

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 7236

To amend title XIX of the Social Security Act to expand the availability of mental, emotional, and behavioral health services under the Medicaid program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2022

Ms. ESHOO (for herself, Mr. FITZPATRICK, and Ms. BLUNT ROCHESTER) 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 expand the availability of mental, emotional, and behavioral health services under the Medicaid program, and for other purposes.

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 “Strengthen Kids’ Men-  
5 tal Health Now Act of 2022”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Payment parity for pediatric behavioral health services.

Sec. 4. Guidance to States on supporting mental, emotional, and behavioral health services, and on the availability of telehealth under Medicaid.

Sec. 5. Ensuring children receive timely access to care.

Sec. 6. Programs to support pediatric behavioral health care.

Sec. 7. Increasing Federal investment in pediatric behavioral health services.

1 **SEC. 3. PAYMENT PARITY FOR PEDIATRIC BEHAVIORAL**  
 2 **HEALTH SERVICES.**

3 (a) PAYMENT PARITY FOR PEDIATRIC BEHAVIORAL  
 4 HEALTH SERVICES.—Section 1902 of the Social Security  
 5 Act (42 U.S.C. 1396a) is amended—

6 (1) in subsection (a)(13)—

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

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

11 (C) by adding at the end the following new  
 12 subparagraph:

13 “(D) for payment for pediatric mental,  
 14 emotional, and behavioral health services (as  
 15 defined in subsection (tt)) furnished on or after  
 16 the date that is 180 days after the date of en-  
 17 actment of this subparagraph and before Octo-  
 18 ber 1, 2027, at a rate not less than 100 percent  
 19 of the payment rate that applies to such pro-  
 20 viders under part A or B (as applicable) of title  
 21 XVIII;”;

1           (2) by adding at the end the following new sub-  
2           section:

3           “(tt) PEDIATRIC MENTAL, EMOTIONAL, AND BEHAV-  
4           IORAL HEALTH SERVICES DEFINED.—For purposes of  
5           subsection (a)(13)(D), the term ‘pediatric mental, emo-  
6           tional, and behavioral health services’ means the following  
7           services furnished by a health care provider, including hos-  
8           pitals, physicians, and other providers determined by the  
9           Secretary, for the purposes of screening for, diagnosing,  
10          or treating a mental, emotional, or behavioral health con-  
11          dition, whether furnished in-person or via telehealth:

12           “(1) Mental health and substance use disorder  
13          screenings.

14           “(2) Mental health development assessments.

15           “(3) Mental health behavior assessments and  
16          interventions.

17           “(4) Psychological and neuropsychological test-  
18          ing and assessment.

19           “(5) Mental health primary prevention services.

20           “(6) Mental health and substance use disorder  
21          case management services.

22           “(7) School-based mental health and substance  
23          use disorder prevention, identification, and treat-  
24          ment services.

- 1           “(8) Child and adolescent psychiatry and psy-  
2           chology services.
- 3           “(9) Partial hospitalization services.
- 4           “(10) Day program services.
- 5           “(11) Intensive outpatient services.
- 6           “(12) Eating disorder treatment services.
- 7           “(13) Outpatient services.
- 8           “(14) Crisis residential services.
- 9           “(15) Crisis intervention and stabilization.
- 10          “(16) Inpatient psychiatric and psychological  
11          services.
- 12          “(17) Individual therapy.
- 13          “(18) Family therapy.
- 14          “(19) Group therapy services.
- 15          “(20) Intensive in-home services.
- 16          “(21) Peer support services.
- 17          “(22) Provider-to-provider consultation services  
18          involving primary care practitioners sand mental  
19          health care specialists, including child and adoles-  
20          cent specialists.
- 21          “(23) Substance use disorder screening, includ-  
22          ing SBIRT, and treatment.
- 23          “(24) Medication management.

1           “(25) Any other pediatric mental, emotional, or  
2           behavioral health service determined appropriate by  
3           the Secretary.”.

