



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 03-123, 10-51; FCC 23-116; FR ID 209179]

Video Relay Service Improvements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) modifies its rules to promote improvement in the efficacy and quality of video relay service (VRS) supported by the Interstate Telecommunications Relay Services (TRS) Fund. The modifications: increase the portion of monthly VRS minutes that may be handled by communications assistants (CAs) working at home; reduce the amount of prior interpreting experience required of VRS CAs who work at home; and allow VRS providers to use contract CAs, subject to conditions, for up to 30% of their monthly call minutes. These changes increase providers' flexibility to hire communications assistants from a wider pool of qualified sign-language interpreters. The Commission also modifies its rules to improve the process for registered VRS users to place calls to the United States while traveling abroad.

DATES: *Effective Date:* This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], except for the amendments to § 64.604(c)(5)(iii)(D)(8), (d)(1)(iii)(C), (d)(2)(iv), and (d)(6), at instruction 3, which are delayed indefinitely. The Federal Communications Commission will publish a document in the *Federal Register* announcing the effective dates.

Compliance date: The compliance date for amended § 64.604(d)(7)(i) is [INSERT DATE 210 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Joshua Mendelsohn, Disability Rights Office, Consumer and Governmental Affairs Bureau (CGB), at 202-559-7304, or Joshua.Mendelsohn@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, in CG Docket Nos. 03-123 and 10-51, FCC 23-116, adopted on December 19, 2023, released on December 20, 2023. The Commission previously sought comment on these issues in a Notice of Proposed

Rulemaking (*2022 VRS Improvements Notice*), published at 87 FR 75199, Dec. 8, 2022. The full text of this document is available electronically via the FCC's website at <https://docs.fcc.gov/public/attachments/FCC-23-116A1.pdf> or via the Commission's Electronic Comment Filing System (ECFS) website at www.fcc.ecfs. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

Synopsis

Background

Under section 225 of the Communications Act of 1934, as amended (the Act), the Commission must ensure that TRS are available “to the extent possible and in the most efficient manner” to persons “in the United States” who are deaf, hard of hearing, or deafblind, or who have speech disabilities, so that they can communicate by telephone in a manner that is functionally equivalent to voice communication service. 47 U.S.C. 225(a)(3), (b)(1). VRS, a form of TRS, enables people with hearing or speech disabilities who use sign language to communicate with voice telephone users over a broadband connection using a video communication device. Providers of VRS are compensated from the Interstate TRS Fund for service provided in accordance with applicable rules.

Anti-Fraud Rules. More than ten years ago, a wave of fraud and abuse plagued the VRS program and threatened its long-term sustainability. In response, the Commission prohibited or restricted a number of VRS provider practices that it found had increased the likelihood of fraud and abuse. In 2011, the Commission amended its rules to prohibit the handling of VRS calls by CAs working at home. In addition, the Commission prohibited an eligible (i.e., FCC-certified) VRS provider from contracting with or otherwise authorizing any third party to provide interpretation services or call center functions (including call distribution, call routing, call setup, mapping, call features, billing, and registration) on its behalf, unless that authorized third party also is an eligible VRS provider. Also in 2011, the Commission restricted compensation of VRS providers for calls to the United States from foreign locations.

Subsequent Reauthorization of At-Home VRS Call Handling. In 2017, recognizing that anti-fraud safeguards and advances in network technology appeared to have reduced the fraud and abuse risks associated with CAs working at home, the Commission authorized a pilot program whereby participating

VRS providers could permit some CAs to work at home, so long as the provider complied with specified personnel, technical, and environmental safeguards, as well as monitoring, oversight, and reporting requirements. In 2020, the Commission further amended its rules to allow at-home call-handling on a permanent basis, subject to safeguards similar to those of the pilot program. The current rules limit at-home call handling to a maximum of 50% of a provider's monthly VRS minutes and require that CAs working at home have at least three years of American Sign Language (ASL) interpreting experience.

COVID-19 Pandemic Waivers. During the outbreak of the COVID-19 pandemic, VRS providers reported sharp increases in call volumes and decreases in call center staffing. Providers moved more CAs to home workstations to comply with social distancing requirements and stay-at-home orders. In addition, travel became unpredictable, and some VRS users were stranded abroad. To address these extraordinary circumstances, CGB, on its own motion, temporarily waived the following VRS rules: (1) the cap on the percentage of VRS providers' minutes that may be handled at home workstations; (2) certain rules governing how at-home call handling is conducted and overseen by providers, including the requirement that CAs working at home have three years' interpreting experience; (3) the prohibition on contracting for interpretation services with third parties who are not also certified VRS providers; and (4) the restriction on compensation for VRS calls placed to the United States from abroad by registered VRS users. Due to the pandemic's continuing impact on VRS operations, all the above waivers were extended for additional periods in successive orders.

Petition for Rulemaking. On June 4, 2021, the Commission received a petition requesting that the Commission initiate a rulemaking proceeding to modify the rules limiting VRS minutes handled by CAs working at home and prohibiting the use of contract CAs. Arguing that VRS providers' record of service under the pandemic waivers justifies allowing more flexibility on a permanent basis, the petitioner urged the Commission to raise the percentage of permitted VRS at-home call-handling to 80% of a provider's monthly minutes and to allow a VRS provider to use contract CAs for up to 30% of its monthly minutes.

