

COMMUNICATIONS ALERT**FCC, USDA, and HHS Join Forces to Improve Rural Telehealth**

On August 3, 2020, President Trump released an “Executive Order on Improving Rural Health and Telehealth Access” (the “EO”). The EO instructed the Secretary of the United States Department of Health and Human Services (“HHS”) and the Secretary of United States Department of Agriculture (“USDA”), in coordination with the Federal Communications Commission (the “FCC”) and other departments and agencies, to “develop and implement a strategy to improve rural health by improving the physical and communications healthcare infrastructure available to rural Americans.” This directive was predicated chiefly on the “unique challenges” facing the 57 million citizens living in rural communities, such as the closure of 129 rural hospitals over the past decade, “limited transportation opportunities, shortages of healthcare workers, and an inability to fully benefit from technological and care-delivery innovations.” By leveraging telehealth modalities implemented during the COVID-19 public health emergency (the “PHE”), the EO is intended “to increase access to, improve the quality of, and improve the financial economics of rural healthcare.”¹

I. The Importance of Telehealth to Rural Healthcare

According to the United States Census Bureau, “97 percent of the country’s land mass is rural but only 19.3 percent of the population lives there.”² Dwelling in widely spaced, sparsely populated settlements that are distant from metropolitan areas, rural populaces find it difficult to obtain consistent and comprehensive health care. As a November 2018 USDA Economic Research Service study notes, challenges facing these communities include “provider shortages, maldistribution of resources, quality problems, access limitations, and inefficient use.”³ As the Centers for Disease Control and Prevention (the “CDC”) has concluded, rural inhabitants are more likely than their urban counterparts to die from the five leading causes of death in the United States – “heart disease, cancer, unintentional injury, chronic lower respiratory disease, and stroke”⁴ – and have a 50% greater age-adjusted unintentional death rate.⁵

Federal lawmakers have long sought to address these disparities, establishing offices for rural health coordination and policy in various departments.⁶ In the Telecommunications Act of 1996, Congress established as

¹ Exec. Order No. 13941, 85 Fed. Reg. 47881-47882 (Aug. 3, 2020).

² America Counts Staff, “One in Five Americans Live in Rural Areas,” United States Census Bureau (Aug. 9, 2017), <https://www.census.gov/library/stories/2017/08/rural-america.html>.

³ Peter L. Stenberg, *Rural Individuals’ Telehealth Practices: An Overview*, 1, United States Department of Agriculture Economic Research Service (Nov. 2018) (“*Rural Individuals’ Telehealth Practices*”), <https://www.ers.usda.gov/webdocs/publications/90530/eib-199.pdf?v=8871.1>.

⁴ Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, *Telehealth in Rural Communities* (Aug. 18, 2020) (“*CDC Rural Telehealth*”), <https://www.cdc.gov/chronicdisease/resources/publications/factsheets/telehealth-in-rural-communities.htm>.

⁵ *Rural Individuals’ Telehealth Practices* at 1.

⁶ *See, e.g.*, 38 U.S.C. § 7308 (establishing Office of Rural Health within the Veterans Health Administration); 42 U.S.C. § 912 (establishing Office of Rural Health Policy within HHS).

a basic principle of universal service the precept that consumers, including those in rural areas, should have access to telecommunications and information services reasonably comparable to those provided in urban areas, and at comparable rates.⁷ With the emergence of the COVID-19 pandemic, and the passage of the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act,⁸ Congress has increased funding to expeditiously improve the quality, availability, and affordability of healthcare in rural areas.⁹

A critical tool in redressing the urban/rural healthcare divide is telehealth. As the Rural Health Information Hub, a national clearinghouse on rural health issues, has observed, telehealth conserves limited resources, decreases the cost of care and “allows small rural hospitals to provide quality healthcare services at lower costs and in the local healthcare facility which benefits rural patients, since they are no longer required to travel long distances to access specialty care.” Telehealth also minimizes patient transfers, which is “critical for both small hospital and provider viability in rural areas” and vital to minimizing crowding in tertiary care facilities.¹⁰ The CDC has highlighted the utility of telehealth in providing “chronic disease prevention and management programs and specialist care” to remote areas, particularly for conditions prevalent in these communities, such as diabetes, stroke care and cardiac rehabilitation, and tobacco use cessation.¹¹

