

(iv) Responding to direct contact from the eligible communications carrier and confirming that he or she wants to continue receiving Lifeline service; or

(v) Sending a text message.

(d) In order to receive universal service support reimbursement, an officer of each eligible telecommunications carrier must certify, as part of each request for reimbursement, that:

(1) The eligible telecommunications carrier is in compliance with all of the rules in this subpart; and

(2) The eligible telecommunications carrier has obtained valid certification and recertification forms to the extent required under this subpart for each of the subscribers for whom it is seeking reimbursement.

(e) In order to receive universal service support reimbursement, an eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline services. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this subpart.

[77 FR 12970, Mar. 2, 2012, as amended at 77 FR 38534, June 28, 2012; 80 FR 35577, June 22, 2015; 80 FR 40935, July 14, 2015; 81 FR 33091, May 24, 2016]

EFFECTIVE DATE NOTE: At 81 FR 33091, May 24, 2016, §54.407 was amended by revising paragraphs (a), (c)(2), and (d). These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 54.408 Minimum service standards.

(a) As used in this subpart, with the following exception of paragraph (a)(2) of this section, a minimum service standard is:

(1) The level of service which an eligible telecommunications carrier must provide to an end user in order to receive the Lifeline support amount.

(2) The minimum service standard for mobile broadband speed, as described in paragraph (b)(2)(i) of this section, is the level of service which an eligible telecommunications carrier must both advertise and provide to an end user.

(b) Minimum service standards for Lifeline supported services will take ef-

fect on December 1, 2016. The minimum service standards set forth below are subject to the conditions in §54.401. The initial minimum service standards, as set forth in paragraphs (b)(1) through (3) of this section, will be subject to the updating mechanisms described in paragraph (c) of this section.

(1) Fixed broadband will have minimum service standards for speed and data usage allowance, subject to the exceptions in paragraph (d) of this section.

(i) The minimum service standard for fixed broadband speed will be 10 Megabits per second downstream/1 Megabit per second upstream.

(ii) The minimum service standard for fixed broadband data usage allowance will be 150 gigabytes per month.

(2) Mobile broadband will have minimum service standards for speed and data usage allowance.

(i) The minimum service standard for mobile broadband speed will be 3G.

(ii) The minimum service standard for mobile broadband data usage allowance will be:

(A) From December 1, 2016 until November 30, 2017, 500 megabytes per month;

(B) From December 1, 2017, until November 30, 2018, 1 gigabyte per month;

(C) From December 1, 2018 until November 30, 2019, 2 gigabytes per month; and

(D) On and after December 1, 2019, the minimum standard will be calculated using the mechanism set forth in paragraphs (c)(2)(ii)(A) through (D) of this section. If the data listed in paragraphs (c)(2)(ii)(A) through (D) do not meet the criteria set forth in paragraph (c)(2)(iii) of this section, then the updating mechanism in paragraph (c)(2)(iii) will be used instead.

(3) The minimum service standard for mobile voice service will be:

(i) From December 1, 2016, until November 30, 2017, 500 minutes;

(ii) From December 1, 2017, until November 30, 2018, 750 minutes; and

(iii) On and after December 1, 2018, the minimum standard will be 1000 minutes.

(c) Minimum service standards will be updated using the following mechanisms:

(1) Fixed broadband will have minimum service standards for speed and data usage allowance. The standards will be updated as follows:

(i) The standard for fixed broadband speed will be updated on an annual basis. The standard will be set at the 30th percentile, rounded up to the nearest Megabit-per-second integer, of subscribed fixed broadband downstream and upstream speeds. The 30th percentile will be determined by analyzing FCC Form 477 Data. The new standard will be published in a Public Notice issued by the Wireline Competition Bureau on or before July 31, which will give the new minimum standard for the upcoming year. In the event that the Bureau does not release a Public Notice, or the data are older than 18 months, the minimum standard will be the greater of:

(A) The current minimum standard; or

(B) The Connect America Fund minimum speed standard for rate-of-return fixed broadband providers, as set forth in 47 CFR 54.308(a).

(ii) The standard for fixed broadband data usage allowance will be updated on an annual basis. The new standard will be published in a Public Notice issued by the Wireline Competition Bureau on or before July 31, which will give the new minimum standard for the upcoming year. The updated standard will be the greater of:

(A) An amount the Wireline Competition Bureau deems appropriate, based on what a substantial majority of American consumers already subscribe to, after analyzing Urban Rate Survey data and other relevant data; or

(B) The minimum standard for data usage allowance for rate-of-return fixed broadband providers set in the Connect America Fund.

(2) Mobile broadband will have minimum service standards for speed and capacity. The standards will be updated as follows:

(i) The standard for mobile broadband speed will be updated when, after analyzing relevant data, including the FCC Form 477 data, the Wireline Competition Bureau determines such an adjustment is necessary. If the standard for mobile broadband speed is updated, the new standard will

be published in a Public Notice issued by the Wireline Competition Bureau.