Notice of Proposed Rulemaking. On June 30, 2022, the Commission released a Notice of Proposed Rulemaking to amend certain rules that had been partially waived due to the pandemic emergency. The Commission proposed to: increase from 50% to 80% the portion of monthly VRS minutes that may be handled by CAs working at home; reduce or eliminate the requirement that VRS

CAs who work from home must have at least three years of interpreting experience; allow VRS providers to use contract CAs for up to 30% of their monthly call minutes; and allow TRS Fund compensation for calls placed by registered VRS users to the United States from outside the country, for up to one year after leaving the country, as long as they notify their provider of such travel at any time before placing such a call.

CAs Working at Home

Cap on At-Home Minutes. The Commission adopts its proposal to increase from 50% to 80% the percentage of a VRS provider's monthly minutes that may be handled by CAs working at home. Raising the cap on at-home call handling will allow VRS providers to continue hiring from an expanded pool of ASL interpreters, and thereby improve the efficiency and effectiveness of their services. Such increased flexibility allows VRS providers to operate more efficiently and maintain or improve service quality.

The Commission allows CAs to work at home because this option lets VRS providers hire CAs from an expanded, nationwide pool of ASL interpreters, and thereby improve the efficiency and effectiveness of their services. Providers can attract and retain qualified CAs for whom working at the companies' call centers is not a practical option, and there is evidence that working at home can reduce CA stress and improve productivity and performance. The Commission concludes that these benefits can be increased by continuing to allow VRS providers more flexibility to let their CAs work at home. Such hiring flexibility has taken on enhanced importance due to the continuing shortage of sign language interpreters willing to work as VRS CAs. In addition, post-pandemic, many VRS CAs have become acclimated to working at home and are reluctant to return to call centers.

The Commission concludes that additional costs resulting from this rule will be minimal. Because TRS Fund compensation is set for multi-year periods, providers generally have an incentive to avoid or reduce unnecessary costs, as the increased profits that result can be kept and no offsetting rate reduction is likely before the end of the compensation period. Therefore, VRS providers generally are unlikely to increase their reliance on CAs working at home unless doing so enables a net reduction in cost. Further, as noted above, allowing more minutes to be handled by such CAs will expand the pool of potential job candidates and help alleviate the shortage of qualified interpreters available for VRS work.

In addition, an expanded labor supply also would tend to limit the wages and benefits that VRS providers must offer to recruit qualified CAs.

The Commission also concludes that the safeguards of its at-home rules are sufficient to prevent adverse effects on call confidentiality and service quality, and reduce the risk of waste, fraud, and abuse. Anecdotal incidents, which can be addressed through enforcement of the existing safeguards, do not justify reimposing a cap that could constrict the available supply of qualified VRS CAs. A commenter expressed concerns that raising the cap would reduce the availability of in-person interpreting services in the community. The Commission's mandate under the Act is to ensure that relay services are available to eligible users. 47 U.S.C. 225. Expanding the opportunities for sign-language interpreters to work at home as VRS CAs will further that mandate. Further, such opportunities can encourage more entry into the field of sign-language interpreters—and encourage more qualified interpreters to continue in the profession—by enabling them to combine part-time work as VRS CAs with community interpreting assignments.

While, for the most part, VRS providers are unlikely to add more at-home CAs if doing so will detract from service quality, the Commission is unpersuaded that unlimited at-home interpreting should be allowed. In light of past and present concerns in this area, the Commission concludes the safer course is to require a minimum level of call center staffing. Requiring that at least 20% of monthly minutes be handled in a call center provides assurance that each provider will continue to maintain sufficient call center staffing so that newly hired or inexperienced CAs can benefit from in-person supervision or mentoring by CAs with VRS experience. Although the cap has been waived for several years, no provider has relied exclusively on at-home CAs. Thus, arguments that service quality would be unaffected by complete removal of the cap have not been empirically tested. Further, an 80% cap allows VRS providers ample flexibility to hire from an expanded pool of candidates and honor CAs' work preferences. Indeed, the record provides no persuasive evidence that an 80% cap will adversely affect any provider's ability to hire qualified CAs or to provide high-quality service. The Commission notes that the rule allows two alternative methods for calculating the at-home minutes cap, making compliance easier to achieve when total minutes cannot be accurately predicted for a given month. In the future, if such evidence emerges, this issue may be revisited.

The Commission also declines a VRS provider's suggestion that the rule should continue to apply a 50% cap to newly certified VRS providers pending their achievement of a record of compliance. New applicants are required to demonstrate that they will comply with all applicable minimum TRS standards. Any compliance concerns that the Commission may have regarding a particular applicant for new or renewed certification as a VRS provider may be addressed by adding appropriate conditions for the certification of that applicant.

