



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 03-123, 10-51; FCC 20-7; FRS 16658]

Video Relay Service Call Handling

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) authorizes Telecommunications Relay Services (TRS) Fund compensation of video relay service (VRS) providers for calls handled by communications assistants (CAs) from home workstations, subject to safeguards for service quality, call confidentiality, and prevention of waste, fraud, and abuse.

DATES: *Effective Date:* These rules are effective [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], except for amendments to §§ 64.604 and 64.606, which are delayed. The Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Michael Scott, Consumer and Governmental Affairs Bureau, at (202) 418-1264, or e-mail Michael.Scott@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, document FCC 20-7, adopted on January 30, 2020, released on January 31, 2020, in CG Docket Nos. 10-51 and 03-123. The Commission previously sought comment on the issue in a Further Notice of Proposed Rulemaking (*2019 VRS Program Management FNPRM*), published at 84 FR 26379, June 6, 2019. The full text of document FCC 20-7 will be available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS). To request materials in accessible formats for people with disabilities (Braille, large print, electronic

files, audio format), send an email to fcc504@fcc.gov, or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

Congressional Review Act

The Commission sent a copy of document FCC 20-7 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Final Paperwork Reduction Act of 1995 Analysis

Document FCC 20-7 contains modified information collection requirements, which are not effective until approval is obtained from the Office of Management and Budget (OMB). As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public to comment on the information collection requirements as required by the Paperwork Reduction Act of 1995, Public Law 104-13. The Commission will publish a separate document in the **Federal Register** announcing approval of the information collection requirements. Pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, 44 U.S.C. 3506(c)(4), the Commission previously sought comment on how the Commission might “further reduce the information burden for small business concerns with fewer than 25 employees.” *2019 VRS Program Management FNPRM*.

SYNOPSIS

1. The Commission authorizes TRS Fund compensation of VRS providers for calls handled by CAs from home workstations, converting the existing pilot at-home call-handling program to a permanent one. VRS enables people with hearing or speech disabilities who use American Sign Language (ASL) to employ video equipment to communicate with voice telephone users. A video link allows a CA and the VRS user on the video side of the call to view and sign with each other, and the CA is also connected to a user on the voice side of the call via telephone. The CA interprets and relays the conversation back and forth between the two parties.
2. Allowing VRS CAs to work at home under appropriate regulation can improve the efficiency and effectiveness of VRS. Adding this flexibility enables VRS providers to attract and

retain qualified CAs for whom working at the companies' call centers is not a practical option, and working at home can reduce CA stress and improve productivity and performance. Further, at-home call handling can improve network reliability and redundancy, and there is potential for cost savings. By largely retaining the safeguards established in the *2017 VRS Improvements Order*, published at 82 FR 17754, April 13, 2017, the Commission can permit at-home VRS call handling without increasing the risk of waste, fraud, and abuse or endangering the confidentiality, reliability, and quality of VRS. In adopting these safeguards as minimum TRS standards, the Commission also simplifies the organization and wording of the rules to provide a clearer and more concise statement of provider obligations.

3. *Maximum percentage of at-home minutes.* The Commission raises the percentage cap on a provider's at-home call-handling to 50% of the provider's monthly VRS minutes, continuing the pilot-program approach whereby at-home workstations for VRS CAs complement rather than replace the functions performed at call centers.

4. *Personnel safeguards.* The Commission adopts a few substantive changes to these safeguards. *First*, rather than requiring CAs working from home to have three years of *VRS call center* experience, the Commission requires three years of full-time or equivalent part-time experience in professional ASL interpreting, whether in a community, business, VRS, or other context.

5. *Second*, the Commission retains the pilot program requirement for at-home CAs to receive training on compliance with at-home safeguards and the provider's specific protocols for handling calls at home. However, because the Commission's rules already require a detailed plan describing how the VRS provider will ensure compliance, the Commission deletes as redundant the specific requirement that VRS providers establish at-home protocols.

6. *Third*, while continuing to require that a CA be removed from at-home call handling if the CA violates the at-home safeguards or other Commission rules, the Commission deletes the specific requirements that VRS providers establish and provide to CAs in writing the specific

grounds and process for terminating a CA's permission to work at home and to have at-home CAs sign written certifications as to their understanding of and commitment to comply with the Commission's rules. VRS providers are required to effectively train and supervise at-home CAs and are responsible for their CAs' compliance with the minimum TRS standards.

