

## Committee Print

(SHOWING THE TEXT OF H.R. 7233, AS FAVORABLY FORWARDED BY THE  
SUBCOMMITTEE ON HEALTH ON MAY 11, 2022)

117TH CONGRESS  
2D SESSION

# H. R. 7233

To amend title XIX 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; and to require the Secretary of Health and Human Services to issue clear and specific guidance under the Medicaid and Children's Health Insurance programs to improve the delivery of health care services, including mental health services, in elementary and secondary schools and school-based health centers.

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### IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2022

Mr. HUDSON (for himself and Ms. KUSTER) introduced the following bill;  
which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XIX 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; and to require the Secretary of Health and Human Services to issue clear and specific guidance under the Medicaid and Children's Health Insurance programs to improve the delivery of health care services, including mental health services, in elementary and secondary schools and school-based health centers.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keeping Incarceration  
5 Discharges Streamlined for Children and Accommodating  
6 Resources in Education Act” or the “KIDS CARES Act”.

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

10 (a) MEDICAID STATE PLAN REQUIREMENT.—Section  
11 1902(a)(84) of the Social Security Act (42 U.S.C.  
12 1936a(a)(84)) is amended—

13 (1) in subparagraph (B), by striking “and” at  
14 the end;

15 (2) in subparagraph (C), by adding “and” at  
16 the end; and

17 (3) by adding at the end the following new sub-  
18 paragraph:

19 “(D) beginning October 1, 2023, in the  
20 case of individuals who are eligible juveniles de-  
21 scribed in subsection (m)(2), are scheduled to  
22 be released from placement in a public institu-  
23 tion following adjudication, and who the State  
24 determines pursuant to subparagraph (B) or  
25 (C), as applicable, meet the eligibility require-

1           ments for medical assistance under the State  
2           plan—

3                   “(i) the State shall have in place a  
4                   plan to ensure and, in accordance with  
5                   such plan, provide—

6                           “(I) for, prior to release of such  
7                           an eligible juvenile from such public  
8                           institution (or not later than one week  
9                           after release from the public institu-  
10                          tion), and in coordination with such  
11                          institution, screenings of such eligible  
12                          individual, including the screenings  
13                          described under section 1905(r);

14                           “(II) for, not later than the lat-  
15                           ter of the date on which such eligible  
16                           juvenile is released from such institu-  
17                           tion, or the date on which the  
18                           screenings pursuant to subclause (I)  
19                           for such individual are completed, re-  
20                           ferrals for such eligible individual to  
21                           the appropriate health care services in  
22                           the geographic region of the home or  
23                           residence of such eligible juvenile,  
24                           based on such screenings; and

1                   “(III) for, following the release of  
2                   such eligible juvenile from such insti-  
3                   tution, and the completion of the  
4                   screenings conducted pursuant to sub-  
5                   clause (I), not less than 30 days of  
6                   case management services furnished  
7                   by a community-based provider in the  
8                   geographic region of the home or resi-  
9                   dence of such eligible juvenile, to co-  
10                  ordinate referrals made pursuant to  
11                  subclause (II); and

12                  “(ii) at the option of the State, make  
13                  medical assistance available under the  
14                  State plan for screenings and case man-  
15                  agement or referrals pursuant to clause (i),  
16                  conducted prior to the release of such eligi-  
17                  ble juvenile from such public institution;”.

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

21                  “(U) Section 1902(a)(84)(D) (relating to  
22                  eligible juveniles scheduled to be released from  
23                  placement in a public institution following adju-  
24                  dication).”.

1 **SEC. 3. GUIDANCE ON REDUCING ADMINISTRATIVE BAR-**  
2 **RIERS TO PROVIDING HEALTH CARE SERV-**  
3 **ICES IN SCHOOLS.**

4 (a) IN GENERAL.—Not later than 180 days after the  
5 date of enactment of this Act, the Secretary of Health and  
6 Human Services shall issue proposed guidance to State  
7 Medicaid agencies, elementary and secondary schools, and  
8 school-based health centers on reducing administrative  
9 barriers to such schools and centers furnishing specified  
10 health services and obtaining reimbursement for such  
11 services under titles XIX and XXI of the Social Security  
12 Act (42 U.S.C. 1396 et seq., 1397aa et seq.).

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

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

20 (2) provide information on reimbursement  
21 under titles XIX and XXI of the Social Security Act  
22 (42 U.S.C. 1396 et seq., 1397aa et seq.) for the pro-  
23 vision of specified health services, including such  
24 services provided in accordance with an individual-  
25 ized education program or under the “free care” pol-  
26 icy described in the State Medicaid Director letter

1 on payment for services issued on December 15,  
2 2014 (#14-006);

3 (3) take into account reasons why small and  
4 rural local education agencies may not provide speci-  
5 fied health services, and consider approaches to en-  
6 courage such agencies to provide such services; and

7 (4) include best practices and examples of  
8 methods that State Medicaid agencies and local edu-  
9 cation agencies have used to reimburse for, and in-  
10 crease the availability of, specified health services.