4           (b) UNDER MEDICAID MANAGED CARE PLANS.—  
5           Section 1932(f) of such Act (42 U.S.C. 1396u–2(f)) is  
6           amended—

7           (1) in the header, by inserting “AND PEDIATRIC  
8           MENTAL, EMOTIONAL, AND BEHAVIORAL HEALTH”  
9           before “SERVICES”;

10           (2) by inserting “and pediatric mental, emo-  
11           tional, and behavioral health services described in  
12           section 1902(a)(13)(D)” after “section  
13           1902(a)(13)(C)”; and

14           (3) by striking “such section” and inserting  
15           “section 1902(a)(13)”.

16           (c) INCREASE IN PAYMENT USING INCREASED  
17           FMAP.—Section 1905 of the Social Security Act (42  
18           U.S.C. 1396d) is amended by adding at the end the fol-  
19           lowing new subsection:

20           “(jj) INCREASED FMAP FOR ADDITIONAL EXPENDI-  
21           TURES FOR PEDIATRIC MENTAL, EMOTIONAL, AND BE-  
22           HAVIORAL HEALTH SERVICES.—Notwithstanding sub-  
23           section (b), with respect to the portion of the amounts ex-  
24           pended for medical assistance for services described in sec-  
25           tion 1902(a)(13)(D) furnished on or after the date that

1 is 180 days after date of enactment of this subsection and  
2 before October 1, 2027, and that is attributable to the  
3 amount by which the minimum payment rate required  
4 under such section (or, by application, section 1932(f)) ex-  
5 ceeds the payment rate applicable to such services under  
6 the State plan as of the day before the date of the enact-  
7 ment of this subsection, the Federal medical assistance  
8 percentage for a State that is one of the 50 States or the  
9 District of Columbia shall be equal to 100 percent. The  
10 preceding sentence does not prohibit the payment of Fed-  
11 eral financial participation based on the Federal medical  
12 assistance percentage for amounts in excess of those speci-  
13 fied in such sentence.”.

14 **SEC. 4. GUIDANCE TO STATES ON SUPPORTING MENTAL,**  
15 **EMOTIONAL, AND BEHAVIORAL HEALTH**  
16 **SERVICES, AND ON THE AVAILABILITY OF**  
17 **TELEHEALTH UNDER MEDICAID.**

18 (a) MENTAL, EMOTIONAL, AND BEHAVIORAL  
19 HEALTH SERVICES.—Not later than 180 days after date  
20 of enactment of this Act, the Secretary of Health and  
21 Human Services shall issue guidance to States on how to  
22 expand the provision of mental, emotional, and behavioral  
23 health services covered by State plans (or waivers of such  
24 plans) under title XIX of the Social Security Act (42  
25 U.S.C. 1396 et seq.), including a description of best prac-

1 tices for effective programs, service provision for under-  
2 served communities, and recruitment and retention of pro-  
3 viders.

4 (b) **TELEHEALTH SERVICES.**—Not later than 1 year  
5 after date of enactment of this Act, the Secretary of  
6 Health and Human Services shall issue guidance to States  
7 on best practices to sustain and enhance the availability  
8 of telehealth services covered by State plans (or waivers  
9 of such plans) under title XIX of the Social Security Act  
10 (42 U.S.C. 1396 et seq.).

11 **SEC. 5. ENSURING CHILDREN RECEIVE TIMELY ACCESS TO**  
12 **CARE.**

13 (a) **GUIDANCE TO STATES ON FLEXIBILITIES TO EN-**  
14 **SURE PROVIDER CAPACITY TO PROVIDE PEDIATRIC MEN-**  
15 **TAL, EMOTIONAL, AND BEHAVIORAL CRISIS CARE.**—Not  
16 later than 60 days after the date of enactment of this Act,  
17 the Secretary of Health and Human Services shall provide  
18 guidance to States on existing flexibilities for hospitals  
19 and other providers under applicable laws, regulations,  
20 and guidance to support children in crisis or in need of  
21 intensive mental, emotional or behavioral health services.