Telehealth has proven itself indispensable since the outbreak of COVID-19; according to a July 28, 2020 HHS Issue Brief, “[n]early half (43.5%) of Medicare primary care visits were provided via telehealth in April, compared with less than one percent before the PHE in February (0.1%).”¹² In addition to triaging patients with possible symptoms of COVID-19, telehealth applications can provide alternative modalities for primary, specialized, and mental health care; facilitate the real-time monitoring and asynchronous evaluation of blood glucose levels and blood pressure; deliver ongoing care to residents in assisted living facilities; and provide a means for patients to “[p]articipate in physical therapy, occupational therapy, and other modalities as a hybrid approach to in-person care for optimal health.”¹³ Telehealth, in short, provides a reliable and adaptable means of “provid[ing] necessary care to patients while minimizing the transmission risk of SARS-CoV-2, the virus that causes COVID-

⁷ 47 U.S.C. § 254(b)(3); *see* 47 U.S.C. § 254(h)(1) (requiring telecommunications carriers, upon bona fide request, to provide telecommunications services to rural health care providers at reasonably comparable rates to those charged for similar services in urban areas within the same state).

⁸ Pub. L. 116-136, 134 Stat. 281 (2020).

⁹ *See* 134 Stat. at 370 (amending 42 U.S.C. § 254c to expand scope of rural health care services outreach, rural health network development, and small health care provider quality improvement grant programs to address improvements in “basic” rather than “essential” services).

¹⁰ Rural Health Information Hub, *Telehealth Use in Rural Healthcare* (Mar. 26, 2019), <https://www.ruralhealthinfo.org/topics/telehealth#improve-access>.

¹¹ CDC Rural Telehealth.

¹² Office of the Assistant Secretary for Planning and Evaluation, *Medicare Beneficiary Use of Telehealth Visits: Early Data from the Start of the COVID-19 Pandemic*, United States Department of Health and Human Services, 1 (July 28, 2020) (“*Medicare Beneficiary Use of Telehealth Visits*”), https://aspe.hhs.gov/system/files/pdf/263866/HP_IssueBrief_MedicareTelehealth_final7.29.20.pdf.

¹³ Centers for Disease Control and Prevention, *Using Telehealth to Expand Access to Essential Health Services during the COVID-19 Pandemic* (June 10, 2020) (“CDC COVID-19 Telehealth”), <https://www.cdc.gov/coronavirus/2019-ncov/hcp/telehealth.html>.

19, to healthcare personnel . . . and patients.”¹⁴

II. Rural Telehealth Funding and Deployment Prior to the Executive Order

Since the outbreak of the COVID-19 pandemic, HHS, USDA, and the FCC have accelerated their independent efforts to facilitate the deployment and use of telehealth. Many of these have centered on increasing the availability and affordability of telehealth services to rural populations.

In fiscal year 2020, HHS’s Health Resources and Services Administration (“HRSA”) has awarded over \$35 million to improve rural health care across 33 states.¹⁵ From this distribution, nearly \$1 million has been allocated to The University of Texas Health Science Center of San Antonio for the development of a Rural Telementoring Training Center, charged with disseminating “freely accessible tools and resources that are adaptable to culturally and regionally diverse populations” that “will enhance rural patients’ access to quality care using telehealth and innovative technology solutions.”¹⁶ The University of Arkansas and the University of Iowa each received a \$950,000 grant to support the Telehealth Focused Rural Health Research Center Program. This initiative, announced in February 2020, will “conduct and maintain a thorough and comprehensive evaluation of nationwide telehealth investments in rural areas and populations” from both an evidence-based and evaluation-based focus.¹⁷ Finally, 30 organizations across 22 states have received awards ranging between \$188,000 and \$300,000 under the Telehealth Network Grant Program, which supports rural telehealth initiatives in a variety of critical areas.¹⁸

