

access. Provision of Internet access and other information services is governed by section 254(h)(2)(A).

14. Consistent with the Commission's long-standing principles of competitive neutrality, rural health care providers may receive discounts for the most cost-effective form of Internet access, regardless of the platform. Thus, a provider could opt for dial-up Internet access or broadband Internet access over wireline, cable, wireless, or satellite platforms. Health care providers must certify, however, that the particular Internet access service selected is the most cost-effective way of meeting the facility's health care needs. We believe this policy will provide flexibility to rural health care providers to purchase the most appropriate offerings for their health care needs and may also facilitate the deployment of facilities-based broadband deployment in rural areas.

15. Moreover, we will continue to provide support for toll charges incurred by health care providers that cannot obtain toll-free access to an ISP, limited to the lesser of \$180.00 or 30 hours of usage per month. The 1997 *Universal Service Order* stated that the proliferation of ISPs and the competitive marketplace "soon should eliminate the need for such support." However, we are persuaded by commenters' showings that the need for such support still exists. Providing support for limited toll charges will place those providers who cannot reach an ISP without incurring toll charges on the same footing as other health care providers with respect to Internet access.

## 2. Other Services

16. We decline at this time to provide support for services other than telecommunications services, Internet access, and limited toll charges. In the *NPRM*, 67 FR 34653 (May 15, 2002) the Commission sought comment on whether we should establish new policies to enhance access to advanced telecommunications and information services for health care providers consistent with the scope of our authority under section 254(h)(2)(A). Commenters suggested that telecommunications equipment, surcharges imposed by statewide or regional networks, internal connections, and health care providers' travel costs should be eligible for universal service support. We find that providing support for telecommunications equipment, surcharges, and travel costs exceeds the scope of our statutory authority under section 254(h), because these items are neither telecommunications nor information services. In addition, we believe there is insufficient information

in the record to provide support for internal connections. Moreover, given our experience with the schools and libraries support mechanism, we are concerned that providing support for internal connections may place an undue burden on the rural health care support mechanism.

## C. Calculation of Discounted Services

### 1. Interpretation of "Similar Services"

17. We alter our current policy to allow rural health care providers to compare the urban and rural rates for functionally similar services as viewed from the perspective of the end user. We agree with commenters that our current policy of comparing technically similar services does not take into account that certain telecommunications services offered in urban areas are not always available in rural areas. In particular, new technologies are often first deployed in urban areas, and such services may be less expensive than services in rural areas based on older technologies. This modification to our rules will better effectuate the mandate of Congress to ensure comparable services for rural areas, as provided in section 254 of the Act, by allowing rural health care providers to benefit from obtaining telecommunications services at rates equivalent to those in urban areas. Eligible health care providers must purchase telecommunications services and compare their service to a functionally equivalent telecommunications service in order to receive this discount.

18. Accordingly, we create "safe harbor" categories of functionally equivalent services based on the advertised speed and nature of the service. For purposes of the rural health care support mechanism only, we establish the following advertised speed categories as functionally equivalent: low—144–256 kbps; medium—257–768 kbps; high—769–1400 kbps (1.4 mbps); T-1—1.41–8 mbps; T-3—8.1–50 mbps. We will also consider whether a service is symmetrical or asymmetrical when determining functional equivalencies. Telecommunications services will be considered functionally similar when operated at advertised speeds within the same category (low, medium, high, T-1, or T-3) and when the nature of the service is the same (symmetrical or asymmetrical). For example, a symmetrical fractional T-1 service operating at an advertised speed of 144 kbps would be considered functionally similar to a symmetrical DSL transmission service with an advertised speed of 256 kbps. By developing "safe harbor" categories of functionally

equivalent speeds, we hope to minimize the disparity in rates of services available in rural and urban areas in an administratively easy fashion. We will update these categories, as needed, to reflect technological developments.

## 2. Urban Area

19. We now revise section 54.605 of our rules to allow rural health care providers to compare rural rates to urban rates in any city with a population of at least 50,000 in the state, as opposed to the nearest city with a population of 50,000. The Commission originally required comparison to the nearest city with 50,000 people, in part, because they believed health care providers would likely connect to a point in that nearest large city. Based on our experience with the program and information in the record, health care providers may not always find the needed expertise in the nearest large city. Allowing comparison to rates in any city in the state acknowledges that rural health care providers may communicate with experts in other cities in the state. Such action also should allow rural health care providers to benefit from the lowest rates for services in the State, thereby providing additional support to develop better telemedicine links. Verizon asserts that, under this policy, rural health care providers may receive better rates than those available in some urban areas of the state. However, we believe that the public interest in providing more flexibility in utilizing telemedicine services and quality health care facilities outweighs any minimal advantage gained by rural health care providers over those health care providers located in certain urban areas. Further, we do not believe the urban rates within states differ so significantly that revising this rule will increase demand to the extent that we may risk exceeding the funding cap of \$400 million.

## 3. Maximum Allowable Distance

20. We revise the Maximum Allowable Distance (MAD) to equal the distance between the rural health care provider and the farthest point on the jurisdictional boundary of the largest city in that State. Accordingly, for distance-based charges actually incurred, we modify our rules to provide support to rural health care providers to any location that exceeds the SUD and is less than this revised MAD. As the Commission indicated in the *NPRM*, our experience to date suggests that limiting rural health care providers to discounts for distance-based charges to the nearest city of