7. *Technical and environmental safeguards.* The Commission adopts the pilot program's technical and environmental safeguards without substantial changes. VRS providers must ensure that home workstations enable the provision of confidential and uninterrupted service to the same extent as the provider's call centers, and that calls handled by at-home CAs are seamlessly integrated into the provider's call-routing, distribution, tracking, and support systems. The VRS provider must ensure that each home workstation resides in a separate, secure location within the home, with restricted access; allows the CA to use all call-handling technology to the same extent as call-center CAs; is capable of supporting VRS in compliance with the Commission's mandatory minimum standards to the same degree as at call centers; is equipped with effective means to prevent eavesdropping and outside interruptions; and connects to the provider's network over a secure connection to ensure caller privacy. These performance-based standards allow providers flexibility in deciding how to achieve technical and environmental parity with call-center workstations, enabling the specific implementations to adapt and improve as technology changes.

8. The Commission provides the following clarifications to help VRS providers understand their compliance options. It is the VRS provider's responsibility to ensure that its CAs comply with the security-related safeguards for home workstations, which are intended to protect the confidentiality of user information and call content in accordance with longstanding TRS rules. Measures to ensure that home workstations have security equivalent to that of a call center may include, for example, password protection for equipment, a lock on the door to the CA's workspace, a virtual private network connection to the VRS provider's network, VRS call encryption, soundproofing material, and sound-dampening installations, such as a white noise

machine. Although the VRS provider is responsible for ensuring secure communications between the home workstation and the provider's network, the rules do not require subscription to a separate broadband Internet access line dedicated solely to that purpose.

9. Similarly, a VRS provider must ensure the overall redundancy of its communications system, which must be functionally equivalent to the redundancy achieved by telephone networks, and the inclusion of at-home interpreting may be part of a provider's plan. The Commission's rules do not require VRS providers to duplicate each element of redundancy, such as back-up power and business-grade Internet access service, at each home workstation.

10. The Commission also clarifies that "home workstation" includes any work site that is used by a single CA or by multiple CAs working different shifts. If a home (other than a shared residence) or other work site is used simultaneously by more than one CA, that location will be deemed a VRS call center subject to the applicable Commission rules. This clarification ensures that the Commission is aware of the location and responsible supervisor for each such work site housing multiple CAs. However, if two or more CAs share a residence, it will not be deemed a "call center" even if they work there simultaneously.

11. *Emergency call handling.* The Commission retains the requirement that home workstations support the handling of emergency calls. The Commission does not allow the transfer of an emergency 911 call from an at-home CA to a call center CA, which would introduce delay. However, the Commission clarifies that, if the CAs available to immediately answer a 911 call include both call-center and at-home CAs, a VRS provider's call-routing algorithm may give preference to having the call answered at a call center, provided that such routing is consistent with the priority treatment required by the Commission's rules and does not delay answering the 911 call. The Commission will continue to assess the performance of at-home CAs in emergencies and will revisit this issue if the evidence warrants.

12. *Authorization to participate.* The Commission does not require currently certified VRS providers—each of whom was previously approved to participate in the pilot program—to

seek further authorization for at-home call handling. A new applicant for VRS certification desiring to use at-home call handling must request such authorization as part of its application. As under the pilot program, such authorization requests must include a detailed description of how the applicant will comply with the at-home call-handling safeguards and the monitoring and oversight requirements. All VRS providers authorized for at-home call handling, including currently authorized providers, must inform the Commission in their annual VRS compliance reports of any substantive changes to their previously filed compliance plans. Because the at-home call-handling safeguards and requirements are part of the Commission's mandatory minimum standards, noncompliance with such standards, or failure to adhere to a filed at-home compliance plan, may be considered in determining whether to grant or deny renewal of, or whether to suspend or revoke, a certification to provide VRS. Because it is redundant with existing rules relating generally to TRS providers, the Commission deletes the separate provision stating that VRS providers may also be subject to withholding, forfeitures, and penalties for noncompliant minutes handled by home workstations.

13. *Monitoring, oversight, auditing, and inspection requirements.* The Commission adopts without substantive change the pilot program's monitoring, oversight, auditing, and inspection requirements. These rules require VRS providers to inspect and approve each home workstation before it is used; equip each home workstation with monitoring technology sufficient to ensure that CA performance is supervised to the same extent as CAs in a call center; regularly analyze any data collected to address possible waste, fraud, and abuse; conduct random, unannounced inspections of at least 5% of home workstations per year; keep all records pertaining to home workstations for a minimum of five years; and allow review, audit, and inspection of home workstations and workstation records by the Commission and the TRS Fund administrator. The Commission clarifies that the rule requiring a VRS provider to conduct initial and periodic inspections of each home workstation does not specify how the inspections are conducted, provided that such inspections are consistent with the provider's at-home compliance

plan and are effective in determining whether the CA's home workstation and workspace are in compliance with the at-home safeguards.