Section 3704 of the CARES Act authorized the Centers for Medicare & Medicaid Services (“CMS”), a component of HHS, to permit rural health clinics and federally qualified health centers¹⁹ to provide telehealth services to Medicare beneficiaries,²⁰ “notwithstanding that the Federally qualified health center or rural clinic providing the telehealth service is not at the same location as the beneficiary.”²¹ CMS has accordingly expanded the list of telehealth services reimbursable under Medicare for the duration of the PHE²² and is in the process of making some of these additions permanent.²³

¹⁴ CDC COVID-19 Telehealth.

¹⁵ Health Resources and Service Administration, FY2020 Rural Health Communities Awards (Aug. 2020), <https://www.hrsa.gov/rural-health/fy20-awards>.

¹⁶ Health Resources and Service Administration, Rural Telementoring Training Center (Apr. 17, 2020), <https://www.hrsa.gov/grants/find-funding/hrsa-20-108>.

¹⁷ Health Resources and Service Administration, Telehealth Focused Rural Health Research Center Program (Feb. 11, 2020), <https://www.hrsa.gov/grants/find-funding/hrsa-20-023>.

¹⁸ Health Resources and Service Administration, Telehealth Network Grant Program (Feb. 11, 2020), <https://www.hrsa.gov/grants/find-funding/hrsa-20-036>.

¹⁹ See 42 U.S.C. § 1395x(aa)(2), (4).

²⁰ 134 Stat. at 416-17.

²¹ 42 U.S.C. § 1395m(m)(8)(A)(i).

²² Centers for Medicare & Medicaid Services, List of Telehealth Services (Apr. 30, 2020), <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes>.

²³ On August 17, 2020, CMS proposed its calendar year 2021 physician fee schedule (the “Medicare telehealth services list”),

USDA, through its Rural Utilities Service (“RUS”), administers the Distance Learning and Telemedicine (“DLT”) Loan and Grant Program “to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents.”²⁴ Financial assistance under the DLT is disseminated on a technology-neutral basis, but it is prioritized for “areas that are economically challenged, costly to serve, and experiencing outward migration.”²⁵ While recipients must provide a 15% matching contribution in the form of cash or in-kind contributions,²⁶ funds may be expended in a variety of ways, including the purchase of eligible computer and audio-visual equipment, qualifying instructional programming, and technical assistance acquisitions.²⁷ In 2020, \$71.7 million was allocated in an initial round of funding that closed on April 10, 2020.²⁸ On April 14, 2020, USDA announced a second round of funding for \$72 million in grants,²⁹ including \$25 million appropriated under the CARES Act.³⁰ The second round closed on July 13, 2020.³¹

which would increase the number of telehealth services eligible for Medicare reimbursement as divided between two categories: (1) services similar to telehealth consultations and office visits that are currently on the Medicare telehealth services list; and (2) services that are not similar to those currently on the Medicare telehealth services list but provide proven clinical benefits, such as facilitating diagnoses or affording treatment to “a patient population without access to clinically appropriate in-person treatment options.” 85 Fed. Reg. 50074, 50095-50110 (Aug. 17, 2020). Legislation has also been introduced to extend the duration of the telehealth coverage expansions. *See, e.g.*, Ensuring Telehealth Expansion Act of 2020, H.R. 8156, 116th Cong. (2020).

²⁴ 7 CFR § 1734.1.

²⁵ 7 CFR § 1734.2(b)-(c).

²⁶ 7 CFR § 1734.22(a)-(b).

²⁷ 7 CFR §§ 1734.3, 1734.21.