22 (b) **MANDATED REPORT TO CONGRESS REGARDING**  
23 **BARRIERS TO REPURPOSING OF BEDS, SPACE, AND**  
24 **STAFF TO ADDRESS PEDIATRIC BEHAVIORAL HEALTH**  
25 **NEEDS.**—

1           (1) IN GENERAL.—Not later than 120 days  
2 after the date of enactment of this Act, the Sec-  
3 retary of Health and Human Services shall submit  
4 to the Congress a report with respect to regulatory  
5 and legal barriers to care across the crisis con-  
6 tinuum that identifies solutions to facilitate flexi-  
7 bility for children’s hospitals and other providers of  
8 mental, emotional, or behavioral health services.

9           (2) REQUIREMENTS.—In preparing a report  
10 under this subsection, the Secretary of Health and  
11 Human Services shall include in such report—

12                   (A) a comprehensive list of laws, regula-  
13 tions, and guidance impacting children’s hos-  
14 pitals’ and other providers’ ability to repurpose  
15 immediately beds, space, and staff for children  
16 in need of mental, emotional, or behavioral  
17 health services, including a description of the  
18 rationale for each policy and corresponding ac-  
19 tions required to repurpose such beds, space,  
20 and staff; and

21                   (B) recommendations on how children’s  
22 hospitals and other providers can immediately  
23 expand access to mental, emotional, and behav-  
24 ioral health services while also ensuring high  
25 quality and safety.

1 (c) ENSURING CONSISTENT REVIEW AND STATE IM-  
2 PLEMENTATION OF EARLY AND PERIODIC SCREENING,  
3 DIAGNOSTIC, AND TREATMENT SERVICES.—Section  
4 1905(r) of the Social Security Act (42 U.S.C. 1396d(r))  
5 is amended by adding at the end the following: “The Sec-  
6 retary shall, not later than July 1, 2022, and not later  
7 than January 1 each year thereafter, review implementa-  
8 tion of the requirements of this subsection by States as  
9 they pertain to behavioral health services for children, in-  
10 cluding services provided by a managed care entity, iden-  
11 tify and disseminate best practices for ensuring com-  
12 prehensive coverage of services, identify gaps and defi-  
13 ciencies in meeting Federal requirements, and provide  
14 guidance to States on addressing identified gaps and dis-  
15 parities and meeting Federal coverage requirements in  
16 order to ensure children, including children without a  
17 mental health diagnosis, have access to behavioral health  
18 services.”.

19 **SEC. 6. PROGRAMS TO SUPPORT PEDIATRIC BEHAVIORAL**  
20 **HEALTH CARE.**

21 Subpart V of part D of title III of the Public Health  
22 Service Act (42 U.S.C. 256 et seq.) is amended by adding  
23 at the end the following:

1 **“SEC. 340A-1. PROGRAM TO SUPPORT PEDIATRIC BEHAV-**  
2 **IORAL HEALTH CARE INTEGRATION AND CO-**  
3 **ORDINATION.**

4 “(a) IN GENERAL.—The Secretary, acting through  
5 the Administrator of the Health Resources and Services  
6 Administration, shall award grants, contracts, or coopera-  
7 tive agreements to eligible entities for the purpose of sup-  
8 porting pediatric behavioral health care integration and  
9 coordination within communities to meet local community  
10 needs.