14. The Commission retains the pilot program's five-year retention period for at-home call-handling data, which will provide greater assurance that relevant information is available and can be reviewed, if necessary, in deciding whether renewal of a VRS provider's certification is warranted. This is consistent with the retention periods for other VRS provider records, such as the data supporting cost reports and claims for payment from the TRS Fund.

15. *Call detail reports and call center information.* The Commission adopts without substantive change the pilot program rules requiring monthly requests for compensation to include, for each at-home CA, a home workstation identification number (ID), street address, and CA ID; and the call center ID, location, and supervisor name for the call center supervising that CA. Collecting such data ensures that the TRS Fund administrator and the Commission are able to review, audit, and, if necessary, investigate the handling of calls at home workstations to the same extent as at call centers.

16. *Annual reports.* In lieu of the semi-annual report required under the pilot program, the Commission requires VRS providers to include at-home call-handling data in their annual VRS compliance reports. These reports must include the same information that has proved useful in evaluating call-handling performance under the pilot program: the total number of CAs who have worked at home during the reporting period; the total number of 911 calls handled during the reporting period; and the total number of complaints, if any, submitted to the provider regarding its at-home call-handling program or calls handled by at-home CAs.

17. The Commission deletes the specific pilot-program requirements for the submission of detailed information about the at-home CA screening process, at-home CA training materials and call-handling protocols, CA surveys and self-evaluations, CAs terminated from the program, inspections of home workstations, oversight of CAs working at home, tracking software reports, and costs of at-home call handling. In lieu of these voluminous reports, the Commission

requires VRS providers to describe in their annual reports any substantive changes in the information previously submitted in the provider's at-home compliance plan.

Final Regulatory Flexibility Analysis

18. As required by the Regulatory Flexibility Act of 1980 as amended (RFA) the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the Further Notice of Proposed Rulemaking. The Commission sought written public comment on the proposals in the *2019 VRS Program Management FNPRM*, including comment on the IRFA. *Need For, and Objectives of, the Rules*

19. Document FCC 20-7 makes permanent, with some modifications, a pilot program that permits CAs to handle VRS calls at home, subject to safeguards designed to maintain service quality, protect call confidentiality, and prevent waste, fraud, and abuse. Adopting permanent rules for at-home call handling will expand the available pool of qualified sign-language interpreters who can work as VRS CAs and enable VRS providers to improve service quality and reliability.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

20. No comments were filed in response to the IRFA.

Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

21. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

Small Entities Impacted

22. The rules adopted in document FCC 20-7 will affect obligations of VRS providers. These services can be included within the broad economic category of All Other Telecommunications.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

23. In allowing VRS CAs to handle VRS calls at-home on a permanent basis, the Commission retains some of the reporting, recordkeeping, and other compliance requirements previously applicable to VRS providers under the pilot program, while eliminating others.

24. A VRS provider or applicant for VRS certification may request authorization to provide at-home VRS call handling in conjunction with an application for certification to provide VRS or for renewal of such certification, or at any other time. As under the existing pilot program rules, the application must include a detailed description of how the applicant will comply with the at-home call handling safeguards and monitoring and oversight requirements.

25. To work at home, a CA must: be a qualified interpreter with at least three years of professional interpreting experience, have the experience, skills, and knowledge necessary to effectively interpret VRS calls without in-person supervision, have learned the provider's protocols for at-home call handling, and understand and follow the TRS mandatory minimum standards. A VRS provider must provide on-the-job support equivalent to that provided to CAs working from call centers, including team interpreting and readily available supervisors to resolve problems that may arise during a relay call.

26. Requirements for at-home CA workstations remain substantially the same as under the pilot program. They must be placed in a separate location within the home, with restricted access and effective means to minimize the impact of outside noise and prevent eavesdropping; configured to enable the CA to use all call-handling technology to the same extent as other CAs; capable of supporting VRS in compliance with the Commission's mandatory minimum standards; and connected to the provider's network over a secure connection to ensure caller privacy.

27. As under the pilot program, VRS providers must appropriately monitor and oversee the provision of at-home call handling. They must approve each at-home CA workstation and its home environment before activation; equip workstations with monitoring

technology sufficient to ensure that off-site supervision approximates the level of supervision at the provider's call center; conduct random, unannounced inspections of at least 5% of all at-home workstations annually; and keep all records pertaining to at-home workstations for a minimum of five years.

