AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7233
OFFERED BY MR. HUDSON OF NORTH CAROLINA

Strike all after the enacting clause and insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Keeping Incarceration Discharges Streamlined for Children and Accommodating Resources in Education Act" or the "KIDS CARE Act".

SEC. 2. MEDICAID AND CHIP REQUIREMENTS FOR HEALTH SCREENINGS AND REFERRALS FOR ELIGIBLE JUVENILES IN PUBLIC INSTITUTIONS.

(a) MEDICAID STATE PLAN REQUIREMENT.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(84)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by adding “and” at the end; and

(C) by adding at the end the following new subparagraph:
“(D) beginning October 1, 2023, in the case of individuals who are eligible juveniles described in subsection (nn)(2), are scheduled to be released from placement in a public institution following adjudication, and who the State determines pursuant to subparagraph (B) or (C), as applicable, meet the eligibility requirements for medical assistance under the State plan, the State shall have in place a plan to ensure, and in accordance with such plan, provide—

“(i) for, prior to the release of such an eligible juvenile from such public institution (or not later than one week after release from the public institution), and in coordination with such institution—

“(I) any screening described in section 1905(r) for which such eligible juvenile qualifies based on the intervals established pursuant to such section;

“(II) any screening which such eligible juvenile did not receive in accordance with such intervals due to
the incarceration of such eligible juvenile; and

“(III) a behavioral health or mental health screening that is a screening service described under section 1905(r)(1), if such screening was not otherwise conducted pursuant to this clause;

“(ii) for, not later than the latter of the date on which such eligible juvenile is released from such institution, or the date on which the screenings pursuant to clause (i) for such eligible juvenile are conducted, referrals for such eligible juvenile to the appropriate services, including necessary health care, diagnostic services, treatment, and other measures described in section 1905(a), giving preference to providers of such services who are located in the geographic region of the home or residence of such eligible juvenile when available, based on such screenings; and

“(iii) for, following the release of such eligible juvenile from such institution, and the completion of the screenings conducted
pursuant to clause (i), not less than 30 days of targeted case management services furnished by a provider in the geographic region of the home or residence of such eligible juvenile.”; and

(2) in subsection (nn)(3), by striking “(30)” and inserting “(31)”.

(b) Clarification of Federal Financial Participation.—The subdivision (A) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) following paragraph (31) of such section is amended by striking “(except in the case of individuals as a patient in a medical institution)” and inserting “(except in the case of eligible juveniles described in section 1902(a)(84)(D), and individuals as a patient in a medical institution)”.

(e) CHIP Requirement.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following new subparagraph:

“(U) Section 1902(a)(84)(D) (relating to eligible juveniles scheduled to be released from placement in a public institution following adjudication).”.
SEC. 3. GUIDANCE ON REDUCING ADMINISTRATIVE BARRIERS TO PROVIDING HEALTH CARE SERVICES IN SCHOOLS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance to State Medicaid agencies, elementary and secondary schools, and school-based health centers on reducing administrative barriers to such schools and centers furnishing medical assistance and obtaining payment for such assistance under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.).

(b) CONTENTS OF GUIDANCE.—The guidance issued pursuant to subsection (a) shall—

(1) include proposed revisions to the May 2003 Medicaid School-Based Administrative Claiming Guide, the 1997 Medicaid and Schools Technical Assistance Guide, and other guidance in effect on the date of enactment of this Act;

(2) provide information on payment under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) for the provision of medical assistance, including such assistance provided in accordance with an individualized education program or under the “free care” policy described in
the State Medicaid Director letter on payment for services issued on December 15, 2014 (#14-006);

(3) take into account reasons why small and rural local education agencies may not provide medical assistance, and consider approaches to encourage such agencies to provide such assistance; and

(4) include best practices and examples of methods that State Medicaid agencies and local education agencies have used to pay for, and increase the availability of, medical assistance.

(c) DEFINITIONS.—In this Act:

(1) INDIVIDUALIZED EDUCATION PROGRAM.—The term “individualized education program” has the meaning given such term in section 602(14) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(14)).

