

Union Calendar No. 285

117TH CONGRESS
2^D SESSION

H. R. 7233

[Report No. 117-374]

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.

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

JUNE 16, 2022

Additional sponsors: Mrs. HINSON, Mrs. HAYES, Ms. HOULAHAN, and Mr.
TRONE

JUNE 16, 2022

Reported with amendments, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on March 28, 2022]

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 CARE 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 of the Social Security Act (42 U.S.C. 1396a) is*
 12 *amended—*

13 *(1) in subsection (a)(84)—*

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

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

18 *(C) by adding at the end the following new*
 19 *subparagraph:*

20 *“(D) beginning October 1, 2023, in the case*
 21 *of individuals who are eligible juveniles described*
 22 *in subsection (nn)(2), are scheduled to be re-*
 23 *leased from placement in a public institution fol-*
 24 *lowing adjudication, and who the State deter-*
 25 *mines pursuant to subparagraph (B) or (C), as*

1 applicable, meet the eligibility requirements for
2 medical assistance under the State plan, the
3 State shall have in place a plan to ensure, and
4 in accordance with such plan, provide—

5 “(i) for, prior to the release of such an
6 eligible juvenile from such public institution
7 (or not later than one week after release
8 from the public institution), and in coordi-
9 nation with such institution—

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

14 “(II) any screening which such el-
15 igible juvenile did not receive in ac-
16 cordance with such intervals due to the
17 incarceration of such eligible juvenile;
18 and

19 “(III) a behavioral health or men-
20 tal health screening that is a screening
21 service described under section
22 1905(r)(1), if such screening was not
23 otherwise conducted pursuant to this
24 clause;

1 “(ii) for, not later than the latter of the
2 date on which such eligible juvenile is re-
3 leased from such institution, or the date on
4 which the screenings pursuant to clause (i)
5 for such eligible juvenile are conducted, re-
6 ferrals for such eligible juvenile to the ap-
7 propriate services, including necessary
8 health care, diagnostic services, treatment,
9 and other measures described in section
10 1905(a), giving preference to providers of
11 such services who are located in the geo-
12 graphic region of the home or residence of
13 such eligible juvenile when available, based
14 on such screenings; and

15 “(iii) for, following the release of such
16 eligible juvenile from such institution, and
17 the completion of the screenings conducted
18 pursuant to clause (i), not less than 30 days
19 of targeted case management services fur-
20 nished by a provider in the geographic re-
21 gion of the home or residence of such eligible
22 juvenile.”; and

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

1 (b) *CLARIFICATION OF FEDERAL FINANCIAL PARTICI-*
2 *PATION.*—*The subdivision (A) of section 1905(a) of the So-*
3 *cial Security Act (42 U.S.C. 1396d(a)) following paragraph*
4 *(31) of such section is amended by striking “(except as a*
5 *patient in a medical institution)” and inserting “(except*
6 *in the case of eligible juveniles described in section*
7 *1902(a)(84)(D), and individuals as a patient in a medical*
8 *institution)”.*

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

12 *“(U) Section 1902(a)(84)(D) (relating to el-*
13 *igible juveniles scheduled to be released from*
14 *placement in a public institution following adju-*
15 *dication).”.*

16 **SEC. 3. GUIDANCE ON REDUCING ADMINISTRATIVE BAR-**
17 **RIERS TO PROVIDING HEALTH CARE SERV-**
18 **ICES IN SCHOOLS.**

19 (a) *IN GENERAL.*—*Not later than 180 days after the*
20 *date of enactment of this Act, the Secretary of Health and*
21 *Human Services shall issue guidance to State Medicaid*
22 *agencies, elementary and secondary schools, and school-*
23 *based health centers on reducing administrative barriers to*
24 *such schools and centers furnishing medical assistance and*
25 *obtaining payment for such assistance under titles XIX and*

1 *XXI of the Social Security Act (42 U.S.C. 1396 et seq.,*
2 *1397aa et seq.).*

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

5 (1) *include proposed revisions to the May 2003*
6 *Medicaid School-Based Administrative Claiming*
7 *Guide, the 1997 Medicaid and Schools Technical As-*
8 *sistance Guide, and other guidance in effect on the*
9 *date of enactment of this Act;*

10 (2) *provide information on payment under titles*
11 *XIX and XXI of the Social Security Act (42 U.S.C.*
12 *1396 et seq., 1397aa et seq.) for the provision of med-*
13 *ical assistance, including such assistance provided in*
14 *accordance with an individualized education program*
15 *or under the “free care” policy described in the State*
16 *Medicaid Director letter on payment for services*
17 *issued on December 15, 2014 (#14-006);*