28. As under the pilot program, for calls handled through at-home workstations, VRS providers must submit to the TRS Fund administrator in their monthly requests for compensation, in addition to the data otherwise required to receive payment for handling calls: a unique workstation ID, street address, and CA ID for each CA working at home; and the location and call center IDs of call centers providing supervision for at-home workstations, and the names of persons at such call centers responsible for oversight of these workstations.

29. VRS providers that provide at-home call handling must submit some but not all of the information previously required in implementation reports. The amended rule requires the submission of the total number of CAs handling VRS calls from home workstations over the preceding year; the number of 911 calls handled by the provider's home workstations; the total number of complaints, if any, submitted to the provider regarding its at-home call handling program or calls handled by at-home CAs; and a description of any substantive changes in the VRS provider's currently effective at-home call-handling compliance plan. Instead of being submitted every six months, as under the pilot program, these reports must only be filed annually, as part of the annual filings already required to demonstrate VRS providers' overall compliance with the Commission's VRS rules.

Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

30. The rule amendments adopted by the Commission do not increase VRS providers' compliance burden compared with the existing rules applicable under the pilot at-home call-handling program. Providing at-home call handling remains optional for any small entities certified to provide VRS. Maintaining most of the existing safeguards as conditions for

permitting VRS providers to let CAs work at home will help prevent waste, fraud, and abuse; assure that mandatory minimum standards are met; and ensure the confidentiality, reliability, and quality of VRS. The requirements apply equally to all VRS providers. To the extent there are differences in operating costs resulting from economies of scale, those costs are reflected in the different rate structures applicable to large and small VRS providers.

31. To eliminate counterproductive effects and unnecessary compliance burdens, the Commission relaxes or eliminates some of the regulations applicable to VRS providers that choose to allow CAs to work at home. Instead of requiring at-home CAs to have a minimum of three years of VRS call center experience, as under the pilot program, the Commission only requires three years of full-time professional sign language interpreting, whether in community interpreting or VRS call handling. This modification will allow VRS providers to hire interpreters who have not previously been able to work in VRS. The Commission also eliminates the specific requirements for VRS providers to adopt written dismissal policies for at-home CAs and require such CAs to sign written compliance certifications, as VRS providers have sufficient incentives to ensure at-home CAs comply with the Commission's rules without adopting paperwork rules on these matters. Lastly, the Commission increases the limit on the percentage of minutes that may be handled by at-home CAs from 30% to 50%, increasing the flexibility of VRS providers, including small businesses, in hiring CAs.

32. The Commission authorizes each currently certified VRS provider to continue providing at-home call handling under the new rules, without additional filings. Only new applicants for VRS certification are required to include a request for authorization in their applications, if they wish to employ at-home CAs. Incorporating at-home call handling requirements into the recertification requirement streamlines the application process and aligns with existing, more general filing requirements. Similarly, the Commission eases the burden imposed by required reports on at-home call-handling compliance by reducing their frequency, eliminating most of the required information, including the detailed cost and workstation-

monitoring data required under the pilot program, and consolidating the at-home call-handling compliance report with the more comprehensive annual filing already required to demonstrate a VRS provider's overall compliance with Commission's VRS rules.

ORDERING CLAUSES

33. Pursuant to sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 225, document FCC 20-7 is adopted, and part 64 of title 47 is amended.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications, Telecommunications relay services
Federal Communications Commission.

Cecilia Sigmund,
Federal Register Liaison Officer,
Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 part 64 as follows:

PART 64 - MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 228, 251(a), 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, 1401-1473, unless otherwise noted; sec. 503, Pub. L. 115-141, 132 Stat. 348.

2. Amend § 64.601 by redesignating paragraphs (a)(5) through (16) and (17) through (51) as paragraphs (a)(7) through (18) and (20) through (54) and adding new paragraphs (a)(5), (6), and (19) and paragraph (b) to read as follows:

§ 64.601 Definitions and provisions of general applicability.

(a) * * *

(5) *At-home CA*. A communications assistant (CA) that a video relay service (VRS) provider authorizes to handle VRS calls at a home workstation.

(6) *At-home VRS call handling*. The handling of VRS calls by a CA at a home workstation.

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(19) *Home workstation or home CA workstation*. A VRS CA's workstation in the CA's home or in any location where two or more CAs do not simultaneously handle VRS calls.

* * * * *

(b) For purposes of this subpart, all regulations and requirements applicable to common carriers shall also be applicable to providers of interconnected VoIP service.