Given that the cap has been entirely waived since the onset of the COVID-19 pandemic, and that the current waivers are extended through the compliance date of this rule amendment, the Commission understands that some providers may currently have more than 80% of their CAs working at home. Ending the current waiver immediately upon the effective date of the amended rule could require such VRS providers to immediately terminate the employment of some CAs for whom working at a call center may be impractical. In light of the shortage of CAs, the Commission determines that a transition period of six months is needed to allow those VRS providers that currently exceed the cap an opportunity to bring their work forces into compliance with the 80% cap without terminating the employment of any CAs. The Commission therefore establishes a compliance date of six months after the effective date of this rule change.

Experience Requirement for CAs Working at Home. The Commission modifies the prior experience requirement for VRS CAs working at home, reducing the required amount of prior ASL interpreting experience from three years to one year. The year of experience may be acquired through professional ASL interpreting, either full-time or equivalent part-time, whether in a community, business, VRS, or other context. This modification—in conjunction with increasing the cap on at-home minutes—will help ensure a sufficient supply of qualified VRS CAs after the current waivers expire. Further, the record does not show that this change will significantly affect the quality of VRS. The rule will continue to require that any VRS CA allowed to work at home 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. Further, VRS providers must provide at-home CAs with the same support and supervision as CAs in call centers. These rules, coupled with the technical requirements for effective supervision, provide assurance that

teleworking CAs will handle calls efficiently and effectively in the home environment. In addition, retaining a one-year experience requirement provides a metric for further assurance that CAs working at home have a baseline level of practical field experience. Providers' reports of their practices over the last three years, while the at-home experience requirement was waived, support the Commission's belief that competition will help ensure that VRS providers continue to prioritize training and screening of CAs, including those they allow to work at home. Finally, the Commission finds it unlikely that allowing providers more flexibility in hiring CAs will cause a net increase in the cost of VRS.

The Commission shares to some extent the concern that, when interpreters are still learning their craft, training and supervision are generally more effective when conducted in person, rather than remotely. Therefore, the Commission retains a requirement that CAs working at home have at least one year of interpreting experience. Retaining a one-year experience requirement ensures that CAs with very limited interpreting experience are subject to in-person supervision.

The Commission recognizes that providers have allowed CAs with less than three years' experience to work at home while this requirement has been waived, and some of those CAs may not meet the one-year experience requirement as of the date the new rule goes into effect. To prevent disruption of the VRS industry and CAs' personal lives, the Commission grandfathers in those CAs working at home as of the effective date of this rule amendment, as long as they meet all other interpreter qualification and at-home requirements.

The Commission declines to convert the experience requirement into an equivalent number of minutes of calls handled. The prior experience requirement can be met via full-time or equivalent part-time experience, and part-time experience is typically quantified in hours. Timing a CA's prior experience in minutes would place an unnecessary burden on applicants for CA employment. The Commission also declines to require that prior experience be acquired solely from in-person interpreting. Because it is gained in a remote context analogous to VRS, Video Remote Interpreting experience is relevant to a CA's qualifications to provide VRS, whether at-home or in a call center.

Other issues. The Commission clarifies that at-home workplace inspections may be conducted either in-person or virtually, as long as 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.

The Commission does not require that CAs annually self-certify that they have complied with the FCC's at-home rules. The record does not provide evidence or examples to substantiate concerns that there are gaps in implementation of our existing rules governing at-home CAs and that certain CAs are either not properly informed of their responsibilities or do not have sufficient incentive to comply. VRS providers are required to effectively train and supervise at-home CAs and are responsible for their CAs' compliance with the minimum TRS standards. In light of the resulting incentives for VRS providers to ensure CA quality and rule compliance, additional regulation of providers' internal processes appears unnecessary. Therefore, the Commission finds that a retrospective CA certification of compliance would not significantly improve on the requirements already in place.

Contracting for CAs

The Commission adopts its proposal to allow VRS providers to contract for interpretation services for up to 30% of their monthly call minutes. The record confirms that this change, like others adopted in this Report and Order, will help maintain efficient, effective relay service despite the continuing shortage of VRS CAs. Authorizing contractual CA service will allow providers flexibility to continue retaining the services of qualified ASL interpreters who prefer not to sign up as VRS provider employees. Contract CAs also can help providers respond to short term fluctuations in both demand and CA availability. By contrast, reinstating the ban on contract CAs may decrease the flexibility of VRS providers to meet demand, for example, when a weather event causes both a spike in traffic and the closing of a call center, potentially compromising the overall quality of service for many VRS users.

In the three years during which the CA contracting restriction has been waived, the Commission has not received any evidence of resulting fraud, waste, or abuse. The Commission concludes that, by limiting the percentage of a VRS provider's traffic handled by contractors and by adopting safeguards, the Commission can safely authorize limited use of contractors while preventing a recurrence of the troubled history of subcontracting video interpreters from uncertified providers. The Commission also concludes that, as with the less restrictive at-home rules adopted herein, the provider economic incentives inherent

in a multi-year compensation plan make it unlikely that less restrictive contracting rules will result in higher VRS cost.