18 (3) *take into account reasons why small and*
19 *rural local education agencies may not provide med-*
20 *ical assistance, and consider approaches to encourage*
21 *such agencies to provide such assistance; and*

22 (4) *include best practices and examples of meth-*
23 *ods that State Medicaid agencies and local education*
24 *agencies have used to pay for, and increase the avail-*
25 *ability of, medical assistance.*

1 (c) *DEFINITIONS.—In this Act:*

2 (1) *INDIVIDUALIZED EDUCATION PROGRAM.—The*
3 *term “individualized education program” has the*
4 *meaning given such term in section 602(14) of the In-*
5 *dividuals with Disabilities Education Act (20 U.S.C.*
6 *1401(14)).*

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

11 **SEC. 4. GUIDANCE TO STATES ON SUPPORTING MENTAL,**
12 **EMOTIONAL, AND BEHAVIORAL HEALTH**
13 **SERVICES, AND ON THE AVAILABILITY OF**
14 **TELEHEALTH UNDER MEDICAID.**

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

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

24 (2) *provision of such services to underserved*
25 *communities;*

1 (3) *flexibilities for children’s hospitals and other*
2 *providers to expand access to such services while en-*
3 *sureing high quality and safety; and*

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

6 **SEC. 5. ENSURING CHILDREN RECEIVE TIMELY ACCESS TO**
7 **CARE.**

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

17 (b) *ENSURING CONSISTENT REVIEW AND STATE IM-*
18 *PLEMENTATION OF EARLY AND PERIODIC SCREENING, DI-*
19 *AGNOSTIC, AND TREATMENT SERVICES.—Section 1905(r) of*
20 *the Social Security Act (42 U.S.C. 1396d(r)) is amended*
21 *by adding at the end the following: “Not later than January*
22 *1, 2025, and not later than each January 1 thereafter, the*
23 *Secretary shall review implementation of the requirements*
24 *of this subsection by States, including such requirements*
25 *relating to services provided by a managed care entity,*

1 *identify and disseminate best practices for ensuring com-*
2 *prehensive coverage of services, identify gaps and defi-*
3 *ciencies in meeting Federal requirements, and provide guid-*
4 *ance to States on addressing identified gaps and disparities*
5 *and meeting Federal coverage requirements in order to en-*
6 *sure children have access to behavioral health services.”.*

7 **SEC. 6. STRATEGIES TO INCREASE ACCESS TO TELEHEALTH**
8 **UNDER MEDICAID AND CHILDREN’S HEALTH**
9 **INSURANCE PROGRAM.**

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

- 22 *(1) telehealth delivery of covered services;*
23 *(2) recommended voluntary billing codes, modi-*
24 *fiers, and place-of-service designations for telehealth*
25 *and other virtual health care services;*

1 (3) *the simplification or alignment (including*
2 *through reciprocity) of provider licensing,*
3 *credentialing, and enrollment protocols with respect*
4 *to telehealth across States, State Medicaid plans*
5 *under such title XIX, and Medicaid managed care or-*
6 *ganizations, including during national public health*
7 *emergencies;*

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

11 (5) *waivers under the Medicaid program to test*
12 *expanded access to telehealth, including during the*
13 *emergency period described in section 1135(g)(1)(B)*
14 *of the Social Security Act (42 U.S.C. 1320b-*
15 *5(g)(1)(B)).*

16 **SEC. 7. REMOVAL OF INMATE LIMITATIONS ON BENEFITS**
17 **UNDER MEDICAID.**

18 (a) *IN GENERAL.*—*The subdivision (A) of section*
19 *1905(a) of the Social Security Act (42 U.S.C. 1396d(a))*
20 *following paragraph (31) of such section, as amended by*
21 *section 2(b), is further amended by striking “and individ-*
22 *uals as a patient in a medical institution” and inserting*
23 *“individuals as a patient in a medical institution, or, at*
24 *the option of the State, for an individual who is a juvenile,*

1 *while such individual is an inmate of a public institution*
2 *pending disposition of charges”.*

3 **(b) EFFECTIVE DATE.**—*The amendment made by sub-*
4 *section (a) shall take effect on the first day of the first cal-*
5 *endar quarter that begins after the date that is 18 months*
6 *after the date of enactment of this Act and shall apply to*
7 *items and services furnished for periods beginning on or*
8 *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.”.

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