3. Amend § 64.604 by revising paragraphs (b)(4)(iii), (b)(8), and (c)(5)(iii)(D)(2)(ix) to read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(b) * * *

(4) * * *

(iii) A VRS provider shall not allow its CAs to handle VRS calls from a home workstation unless so authorized by the Commission.

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(8) *At-home VRS call handling--(i) Limit on minutes handled.* In any calendar month, a VRS provider authorized by the Commission to employ at-home CAs may be compensated for minutes handled from home workstations up to a maximum of the greater of:

(A) Fifty percent (50%) of a VRS provider's total minutes for which compensation is paid in that month; or

(B) Fifty percent (50%) of the provider's average projected monthly conversation minutes for the calendar year, according to the projections most recently filed with the TRS Fund administrator.

(ii) *Personnel safeguards.* A VRS provider shall:

(A) Allow a CA to work at home only if the CA is a qualified interpreter with at least three years of professional interpreting experience, has the experience, skills, and knowledge necessary to effectively interpret VRS calls without in-person supervision, has learned the provider's protocols for at-home call handling, and understands and follows the TRS mandatory minimum standards set out in this section; and

(B) Provide at-home CAs equivalent support to that provided to CAs working from call centers, including, where appropriate, the opportunity to team-interpret and consult with supervisors, and ensure that supervisors are readily available to resolve problems that may arise during a relay call.

(iii) *Technical and environmental safeguards.* A VRS provider shall ensure that each home workstation enables the provision of confidential and uninterrupted service to the same extent as the provider's call centers and is seamlessly integrated into the provider's call routing, distribution, tracking, and support systems. Each home workstation shall:

(A) Reside in a separate, secure workspace where access during working hours is restricted solely to the CA;

(B) Allow a CA to use all call-handling technology to the same extent as call-center CAs;

(C) Be capable of supporting VRS in compliance with the applicable mandatory minimum standards set out in this section to the same degree as at call centers;

(D) Be equipped with an effective means to prevent eavesdropping and outside interruptions; and

(E) Be connected to the provider's network over a secure connection to ensure caller privacy.

(iv) *Monitoring and oversight obligations.* A VRS provider shall:

(A) Inspect each home workstation and its home environment to confirm their compliance with paragraph (b)(8)(iii) of this section before activating the workstation for use;

(B) Assign a unique workstation identification number to each VRS home workstation;

(C) Equip each home workstation with monitoring technology sufficient to ensure that off-site supervision approximates the level of supervision at the provider's call center and regularly analyze the records and data produced by such monitoring to proactively address possible waste, fraud, and abuse;

(D) Keep all records pertaining to home workstations, except records of the content of interpreted conversations, for a minimum of five years; and

(E) Conduct random and unannounced inspections of at least five percent (5%) of all home workstations, including their home environments, in each 12-month period.

(v) *Commission audits and inspections.* Home workstations and workstation records shall be subject to review, audit, and inspection by the Commission and the TRS Fund administrator and unannounced on-site inspections by the Commission to the same extent as call centers and call center records subject to the rules in this chapter.

(vi) *Monthly reports.* With its monthly requests for compensation, a VRS provider employing at-home CAs shall report the following information to the TRS Fund administrator for each home workstation:

- (A) The home workstation identification number and full street address (number, street, city, state, and zip code);
- (B) The CA identification number of each individual handling VRS calls from that home workstation; and
- (C) The call center identification number, street address, and name of supervisor of the call center responsible for oversight of that workstation.

(c) * * *

(5) * * *

(iii) * * *

(D) * * *

(2) * * *

- (ix) The call center (by assigned center ID number) or home workstation (by assigned home workstation identification number) that handled the call; and

* * * * *

4. Amend § 64.606 by adding paragraphs (a)(4) and (g)(5) to read as follows:

§ 64.606 Internet-based TRS provider and TRS program certification.

(a) * * *

(4) *At-home VRS call handling.* An applicant for initial VRS certification that desires to provide at-home VRS call handling shall include a detailed plan describing how the VRS provider will ensure compliance with the requirements of § 64.604(b)(8).

* * * * *

(g) * * *

(5) If a VRS provider is authorized to provide at-home call handling, its annual compliance report shall include the following information:

- (i) The total number of CAs handling VRS calls from home workstations over the preceding year;
- (ii) The number of 911 calls handled by the provider's home workstations;

(iii) The total number of complaints, if any, submitted to the provider regarding its at-home call handling program or calls handled by at-home CAs; and

(iv) A description of any substantive changes in the VRS provider's currently effective at-home call-handling compliance plan.

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