²⁸ United States Department of Agriculture, Rural Development, Rural Utilities Service, “Distance Learning and Telemedicine Grants,” RUS-20-02-DLT, 1 (Apr. 14, 2020), https://www.rd.usda.gov/sites/default/files/USDARUS2020_DLT_FOAR2CARESActFunding_04142020.pdf

²⁹ United States Department of Agriculture, “USDA Announces \$72 Million for Distance Learning & Telemedicine Program” (Apr. 24, 2020), <https://www.rd.usda.gov/node/17436>.

³⁰ 134 Stat. 507. The CARES Act also allocated an additional \$100 million to the DLT broadband loan and grant pilot program. 134 Stat. 510. This pilot program, administered under the Rural Electrification Act of 1936, 7 U.S.C. § 901 *et seq.*, was originally allocated \$600 million under Section 779 of the Consolidated Appropriations Act, 2018, Pub. L. 115-141, 132 Stat. 347, 399 (2018). It supports Internet expansion to rural areas with broadband service at 10 Mbps downstream/1 Mbps upstream or below. 134 Stat. 510.

³¹ United States Department of Agriculture, Distance Learning & Telemedicine Grants (Apr. 14, 2020), <https://www.rd.usda.gov/programs-services/distance-learning-telemedicine-grants>. Separately, USDA continues to administer the second round of the Rural eConnectivity Pilot Program (“ReConnect Program”). Originally authorized by Congress in 2018, the fiscal year 2020 iteration of the ReConnect Program provides “\$200 million for grants, up to \$200 million for 50/50 grant/loan combinations, and up to \$200 million for low-interest loans” for “private sector investment to deploy broadband infrastructure to provide high-speed internet e-Connectivity to as many rural premises as possible,” per applications received between January 31, 2020, and April 15, 2020. 84 Fed. Reg. 67913 (Dec. 12, 2019); United States Department of Agriculture, Program Overview (2019), <https://www.usda.gov/reconnect/program-overview>. \$698 million was disseminated in the first round of the ReConnect Program, funding 79 projects across 33 states in fiscal year 2019. United States Department of Agriculture, Reconnect Program FY 2019 Funding Opportunity Announcement Awardees

On April 2, 2020, the FCC promulgated its *Promoting Telehealth for Low-Income Consumers* and *COVID-19 Telehealth Program* Report and Order (the “Order”),³² which launched a three-year, \$100 million Connected Care Pilot Program that will provide selected telehealth institutions with an 85% discount on “broadband connectivity, network equipment, and information services necessary to provide connected care services.”³³ Applications were originally due on July 31, 2020, but have been put on indefinite hold;³⁴ the FCC has disseminated additional information on the application process in the interim.³⁵ The *Order* also established a COVID-19 Telehealth Program (the “CTP”), which reimburses participants for investments in connected care services and devices under the aegis of a \$200 million emergency appropriation under the CARES Act.³⁶ On July 8, 2020, the Commission completed its allocation of monies under the CTP, having approved 539 funding applications across 47 states and the District of Columbia and Guam.³⁷

III. The HHS, USDA, and FCC Partnership

On August 27, 2020, as directed by the EO, the FCC entered into a Memorandum of Understanding (the “MOU”) with HHS and USDA and their respective component agencies (CMS and HRSA for HHS; the Rural Housing Service, Rural Business Service, and RUS for USDA). The MOU establishes a framework by which these agencies can coordinate their efforts to ameliorate the “unique health challenges” facing the nation’s 57 million rural residents, such as a shrinking number of hospitals, a dearth of health care providers, and “[a] lack of access to broadband and broadband related health care services.” Pursuant to the MOU, these agencies will “share their complementary technical and policy expertise designing and implementing activities” that include the establishment of a Rural Telehealth Initiative Task Force, consideration of recommendations and/or guidelines, and “[e]xchange of agency expertise, scientific and technical information, data, and publications, as needed.”³⁸ On September 1, 2020, FCC Chairman Pai, HHS Secretary Azar, and USDA Secretary Perdue each noted the profound impact that “joining forces” would have on increasing rural Americans’ access to telehealth and thereby their ability to obtain “quality, affordable care.”³⁹ While a federal inter-agency working group on general telehealth issues has existed

(2020), <https://www.usda.gov/reconnect/round-one-awardees>.

