

April 2024 Announced as the Final Month for Full ACP Reimbursements

March 7, 2024

Less than two months after announcing plans and guidance for winding down the Affordable Connectivity Program (ACP) (see our prior Alert here), the Federal Communications Commission's (FCC) Wireline Competition Bureau (Bureau) released a Public Notice establishing April 2024 as the final month that providers will be fully reimbursed for providing ACP-supported service to participating households, and May 2024 as the final month that the ACP will provide partial reimbursement of any ACP benefit provided to participating households. A summary of the Public Notice is provided below.

Discussions continue on Capitol Hill regarding continued funding for the ACP. Lawmakers are considering various proposals to fund the ACP in the short term, including borrowing money from the U.S. Treasury or earmarking future spectrum auction revenue, but it is unclear whether these proposals will generate enough bipartisan support. With dwindling legislative days as the election draws closer, finding a funding solution that can pass both the House and Senate remains an uphill battle. Broader discussions regarding reforms to the Universal Service Fund and whether the ACP can be rolled into that fund will likely continue throughout the year.

Additional Wind Down Guidance Is Provided

As previewed in the ACP Wind-Down Order, the Bureau has forecasted that April 2024 will be the last month that providers will receive full reimbursement for providing ACP-supported service to households subscribed in the program and eligible to receive the benefit. After April, reimbursement claims are expected to exceed the amount of remaining funds. Thus, providers choosing to participate in

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the ACP for May 2024 should plan to pass through (and seek limited reimbursement for) a reduced benefit to eligible households, the amount of which will be calculated on a pro-rata basis. Absent additional funding or other action by Congress to extend the availability of ACP benefits, the program will end in May 2024.

The second of three required notices must be sent to ACP households by March 19, 2024, and must include 1) the date of the last bill on which the full ACP benefit will be applied, and 2) the monthly billing amount after the ACP benefit is no longer available; and must remind ACP households of their right to change or opt out of continuing their service at the end of the program. A third notice containing the same information must be sent at the same time as the last bill or billing cycle in which the full ACP benefit is applied.

Providers that intend to claim and pass through a partial benefit to ACP households for May 2024 must provide an additional notice to consumers that have opted in to continue receiving and paying for broadband service after the full ACP benefit is no longer applied. This written notice, which must state that the benefit amount applied to the May bill may be less than the full ACP benefit and that the household will be subject to the provider's fully undiscounted rates and general terms and conditions after the last bill to which any partial benefit is applied, may be included with the other required notices or sent separately. Moreover, providers are encouraged to offer additional information about lower cost offerings and low-income programs that may further the FCC's goal of keeping as many households as possible connected to internet service after the ACP benefit ends.

Providers Are Reminded About Continuing Consumer Protection And Program Compliance Requirements

The Public Notice reminds providers that they remain subject to the ACP consumer protection requirements in Section 54.1810 of the FCC's rules, including transfer of benefit-related provisions, restrictions on terminating ACP-supported service for delinquent payment and early termination fees, and engagement in unjust or unreasonable practice such as continuing to advertise the availability of the ACP benefit after the program ends. Providers are also reminded that they will no longer be required to include information about the ACP on their broadband labels as required by the FCC's Broadband Label Order, and that they must continue to de-enroll subscribers when required under the FCC's rules.

If you have questions about the ACP or next steps, please contact one of the attorneys listed on this alert or your usual Wiley contact.