11 (c) DEFINITIONS.—In this Act:

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

17 (2) SCHOOL-BASED HEALTH CENTER.—The  
18 term “school-based health center” has the meaning  
19 given such term in section 2110(c)(9) of the Social  
20 Security Act (42 U.S.C. 1397jj(c)(9)).

21 (3) SPECIFIED HEALTH SERVICES.—The term  
22 “specified health services” means health services (in-  
23 cluding mental health services) for which medical as-  
24 sistance may be provided under a State plan (or  
25 waiver of such plan) under title XIX of the Social

1 Security Act (42 U.S.C. 1396 et seq.) or a State  
2 child health plan (or waiver of such plan) under title  
3 XXI of such Act (42 U.S.C. 1397aa et seq.).

4 **SEC. 4. GUIDANCE TO STATES ON SUPPORTING MENTAL,**  
5 **EMOTIONAL, AND BEHAVIORAL HEALTH**  
6 **SERVICES, AND ON THE AVAILABILITY OF**  
7 **TELEHEALTH UNDER MEDICAID.**

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

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

17 (2) provision of such services to underserved  
18 communities;

19 (3) flexibilities for children’s hospitals and other  
20 providers to expand access to such services while en-  
21 suring high quality and safety; and

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

1 **SEC. 5. ENSURING CHILDREN RECEIVE TIMELY ACCESS TO**  
2 **CARE.**

3 (a) GUIDANCE TO STATES ON FLEXIBILITIES TO EN-  
4 SURE PROVIDER CAPACITY TO PROVIDE PEDIATRIC MEN-  
5 TAL, EMOTIONAL, AND BEHAVIORAL CRISIS CARE.—Not  
6 later than July 1, 2024, the Secretary of Health and  
7 Human Services shall provide guidance to States on exist-  
8 ing flexibilities under State plans (or waivers of such  
9 plans) under title XIX of the Social Security Act (42  
10 U.S.C. 1396 et seq.) to support children in crisis or in  
11 need of intensive mental, emotional, or behavioral health  
12 services.

13 (b) ENSURING CONSISTENT REVIEW AND STATE IM-  
14 PLEMENTATION OF EARLY AND PERIODIC SCREENING,  
15 DIAGNOSTIC, AND TREATMENT SERVICES.—Section  
16 1905(r) of the Social Security Act (42 U.S.C. 1396d(r))  
17 is amended by adding at the end the following: “The Sec-  
18 retary shall, not later than January 1, 2025, and not later  
19 than January 1 each year thereafter, review implementa-  
20 tion of the requirements of this subsection by States, in-  
21 cluding such requirements relating to services provided by  
22 a managed care entity, identify and disseminate best prac-  
23 tices for ensuring comprehensive coverage of services,  
24 identify gaps and deficiencies in meeting Federal require-  
25 ments, and provide guidance to States on addressing iden-  
26 tified gaps and disparities and meeting Federal coverage



1 requirements in order to ensure children have access to  
2 behavioral health services.”.

3 **SEC. 6. STRATEGIES TO INCREASE ACCESS TO TELE-**  
4 **HEALTH UNDER MEDICAID AND CHILDREN’S**  
5 **HEALTH INSURANCE PROGRAM.**

6 Not later than 1 year after the date of the enactment  
7 of this Act, and not less frequently than once every five  
8 years thereafter, the Secretary of Health and Human  
9 Services shall update guidance issued by the Centers for  
10 Medicare & Medicaid Services to States, the State Med-  
11 icaid & CHIP Telehealth Toolkit, to clarify strategies to  
12 overcome existing barriers and increase access to tele-  
13 health under the Medicaid program under title XIX of the  
14 Social Security Act (42 U.S.C. 1396 et seq.) and the Chil-  
15 dren’s Health Insurance Program under title XXI of such  
16 Act (42 U.S.C. 1397aa et seq.). Such updated guidance  
17 shall include examples of and promising practices regard-  
18 ing—

- 19 (1) telehealth delivery of covered services;
- 20 (2) recommended voluntary billing codes, modi-  
21 fiers, and place-of-service designations for telehealth  
22 and other virtual health care services;
- 23 (3) the simplification or alignment (including  
24 through reciprocity) of provider licensing,  
25 credentialing, and enrollment protocols with respect

1 to telehealth across States, State Medicaid plans  
2 under such title XIX, and Medicaid managed care  
3 organizations, including during national public  
4 health emergencies;

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

8 (5) waivers under the Medicaid program to test  
9 expanded access to telehealth, including during the  
10 emergency period described in section 1135(g)(1)(B)  
11 of the Social Security Act (42 U.S.C. 1320b-  
12 5(g)(1)(B)).