³² *Promoting Telehealth for Low-Income Consumers*; 35 FCC Rcd 3366 (2020).

³³ *Order* ¶ 38.

³⁴ Federal Communications Commission, Connected Care Pilot Program (Aug. 10, 2020), <https://www.fcc.gov/wireline-competition/telecommunications-access-policy-division/connected-care-pilot-program>.

³⁵ See WC Docket No. 18-213, *Wireline Competition Bureau Provides Additional Information Concerning the Connected Care Pilot Program*, DA 20-1019 (Sept. 3, 2020), <https://docs.fcc.gov/public/attachments/DA-20-1019A1.pdf>.

³⁶ 134 Stat 531.

³⁷ Federal Communications Commission, “FCC Approves Final Set of COVID-19 Telehealth Program Applications (July 8, 2020), <https://docs.fcc.gov/public/attachments/DOC-365417A1.pdf>.

³⁸ “Memorandum of Understanding for Planning a Rural Telehealth Initiative among the U.S. Department Of Health and Human Services and U.S. Department Of Agriculture and The Federal Communications Commission,” 1-4 (Aug. 27, 2020), <https://www.hhs.gov/sites/default/files/rural-telehealth-mou-hhs-usda-fcc.pdf>.

³⁹ United States Department of Agriculture, “Federal Communications Commission, U.S. Department of Health and Human Services, and U.S. Department of Agriculture Team Up for Rural Health Initiative” (Sept. 1, 2020),

since 2011,⁴⁰ the MOU marks the first inter-governmental alliance on telehealth focused on such a definite goal.

On September 3, 2020, HHS released its Rural Action Plan (“RAP”), “the first HHS-wide assessment of rural healthcare efforts in more than 18 years” and “a roadmap for HHS to strengthen departmental coordination to better serve the millions of Americans who live in rural communities across the United States.”⁴¹ The RAP emphasized its upcoming collaboration efforts with USDA (which provides “economic development and essential services” such as “communications infrastructure” to rural areas), the FCC (which “works to increase access to broadband for eligible health care providers, especially those serving rural areas” and supports efforts by “rural health care providers [to] fully leverage the promise of health IT, including expanded use of telehealth”) and the Veterans Administration (which has been “an innovator in the use of electronic health records and telehealth” with respect to rural veterans’ medical needs).⁴² For its own part, HHS described its plan to recast its Office for the Advancement of Telehealth (“OAT”) as “a focal point on telehealth that will serve as a resource across HHS and enhance coordination with other key federal and private sector partners. . . . build[ing] on the key regulatory and program investments in the wake of the COVID-19 pandemic that have expanded the use of telehealth nationally.”⁴³

IV. Looking Forward

As HHS Secretary Azar remarked of the COVID-19 Insights Partnership – an alliance between HHS, the Department of Veterans Affairs, and the Department of Energy focused on “vaccine and therapeutic development and outcomes, virology and other critical scientific topics” – a “whole-of-government approach” is vital to confronting the pandemic and its effects on the nation’s health.⁴⁴ The partnership between HHS, USDA, and the FCC embodies this approach, marshalling expertise in telecommunications, infrastructure, and health care to

<https://www.usda.gov/media/press-releases/2020/09/01/federal-communications-commission-us-department-health-and-human>.

⁴⁰ “The Federal Telemedicine Working Group (FedTel) was established in April 2011 to help discuss and reduce organizational silos, facilitate telehealth education and information sharing amongst members, and summarize key telehealth activities of the participants.” Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, United States Department of Health and Human Services, *E-health and Telemedicine*, 10 (Aug. 12, 2016), <https://aspe.hhs.gov/system/files/pdf/206751/TelemedicineE-HealthReport.pdf>. FedTel currently is comprised of 35 agencies and departments, including the FCC, USDA, the National Institutes of Health, the CDC, and the Indian Health Service. Sadie Silcott, MBA, MPH, Deputy Director, Office for the Advancement of Telehealth, Federal Office of Rural Health Policy, Health Resources and Services Administration, “New SORH Directors Orientation,” 19 (Nov. 6, 2019) (“SORH Orientation”), <https://nosorh.org/wp-content/uploads/2019/11/OAT-Division-Overview-SORH-Orientaiton.pdf>.