The Commission adopts the following safeguards to enable the Commission to effectively oversee the use of contract CAs. The Commission requires a VRS provider to: maintain and allow inspection by the Commission and TRS Fund Administrator of all records describing CA services provided under contract (in addition to the contracts themselves and any amendments), including any invoices and correspondence regarding such services; identify, in its monthly call data reports, each entity with which it has contracted for interpretation services and the number of conversation minutes handled by each, as well as the CAs working on a contract basis; and identify in its annual reports each entity with which it has contracted for interpretation services and the number of conversation minutes handled by each in the year covered by the report.

To reduce incentives for fraud and abuse, a provision of the Commission's current rules prohibits VRS providers from providing compensation or other benefits to CAs in any manner that is based upon the number of VRS minutes or calls that the CA relays, either individually or as part of a group. The Commission amends this provision to clarify that this prohibition applies to compensation or other benefits provided to an agency or other entity with which a VRS provider contracts for CA services. The Commission also amends the rule to expressly prohibit VRS providers from paying contractors based on session or conversation minutes. That is, a CA who contracted to work four hours on each of two days would receive a flat rate for each hour of availability, without regard to call minutes actually handled during those eight hours.

The Commission emphasizes that current rules require that VRS must be offered in the name of—and billed to the TRS Fund by—the certified VRS provider, in a manner that clearly identifies that entity as the provider of the service. Further, the Commission's rules governing CAs who work at home remain applicable when contract CAs are working at home. For example, the monitoring and oversight obligations of the at-home rules also apply to home workstations of contract CAs, and these home workstations are subject to a VRS provider's obligation to conduct random and unannounced inspections of at least five percent of all home workstations, including their home environments, in each 12-month period. As another example, a VRS provider must ensure that each contract CA working at home 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. If a VRS provider allows contract CAs to work at home, it is the VRS provider's responsibility to ensure compliance with each provision of paragraph (d)(7) of § 64.604 of the Commission's rules, as well as all other applicable minimum TRS standards. To the extent that a VRS provider wishes to delegate certain oversight tasks to an agency that employs such CAs, it may do so, but the VRS provider must ensure compliance with the Commission's rules, whether by including specific oversight provisions in its contract with the agency, or otherwise.

The Commission does not believe it is necessary for its rules to address speculative concerns regarding potential disclosure by contractors of a provider's trade secrets and the application of tax law to contract CAs. The Commission does not require any VRS provider to use contract CAs, and VRS providers are responsible for complying with all Federal and State laws on taxation or other matters affecting contracted CAs, as with their own employees.

International Calling Restrictions

The Commission adopts the proposed modification of its rule on VRS calls originating from international IP addresses and terminating in the United States. As modified, the rule permits compensation for such calls during a travel period of up to one year, if the user's default VRS provider has been notified of the user's travel at any time prior to placing such calls. In other words, a VRS provider may request compensation for any such call placed after receiving the required notice from the user. The required notice need only be given once for each period of travel. The content of the required notification must include the specific regions of travel, the date of departure from the United States, and the approximate date when the individual intends to return to the United States.

By allowing users to notify their providers any time before making the first compensable call from abroad (rather than before leaving the United States, as required by the current rule), this amendment aligns better with functional equivalence. The current requirement to notify before leaving the country may unnecessarily restrict users from calling the United States while traveling abroad, for example, in unforeseen circumstances or emergencies when the user may not have anticipated needing to make a call. The record does not indicate that the less restrictive approach the Commission adopts will impose additional costs on VRS providers or users. By reducing the unnecessarily broad application of

the international calling rule, the amendment may reduce administrative costs incurred by providers, the TRS Fund administrator, and Commission staff to implement the rule. Further, this change will not increase any risk of waste, fraud, or abuse, given the effective anti-fraud measures currently in place.

This amendment also codifies the declaratory ruling issued by the Commission in June 2022, which interpreted the existing rule to allow compensation for international calls placed by a registered user who is traveling outside the United States for up to one year. As explained in the June 2022 ruling, the prior interpretation of the rule, under which a VRS user's travel period could not exceed four weeks, imposed unnecessary restrictions on VRS use by consumers who are traveling internationally. That interpretation was adopted at a time when the VRS program was plagued by fraud and abuse. Since then, the Commission's anti-fraud measures, including requirements for call validation and user verification in the TRS User Registration Database, appear to have been effective in suppressing illegal VRS calling. Prior to the June 2022 Ruling and pursuant to the pandemic waiver orders, the prohibition on calling the United States from abroad was largely waived; in the three years since the outbreak of the pandemic, the Commission has not received evidence of waste, fraud, or abuse resulting from this waiver.

One year is an appropriate maximum period for international travel and is consistent with section 225 of the Act, which directs the Commission to ensure the availability of TRS to persons with hearing or speech disabilities "in the United States." The Commission requires that compensable calls must either originate or terminate in the United States, and that, to register for Internet-based TRS, a consumer must establish that he or she is a U.S. resident, at least on a temporary basis. Persons who may use TRS in the United States include temporary residents, such as foreign students attending colleges and universities in the United States. One year is long enough to cover most reasons why U.S. residents would be traveling abroad and is a reasonable "default" time limit to prevent the use of TRS funds to support VRS calls by persons who can no longer be considered U.S. residents.

