID-19 relief to help meet patients' needs outweigh any significant economic impact on small entities.

Statutory authorization for the rule

The Commission promulgated this final rule pursuant to sections 201, 254, 303(r), and 403 of title 47, United States Code, and Division B of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (2020).

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the Order.