(ii) The standard for mobile broadband capacity will be updated on an annual basis. The standard will be determined by:

(A) Dividing the total number of mobile-cellular subscriptions in the United States, as reported in the *Mobile Competition Report* by the total number of American households, as determined by the U.S. Census Bureau, in order to determine the number of mobile-cellular subscriptions per American household. This number will be rounded to the hundredths place and then multiplied by;

(B) The percentage of Americans who own a smartphone, according to the Commission's annual *Mobile Competition Report*. This number will be rounded to the hundredths place and then multiplied by;

(C) The average data used per mobile smartphone subscriber, as reported by the Commission in its annual *Mobile Competition Report*. This number will be rounded to the hundredths place and then multiplied by;

(D) Seventy (70) percent. The result will then be rounded up to the nearest 250 MB interval to provide the new monthly minimum service standard for the mobile broadband data usage allowance.

(iii) If the Wireline Competition Bureau does not release a Public Notice giving new minimum standards for mobile broadband capacity on or before July 31, or if the necessary data needed to calculate the new minimum standard are older than 18 months, the data usage allowance will be updated by multiplying the current data usage allowance by the percentage of the year-over-year change in average mobile data usage per smartphone user, as reported in the *Mobile Competition Report*. That amount will be rounded up to the nearest 250 MB.

(d) *Exception for certain fixed broadband providers.* Subject to the limitations in paragraphs (d)(1) through (4) of this section, the Lifeline discount may be applied for fixed broadband service that does not meet the minimum standards set forth in paragraph (b)(1) of this section. If the provider, in a given area:

(1) Does not offer any fixed broadband service that meets our minimum service standards set forth in paragraph (b)(1) of this section; but

(2) Offers a fixed broadband service of at least 4 Mbps downstream/1 Mbps upstream in that given area; then,

(3) In that given area, a fixed broadband provider may receive Lifeline funds for the purchase of its highest performing generally available residential offering, lexicographically ranked by:

- (i) Download bandwidth;
- (ii) Upload bandwidth; and
- (iii) Usage allowance.

(4) A fixed broadband provider claiming Lifeline support under this section will certify its compliance with this section's requirements and will be subject to the Commission's audit authority.

(e) Except as provided in paragraph (d) of this section, eligible telecommunications carriers shall not apply the Lifeline discount to offerings that do not meet the minimum service standards.

(f) *Equipment requirement.* (1) Any fixed or mobile broadband Lifeline provider, which provides devices to its consumers, must ensure that all such devices provided to a consumer are Wi-Fi enabled.

(2) A Lifeline provider may not institute an additional or separate tethering charge for any mobile data usage that is below the minimum service standard set forth in paragraph (b)(2) of this section.

(3) Any mobile broadband Lifeline provider which provides devices to its consumers must offer at least one device that is capable of being used as a hotspot. This requirement will change as follows:

(i) From December 1, 2017 to November 30, 2018, a provider that offers devices must ensure that at least 15 percent of such devices are capable of being used as a hotspot.

(ii) From December 1, 2018 to November 30, 2019, a provider that offers devices must ensure that at least 20 percent of such devices are capable of being used as a hotspot.

(iii) From December 1, 2019 to November 30, 2020, a provider that offers devices must ensure that at least 25

percent of such devices are capable of being used as a hotspot.

(iv) From December 1, 2020 to November 30, 2021, a provider that offers devices must ensure that at least 35 percent of such devices are capable of being used as a hotspot.

(v) From December 1, 2021 to November 30, 2022, a provider that offers devices must ensure that at least 45 percent of such devices are capable of being used as a hotspot.

(vi) From December 1, 2022 to November 30, 2023, a provider that offers devices must ensure that at least 55 percent of such devices are capable of being used as a hotspot.

(vii) From December 1, 2023 to November 30, 2024, a provider that offers devices must ensure that at least 65 percent of such devices are capable of being used as a hotspot.

(viii) On December 1, 2024, a provider that offers devices must ensure that at least 75 percent of such devices are capable of being used as a hotspot.

[81 FR 33091, May 24, 2016]

EFFECTIVE DATE NOTE: At 81 FR 33091, May 24, 2016, § 54.408 was added and at FR 45974, July 14, 2016, paragraphs (f)(1), (f)(2), and (f)(3) were amended. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 54.409 Consumer qualification for Lifeline.

(a) To constitute a qualifying low-income consumer:

(1) A consumer's household income as defined in § 54.400(f) must be at or below 135% of the Federal Poverty Guidelines for a household of that size; or

(2) The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; or Veterans and Survivors Pension Benefit.

(b) A consumer who lives on Tribal lands is eligible for Lifeline service as a "qualifying low-income consumer" as defined by § 54.400(a) and as an "eligible resident of Tribal lands" as defined by § 54.400(e) if that consumer meets the