The Commission adopts the proposed exception to the one-year maximum time period for calls to or from the United States by registered VRS users who are U.S. military personnel, Federal Government employees, or Federal contractors (or their accompanying immediate family members) temporarily stationed outside the United States. A family member would be eligible for this exception even if the Federal military person, employee, or contractor does not use VRS. Under this exception, the content of

the required notification to the default provider must include the specific regions of foreign assignment, the date of departure from the United States, the contemplated end date for the foreign assignment, and confirmation that the user (or a family member of the user) is a member of the military services, or is employed by a Federal Government agency or Federal contractor, and is temporarily stationed outside the United States. If the user's foreign assignment does not contain an end date, the user may specify an end date that is one year after the date of departure. If the assignment lasts longer, the user may follow the extension procedures discussed herein. This exception will apply for the duration of the user's (or family member's) foreign assignment plus an additional time period following the end of such assignment to allow the user additional time to travel abroad and return to the United States. If the foreign assignment is extended or a change in the foreign assignment adds another international region, the user must notify his or her default provider of the new end date or new region of the assignment to continue making VRS calls during such extension or new region (plus the permitted additional time period). Further, if the intended end date of the foreign assignment is not known or otherwise unavailable as of the time of notification to the default VRS provider, the notification may specify, as the end date, a date that is one year from the date of departure from the United States, or, for extensions beyond one year, in one-year intervals from the prior specified end date. The Commission also applies this exception to individuals placing calls to the United States from U.S. military and government organizations with enterprise VRS registrations.

The Commission declines to expand this exception to include U.S. private-sector employees who are asked to work abroad by their U.S. employers, as well as the accompanying family members of such employees. As noted above, one year is long enough to cover most reasons why U.S. residents would be traveling abroad, other than U.S. military and government workers for which extended time abroad is not uncommon. Further, enforcement of this limit with respect to U.S. military personnel, Federal Government employees, and Federal contractors is relatively straightforward due to their official roles and well-documented assignments. Extending the exception to include private-sector employees and their family members is likely to pose more significant enforcement challenges, potentially increasing the risk of misuse or exploitation of the exception by individuals who are no longer U.S. residents by virtue of their extended time abroad.

Technical Correction to TRS Rules

The Commission adopts a technical amendment of the Commission rules, proposed in December 2022, and published at 88 FR 7049, February 2, 2023, to clarify the inflation adjustment factor for IP Relay compensation.

The annual inflation adjustment factor for IP Relay compensation, adopted in June 2022, and published at 87 FR 42656, July 18, 2022, is based on the Employment Cost Index compiled by the Bureau of Labor Statistics, U.S. Department of Labor, for total compensation for private industry workers in professional, scientific, and technical services. The Commission directed the TRS Fund administrator to specify in its annual TRS Fund report the index values for each quarter of the previous calendar year and the last quarter of the year before that. The Commission also directed the TRS Fund administrator to propose the IP Relay compensation level for the next TRS Fund year by adjusting the compensation level from the previous year by a percentage equal to the percentage change in the index between the fourth quarter of the calendar year ending before the filing of its annual report and the fourth quarter of the preceding calendar year.

The method of determining the inflation adjustment factor is codified in § 64.640(d) of the Commission's rules. We revise the text of the rule to clarify the description of the inflation adjustment factor, to eliminate any ambiguity as to how the inflation adjustment factor is calculated.

Congressional Review Act

The Commission has determined and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Paperwork Reduction Act

This document 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 will invite 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, Public Law 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.” 87 FR 75199, Dec. 8, 2022.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (Notice) published at 87 FR 75199, December 8, 2022. The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA.

Need for, and Objective of, the Proposed Rules. The amended rules in the Report and Order increase VRS providers’ flexibility to provide efficient, effective relay service, supported by the Interstate TRS Fund, for individuals with hearing and speech disabilities despite the continuing shortage of VRS CAs, without sacrificing the Commission’s goals of reducing waste, fraud and abuse within the VRS industry. *See* 47 U.S.C. 225(b)(1) (directing the Commission to ensure the availability of TRS to the extent possible and in the most efficient manner). The Report and Order increases from 50% to 80% the cap on call minutes that can be handled by VRS CAs from home work stations, reduces the three-year experience requirement for at-home VRS CAs to one year (waiving the one-year requirement for VRS CAs working at home as of the effective date), and allows VRS providers to contract for interpretation services from external sources for up to 30% of their monthly call minutes. The purpose of these changes is to increase the pool of available VRS CAs and allow VRS providers more flexibility in their internal operations.

The Report and Order also modifies the rule restricting compensation from the TRS Fund for VRS calls to the United States from foreign locations. Currently, to be able to place such calls, VRS users must notify their default VRS provider prior to departure from the United States. Since the Commission adopted that rule, it has implemented the TRS User Registration Database (User Database) with detailed requirements for VRS user registration and identity verification. The Commission also removes the pre-departure notification requirement, allowing VRS users to make calls to the United States as long as they notify their provider of their travel status any time prior to placing such calls. The

Commission also codifies its earlier Declaratory Ruling that VRS providers may allow VRS calls to the United States by a registered user for up to one year while the user is abroad. As an exception to the one-year limitation, United States military personnel and Federal Government workers and contractors (and members of their immediate families) who are stationed abroad to make compensable VRS calls to the United States for the duration of their required service overseas.