(2) SCHOOL-BASED HEALTH CENTER.—The term “school-based health center” has the meaning given such term in section 2110(c)(9) of the Social Security Act (42 U.S.C. 1397jj(e)(9)).
SEC. 4. GUIDANCE TO STATES ON SUPPORTING MENTAL, EMOTIONAL, AND BEHAVIORAL HEALTH SERVICES, AND ON THE AVAILABILITY OF TELEHEALTH UNDER MEDICAID.

Not later than January 1, 2024, the Secretary of Health and Human Services shall issue guidance to States on how to expand the provision of mental, emotional, and behavioral health services covered under State plans (or waivers of such plans) under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including a description of best practices for—

(1) effective programs for the provision of such services;

(2) provision of such services to underserved communities;

(3) flexibilities for children’s hospitals and other providers to expand access to such services while ensuring high quality and safety; and

(4) recruitment and retention of providers of such services.

SEC. 5. ENSURING CHILDREN RECEIVE TIMELY ACCESS TO CARE.

(a) GUIDANCE TO STATES ON FLEXIBILITIES TO ENSURE PROVIDER CAPACITY TO PROVIDE PEDIATRIC MENTAL, EMOTIONAL, AND BEHAVIORAL CRISIS CARE.—Not later than July 1, 2024, the Secretary of Health and
Human Services shall provide guidance to States on existing flexibilities under State plans (or waivers of such plans) under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to support children in crisis or in need of intensive mental, emotional, or behavioral health services.

(b) Ensuring Consistent Review and State Implementation of Early and Periodic Screening, Diagnostic, and Treatment Services.—Section 1905(r) of the Social Security Act (42 U.S.C. 1396d(r)) is amended by adding at the end the following: “Not later than January 1, 2025, and not later than each January 1 thereafter, the Secretary shall review implementation of the requirements of this subsection by States, including such requirements relating to services provided by a managed care entity, identify and disseminate best practices for ensuring comprehensive coverage of services, identify gaps and deficiencies in meeting Federal requirements, and provide guidance to States on addressing identified gaps and disparities and meeting Federal coverage requirements in order to ensure children have access to behavioral health services.”.
SEC. 6. STRATEGIES TO INCREASE ACCESS TO TELEHEALTH UNDER MEDICAID AND CHILDREN’S HEALTH INSURANCE PROGRAM.

Not later than 1 year after the date of the enactment of this Act, and not less frequently than once every five years thereafter, the Secretary of Health and Human Services shall update guidance issued by the Centers for Medicare & Medicaid Services to States, the State Medicaid & CHIP Telehealth Toolkit, to clarify strategies to overcome existing barriers and increase access to telehealth services under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and the Children’s Health Insurance Program under title XXI of such Act (42 U.S.C. 1397aa et seq.). Such updated guidance shall include examples of and promising practices regarding—

(1) telehealth delivery of covered services;

(2) recommended voluntary billing codes, modifiers, and place-of-service designations for telehealth and other virtual health care services;

(3) the simplification or alignment (including through reciprocity) of provider licensing, credentialing, and enrollment protocols with respect to telehealth across States, State Medicaid plans under such title XIX, and Medicaid managed care
organizations, including during national public health emergencies;

(4) strategies States can use to integrate tele-health and other virtual health care services into value-based health care models; and

(5) waivers under the Medicaid program to test expanded access to telehealth, including during the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)).

SEC. 7. REMOVAL OF INMATE LIMITATIONS ON BENEFITS UNDER MEDICAID.

(a) In General.—The subdivision (A) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) following paragraph (31) of such section, as amended by section 2(b), is further amended by striking “and individuals as a patient in a medical institution” and inserting “, individuals as a patient in a medical institution, or, at the option of the State, for an individual who is a juvenile, while such individual is an inmate of a public institution pending disposition of charges”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the first day of the first calendar quarter that begins after the date that is 18 months after the date of enactment of this Act and shall
1 apply to items and services furnished for periods beginning
2 on or after such date.

Amend the title so as to read: “A bill to amend titles XIX and XXI of the Social Security Act to provide for
requirements under Medicaid State plans for health
screenings and referrals for certain eligible juveniles in
public institutions; to require the Secretary of Health and
Human Services to issue and update guidance under the
Medicaid and Children’s Health Insurance Programs to
improving access to, and the delivery of, timely health
care services, including mental and behavioral health
services; and for other purposes.”.