⁴¹ Department of Health and Human Services, “HHS Releases Rural Action Plan” (Sept. 3, 2020), <https://www.hhs.gov/about/news/2020/09/03/hhs-releases-rural-action-plan.html>.

⁴² United States Department of Health and Human Services, *Rural Action Plan*, 16-17 (Sept. 2020) (“RAP”) <https://www.hhs.gov/sites/default/files/hhs-rural-action-plan.pdf>.

⁴³ RAP at 20 (“OAT, while located in HRSA, will have an HHS-wide charge to link together the Department’s broad efforts in leveraging telehealth to improve access, enhance outcomes, and support clinicians and patients.”). As presently operated, OAT promotes the use of telehealth in the context of health care, education, and health information services through “various programmatic grants and cooperative agreements.” SORH Orientation at 2.

⁴⁴ United States Department of Veterans Affairs, Office of Public and Intergovernmental Affairs, “VA and partner agencies announce COVID-19 Insights Partnership” (July 28, 2020), <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5490>.

markedly improve the welfare of rural communities in the face of a pernicious pandemic.⁴⁵

This partnership also presages a new approach to long-standing issues of rural connectivity, as can be witnessed with the FCC’s television white space (“TVWS”) initiative. On March 2, 2020, the FCC released its *Unlicensed White Space Device Operations in the Television Bands* Notice of Proposed Rulemaking (“NPRM”), which capped a ten-year proceeding on how to utilize unused “portions of the VHF and UHF broadcast television bands” to facilitate “affordable broadband service to rural and underserved communities that can help close the digital divide.”⁴⁶ The NPRM followed a December 2019 letter from the American Telemedicine Association and Connect Americans Now – a coalition of more than 250 organizations in the agriculture, educational, medical, and business fields⁴⁷ – that urged the FCC to adopt rule reforms meant to “maximiz[e] the use of TVWS technology for broadband deployments.”⁴⁸

On June 16, 2020, a group of 14 lawmakers urged the FCC “to continue the important, ongoing work to close the digital divide through all means available, including by finalizing rules to enable the nationwide use of television white spaces.” TVWS, the letter asserted, could facilitate superior wireless coverage in areas with geographic barriers to signal penetration (such as forests and mountains) “with minimal infrastructure, which makes it especially cost-effective.”⁴⁹ Chairman Pai responded on August 21, 2020, agreeing that TVWS, which operates on an unlicensed basis, offers an economical solution to spectrum deployment in remote areas. Promising to “aggressively deploy spectrum to support the growing need for distance learning, telehealth, and telemedicine,” he announced the FCC’s intent to finalize TVWS rules by the end of 2020.⁵⁰

⁴⁵ As the July 28, 2020 HHS Issue Brief noted, rural health care providers saw less use of telehealth in March and April 2020, and a larger decline in use in May 2020, than providers in urban areas. Broadband deployment may explain this disparity – per FCC data, “on average 78.9% of the population had broadband access in rural areas compared to 99.8% of the population in urban areas. However this varies widely by area, with the lowest availability covering just 36% and 15% of the urban and rural population.” *Medicare Beneficiary Use of Telehealth Visits* at 8-9 (citing Federal Communications Commission, *Fixed Broadband Deployment, Area Comparison*, as of June 2019, https://broadbandmap.fcc.gov/#/areacomparison?version=jun2019&tech=acfosw&speed=25_3&searchtype=county). Addressing this disparity – which runs from the affordability and speed of broadband services to the promotion of telehealth applications that use it among rural populations – will require the combined efforts of these three agencies. *See, e.g., Rural Individuals’ Telehealth Practices* at 26 (“Health providers, however, continue to improve their offerings, so needs for high-quality household broadband service will likely increase if patients are to avail themselves of these new services, especially in rural and poor areas where lower quality broadband Internet service tends to be more common.”).