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

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

Small Entities Impacted. The proposals will affect obligations of VRS providers. These services can be included within the broad economic category of All Other Telecommunications.

Description of Reporting, Recordkeeping, and Other Compliance Requirements. The amended rules modify the reporting, recordkeeping or other compliance obligations of certain small and other entities that provide VRS. The Commission is not in a position to determine whether these new rules will require small entities to hire attorneys, engineers, consultants, or other professionals, but notes that the adopted rules primarily build upon existing compliance requirements.

In amending its rules on VRS providers' employment of CAs working at home, the Commission makes those rules less restrictive, increasing from 50% to 80% the percentage of a VRS provider's monthly call minutes that may be handled by at-home CAs. The rule's recordkeeping and reporting requirements, which require that records be kept on home workstations and that calls handled at home be identified in a provider's monthly call detail reports, are not changed.

The Commission also adopts a rule change removing the prior prohibition on VRS providers' employment of contract CAs and permitting contract CAs to handle up to 30% of a provider's total monthly call minutes. VRS providers who exercise this new option to employ contract CAs will be required to maintain records of interpretation services provided by contractors; identify, in their call detail reports, the VRS minutes handled by contract CAs; and include contractor data in their semiannual call center reports.

Additionally, the Commission codifies its Declaratory Ruling allowing VRS providers to be compensated from the TRS Fund when VRS users make calls to the United States from foreign locations while traveling for a period of up to one year, provided that VRS users notify their default VRS providers

of their travel plans any time before they start making such calls. As an exception to the one year limitation on each travel period, Federal employees, contractors, and their immediate family members who are stationed abroad can make VRS calls from foreign locations for the duration of their service assignment (plus an additional 90 days) after notifying their default VRS provider of such assignment. The amended rule includes modified recordkeeping and reporting requirements regarding these less restrictive requirements.

Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered. The Commission has considered various proposals from small and other entities. Additionally, the Commission has considered alternative proposals and weighed their benefits against their potential costs to small and other entities. The rule changes allow VRS providers greater flexibility in offering improved service to consumers, particularly in the areas of increasing work-from home capabilities for CAs, increased use of contract CAs and in revisions to international calling restrictions.

Participation in the at-home call-handling program would continue to be optional for VRS providers. Small VRS providers will benefit from this rule change as it enlarges the pool of qualified ASL interpreters from which they can hire CAs. Further, the associated regulatory requirements are already required as part of the at-home call-handling program and have been found necessary to prevent waste, fraud, and abuse of the TRS Fund by ensuring that CAs are subject to proper supervision and accountability. The Commission considered a proposal for unlimited at-home call handling, but rejected it because of the need to ensure that each provider will continue to maintain sufficient call center staffing so that newly hired or inexperienced CAs can benefit from in-person supervision or mentoring by CAs with VRS experience.

The rule modification to permit VRS providers to hire contract CAs is also designed to increase the pool of American Sign Language interpreters available and willing to work as VRS CAs. Hiring contract CAs, which will be optional for VRS providers, will provide flexibility to small entities seeking to control their staffing costs. While additional reporting and recordkeeping requirements will apply to VRS providers of all sizes that are using contract CAs, these steps are necessary to prevent waste, fraud, and abuse of the TRS Fund by ensuring that contract CAs are subject to proper supervision and accountability.

The codification of the one-year travel period for which VRS users may make compensated calls to the United States from foreign locations includes a modification of an existing rule requiring that VRS providers maintain information on VRS users who are traveling abroad. This tracking of data is an essential part of VRS providers' ability to obtain TRS Fund compensation. The rule amendments also allow compensation for VRS calls placed to the United States by Federal military, employees, contractors, and their immediate family members during their tours of duty abroad, even if longer than one year. The requirements as modified are necessary to prevent waste, fraud, and abuse of the TRS Fund by ensuring that only U.S. residents are permitted to make VRS calls to the United States from abroad. As an alternative, the Commission considered expanding the exception to include international calls placed by U.S. private-sector employees (and accompanying family members) asked to work abroad by their U.S. employers; however, such a rule would lead to a more complex enforcement process and, by extension, create significant economic burdens for small entities that may lack the financial resources to effectively comply.

ORDERING CLAUSES

Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, 3, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 153, 617, the foregoing Report and Order is adopted and the Commission's rules are amended.

List of Subjects in 47 CFR Part 64

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

Marlene Dortch,
Secretary,
Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR 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. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 301, 303, 316, 345, 403(b)(2)(B), (c), 616, 617, 620, 1401–1473, unless otherwise noted; Div. P, sec. 503, Pub. L. 115–141, 132 Stat. 348, 1091; sec. 5, Pub. L. 117–223, 136 Stat 2280, 2285–88 (47 U.S.C. 345 note).

Subpart F—Telecommunications Relay Services and Related Customer Premises

Equipment for Persons With Disabilities

2. Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], amend § 64.604 by:

- a. Removing the introductory text;
- b. Removing and reserving paragraphs (a)(6) and (7) and (b)(8);
- c. Adding a reserved paragraph (c)(5)(iii)(D)(8);
- d. Removing and reserving paragraphs (c)(5)(iii)(N) and (c)(12);
- e. Revising paragraph (d); and
- f. Adding paragraph (e).

The revisions and additions read as follows:

§ 64.604 Mandatory minimum standards.

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(c) * * *

(5) * * *

(iii) * * *

(D) * * *

(8) [Reserved]

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(d) Additional provisions applicable to VRS—(1) Eligibility for reimbursement from the TRS

Fund. (i) Only an eligible VRS provider, as defined in paragraph (c)(5)(iii)(F) of this section, may hold itself out to the general public as providing VRS.

(ii) VRS service must be offered under the name by which the eligible VRS provider offering such service became certified and in a manner that clearly identifies that provider of the service. Where a TRS provider also utilizes sub-brands to identify its VRS, each sub-brand must clearly identify the eligible VRS provider. Providers must route all VRS calls through a single URL address used for each name or sub-brand used.

(iii)(A) Except as otherwise provided in this paragraph (iii), an eligible VRS provider shall not contract with or otherwise authorize any third party to provide call center functions (including call distribution, call routing, call setup, mapping, call features, billing, and registration) on its behalf, unless that authorized third party also is an eligible provider.

(B) An eligible VRS provider may contract with third parties to provide interpretation services for up to a maximum of the greater of:

(1) Thirty percent (30%) of a VRS provider's total minutes for which compensation is paid in that month; or

(2) Thirty percent (30%) 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.

(C) [Reserved]

(iv) To the extent that an eligible VRS provider contracts with or otherwise authorizes a third party to provide any other services or functions related to the provision of VRS other than interpretation services or call center functions, that third party must not hold itself out as a provider of VRS, and must clearly identify the eligible VRS provider to the public. To the extent an eligible VRS provider contracts with or authorizes a third party to provide any services or functions related to marketing or outreach, and such services utilize VRS, those VRS minutes are not compensable on a per minute basis from the TRS fund.

(v) All third-party contracts or agreements entered into by an eligible provider must be in writing. Copies of such agreements shall be made available to the Commission and to the TRS Fund administrator upon request.

(2) *Call center reports.* VRS providers shall file a written report with the Commission and the TRS Fund administrator, on April 1st and October 1st of each year for each call center that handles VRS calls that the provider owns or controls, including centers located outside of the United States, that includes:

(i) The complete street address of the center;

(ii) The number of individual CAs and CA managers; and

(iii) The name and contact information (phone number and e-mail address) of the manager(s) at the center. VRS providers shall also file written notification with the Commission and the TRS Fund administrator of any change in a center's location, including the opening, closing, or relocation of any center, at least 30 days prior to any such change.

(iv) [Reserved]

(3) *Compensation of CAs.* VRS providers shall not compensate, give a preferential work schedule to, or otherwise benefit a CA, or an agency or other entity with which a VRS provider contracts for interpretation services, in any manner that is based upon the number of VRS session or conversation minutes or calls that a CA relays, either individually or as part of a group.

(4) *Remote training session calls.* VRS calls to a remote training session or a comparable activity will not be compensable from the TRS Fund when the provider submitting minutes for such a call has been involved, in any manner, with such a training session. Such prohibited involvement includes training programs or comparable activities in which the provider or any affiliate or related party thereto, including but not limited to its subcontractors, partners, employees or sponsoring organizations or entities, has any role in arranging, scheduling, sponsoring, hosting, conducting or promoting such programs or activities.

(5) *Visual privacy screens/idle calls.* A VRS CA may not enable a visual privacy screen or similar feature during a VRS call. A VRS CA must disconnect a VRS call if the caller or the called party to a VRS call enables a privacy screen or similar feature for more than five minutes or is otherwise unresponsive or unengaged for more than five minutes, unless the call is a 9-1-1 emergency call or the

caller or called party is legitimately placed on hold and is present and waiting for active communications to commence. Prior to disconnecting the call, the CA must announce to both parties the intent to terminate the call and may reverse the decision to disconnect if one of the parties indicates continued engagement with the call.

(6) *International calls.* VRS calls that originate from an international IP address will not be compensated, with the exception of calls made by a U.S. resident who has pre-registered with his or her default provider prior to leaving the country, during specified periods of time while on travel and from specified regions of travel, for which there is an accurate means of verifying the identity and location of such callers. For purposes of this section, an international IP address is defined as one that indicates that the individual initiating the call is located outside the United States.

(7) *At-home VRS call handling—(i) Limit on minutes handled.* Beginning **[INSERT DATE 210 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, 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) Eighty percent (80%) of a VRS provider's total minutes for which compensation is paid in that month; or

(B) Eighty percent (80%) 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 one year of full-time or equivalent part-time 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, except that any CAs working at home as of **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** are not required to have at least one year of experience as long as they meet all other interpreter qualifications specified in this paragraph (d)(7)(ii)(A); 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 (d)(7)(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.