⁴⁶ *Unlicensed White Space Device Operations in the Television Bands*, 35 FCC Rcd 2101, ¶¶ 1, 3 (2020).

⁴⁷ Connect Americans Now, Our Coalition, <https://connectamericansnow.com/our-coalition/>.

⁴⁸ Letter from Connect Americans Now, et al., to Ajit Pai, Chairman, Federal Communications Commission (Dec. 18, 2019), <https://connectamericansnow.com/wp-content/uploads/2019/12/CAN-FCC-FNPRM-Letter-12.18.19.pdf>.

⁴⁹ Letter from Peter Welch, Member of Congress, et al., to Federal Communications Commission (June 16, 2020), <https://docs.fcc.gov/public/attachments/DOC-366546A1.pdf>.

⁵⁰ Letters from Ajit V. Pai, Chairman, Federal Communications Commission, to Peter Welch, Member of Congress, et al. (Aug. 21, 2020), <https://docs.fcc.gov/public/attachments/DOC-366546A2.pdf>.

On August 13, 2020, the Connected Health Initiative (“CHI”) of ACT, the App Association,⁵¹ proposed joint action by the agencies named in the EO, believing widespread support for TVWS “imperative to provide rural Americans across the country with robust broadband access and to enable rural healthcare providers to utilize such connectivity to deliver improved care at lower costs.” HHS, it suggested, might “expand its support for, and reduce barriers for using, Medicare telehealth services; further incentivize the use of asynchronous technologies (e.g., remote physiologic monitoring, e-visits, and other modalities) for disease prevention, diagnosis, and treatment; and modernize regulatory burdens on healthcare providers and patients who utilize new and innovative technology solutions.” The FCC, in addition to advancing its TVWS proposals as soon as possible, should expand the scope of its Rural Health Care Program;⁵² the RUS should complement these efforts by providing grants for “wireless connectivity projects” and “consider applicants providing wireless broadband solutions with TVWS technologies in their proposals as imperative ‘last-mile’ connectivity essential to continuing the efforts for closing the digital divide.”⁵³ Cross-agency solutions of this sort may soon become the norm, as telehealth becomes an increasingly important component of the nation’s healthcare system, both for the duration of the PHE and beyond.

V. Conclusion

The response to the COVID-19 pandemic has dramatically accelerated and expanded efforts to ensure that rural communities have adequate access to telecommunications services, recognizing the key role that telehealth will play in responding to the disease. Given the increased interest in these issues and coordination efforts across the government, we can expect additional rapid changes, growth, and new government resources directed at these areas.

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⁵¹ ACT, the App Association, “represents more than 5,000 app makers and connected device companies. . . . in all 27 member countries of the European Union and in all 435 congressional districts of the United States” ACT, The App Association, Learn More, <https://actonline.org/about-3/>. CHI – comprised of health care providers, insurance companies, vendors, and connected health technology companies – “works to clarify outdated health regulations, incentivize the use of connected health technologies, and ensure an environment in which patients and consumers can see improvement in their health.” Connected Health Initiative, About Us, <http://www.connectedhi.com/#aboutus>.

⁵² The Rural Health Care Program, supported by the federal Universal Service Fund, provides rural health care providers with discounted telecommunications service rates and support for eligible services, equipment, and infrastructure related to high-speed broadband connectivity. *See* 47 CFR § 54.602(a), (b).

⁵³ Letter to Ajit V. Pai, Chairman, Federal Communications Commission, et al., from Brian Scarpelli, Senior Global Policy Counsel, Connected Health Initiative, 1-3 (Aug. 13, 2020), <https://actonline.org/wp-content/uploads/CHI-Ltr-re-Rural-Health-EO-Sec-3-081320.pdf>.

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