(8) *Discrimination and preferences.* A VRS provider shall not:

(i) Directly or indirectly, by any means or device, engage in any unjust or unreasonable discrimination related to practices, facilities, or services for or in connection with like relay service,

(ii) Engage in or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or

(iii) Subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.

(e) *Other standards.* The applicable requirements of § 9.14 of this chapter and §§ 64.611, 64.615, 64.621, 64.631, 64.632, 64.5105, 64.5107, 64.5108, 64.5109, and 64.5110 are to be considered mandatory minimum standards.

3. Delayed indefinitely, further amend § 64.604 by adding paragraphs (c)(5)(iii)(D)(8), (d)(1)(iii)(C), and (d)(2)(iv) and revising paragraph (d)(6) to read as follows:

§ 64.604 Mandatory minimum standards.

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(c) * * *

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(iii) * * *

(D) * * *

(8) *Calls handled by contractors.* A VRS provider that contracts for interpretation services shall identify in its monthly call data reports each entity with which it has contracted for interpretation services, each CA working on a contract basis, and the number of conversation minutes handled by each such CA.

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(d) * * *

(1) * * *

(iii) * * *

(C) A VRS provider that contracts for interpretation services shall maintain records of all services provided by contracting CAs or agencies. If a VRS provider allows contract CAs to work at home, the VRS provider remains obligated to comply with each provision of 47 CFR 64.604(d)(7).

* * * * *

(2) * * *

(iv) The name and contact information (phone number and email address) of each individual, agency, and other entity with which it has contracted for interpretation services and the number of conversation minutes handled by each such contractor during the six-month period.

* * * * *

(6) *International calls.* (i) VRS calls that originate from an international IP address shall not be compensated, except in accordance with this section. For purposes of this section, an international IP address is defined as one that indicates that the individual initiating the call is located outside the United States and its territories.

(ii) A VRS provider may seek TRS Fund compensation for VRS calls placed to the United States by a United States resident who is a registered VRS user, provided that:

(A) Such calls are placed one year or less after the VRS user departs the United States; and

(B) At any time prior to placing such calls, the VRS user notifies the user's default provider of the specific region(s) of travel, the date of departure from the United States, and the intended date of return to the United States.

(iii) A registered VRS user may request approval from the Commission's Disability Rights Office for an extension of the one-year international calling period. Such request shall specify the extended return date and include a showing that the user's primary residence remains in the United States, even though the user will remain outside the United States longer than one year. Upon approval of such an extension, the user shall notify the user's default VRS provider of the extended return date, and the provider may seek compensation for international calls placed by the user through the end of such extended return date.

(iv) A VRS provider may seek TRS Fund compensation for VRS calls placed to the United States, pursuant to an individual or enterprise VRS registration, by a United States resident who is a United States military or Federal Government employee or contractor temporarily stationed abroad, or a parent, spouse, or child of such employee or contractor, provided that:

(A) Such calls are placed either during the period of such foreign assignment or within 90 days after its end date; and

(B) At any time prior to placing such calls, the registered VRS user, or the Relay Official or other responsible individual designated in an enterprise registration, notifies the default VRS provider of the specific regions of foreign assignment, the date of departure from the United States, and the intended end date of the foreign assignment, and that the user (or a parent, spouse, or child of the user) is a United States military or Federal Government employee or contractor, and is temporarily stationed outside the United States. If the foreign assignment is extended, the registered VRS user, or the Relay Official or other responsible individual designated in an enterprise registration, shall notify the default VRS provider of the extended end date of such foreign assignment and of any change of the region where the employee or contractor is stationed.

(C) If the intended end date of the foreign assignment is not known or otherwise unavailable as of the time of notification to the default VRS provider, the notification may specify, as the end date, a date that is one year from the date of departure from the United States, or, for extensions beyond one year, in one-year intervals from the prior specified end date.

* * * * *

4. Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], amend § 64.606 by revising paragraphs (a)(2)(ii)(A)(2) and (a)(4) to read as follows:

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

(a) * * *

(2) * * *

(ii) * * *

(A) * * *

(2) Operating more than five call centers within the United States, a copy of each deed or lease for a representative sampling (taking into account size (by number of communications assistants) and location) of five call centers operated by the applicant within the United States, together with a list of all other call centers that they operate that includes the information required under § 64.604(d)(2).

* * * * *

(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(d)(7).

* * * * *

5. Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], amend § 64.640 by revising paragraph (d) to read as follows:

§ 64.640 Compensation for IP Relay.

* * * * *

(d) The inflation adjustment factor for a Fund Year (IF_{FY}), to be determined annually on or before June 30, is equal to the difference between the Initial value and the Final value, as defined herein, divided by the Initial value. The Initial value and Final value, respectively, are the values of the Employment Cost Index compiled by the Bureau of Labor Statistics, U.S. Department of Labor, for total compensation for private industry workers in professional, scientific, and technical services, for the following periods:

(1) *Final value.* The fourth quarter of the Calendar Year ending 6 months before the beginning of the Fund Year; and

(2) *Initial value.* The fourth quarter of the preceding Calendar Year.

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[FR Doc. 2024-05942 Filed: 3/20/2024 8:45 am; Publication Date: 3/21/2024]