11 “(b) ELIGIBLE ENTITIES.—Entities eligible for  
12 grants under subsection (a) include—

13 “(1) health care providers, including family  
14 physicians, pediatric medical sub-specialists, and  
15 surgical specialists;

16 “(2) children’s hospitals;

17 “(3) facilities that are eligible to receive funds  
18 under section 340E or 340H;

19 “(4) nonprofit medical facilities that predomi-  
20 nantly treat individuals under the age of 21;

21 “(5) rural health clinics and Federally qualified  
22 health centers (as such terms are defined in section  
23 1861(aa) of the Social Security Act);

24 “(6) pediatric mental health and substance use  
25 disorder providers, such as child and adolescent psy-  
26 chiatrists, psychologists, developmental and behav-

1 ioral pediatricians, general pediatricians, advanced  
2 practice nurses, social workers, licensed professional  
3 counselors, and other licensed professionals that pro-  
4 vide mental health and substance use disorder serv-  
5 ices to patients under 21 years of age;

6 “(7) child advocacy centers described in section  
7 214(c)(2)(B) of the Victims of Child Abuse Act of  
8 1990;

9 “(8) school-based health centers; and

10 “(9) other entities as determined appropriate by  
11 the Secretary.

12 “(c) PRIORITIZATION.—In making awards under sub-  
13 section (a), the Secretary shall prioritize—

14 “(1) applicants that provide children and ado-  
15 lescents from high need, rural, or under-resourced  
16 communities with services across the continuum of  
17 children’s mental health and substance use disorder  
18 care; and

19 “(2) applicants that predominantly provide care  
20 to children and adolescents that demonstrate plans  
21 to utilize funds to expand provision of care to chil-  
22 dren, adolescents, and youth under age 21.

23 “(d) USE OF FUNDS.—Activities that may be funded  
24 through an award under subsection (a) include—

1           “(1) increasing the capacity of pediatric prac-  
2           tices, family medicine practices, and school-based  
3           health centers to integrate pediatric mental, emo-  
4           tional, and behavioral health services into their prac-  
5           tices including through co-location of mental, emo-  
6           tional, and behavioral health providers;

7           “(2) training for non-clinical pediatric health  
8           care workers, including care coordinators and navi-  
9           gators, on child and adolescent mental health and  
10          substance use disorder, trauma-informed care, and  
11          local resources to support children and caregivers;

12          “(3) expanding evidence-based, integrated mod-  
13          els of care for pediatric mental health and substance  
14          use disorder services;

15          “(4) pediatric practice integration for the provi-  
16          sion of pediatric mental health and substance use  
17          disorder services;

18          “(5) addressing surge capacity for pediatric  
19          mental health and substance use disorder needs;

20          “(6) providing pediatric mental, emotional, and  
21          behavioral health services to children as delivered by  
22          mental health and substance use disorder profes-  
23          sionals utilizing telehealth services;

24          “(7) establishing or maintaining initiatives to  
25          allow more children to access care outside of emer-

1 agency departments, including partial hospitalization,  
2 step down residency programs, and intensive out-  
3 patient programs;

4 “(8) supporting, enhancing, or expanding pedi-  
5 atric mental health and substance use disorder pre-  
6 ventive and crisis intervention services;

7 “(9) establishing or maintaining pediatric men-  
8 tal health and substance use disorder urgent care or  
9 walk-in clinics;

10 “(10) establishing or maintaining community-  
11 based pediatric mental health and substance use dis-  
12 order initiatives, such as partnerships with schools  
13 and early childhood education programs;

14 “(11) addressing other access and coordination  
15 gaps to pediatric mental health and substance use  
16 disorder services in the community for children; and

17 “(12) supporting the collection of data on chil-  
18 dren and adolescents’ mental health needs, service  
19 utilization and availability, and demographic data, to  
20 capture community needs and identify gaps and bar-  
21 riers in children’s access to care, in a manner that  
22 protects personal privacy, consistent with applicable  
23 Federal and State privacy laws.

24 “(e) AUTHORIZATION OF APPROPRIATIONS.—To  
25 carry out this section, there is authorized to be appro-

1 priated \$500,000,000 for each of fiscal years 2023  
2 through 2027.

3 **“SEC. 340A-2. PEDIATRIC BEHAVIORAL HEALTH WORK-**  
4 **FORCE TRAINING PROGRAM.**

5 “(a) IN GENERAL.—The Secretary, acting through  
6 the Administrator of the Health Resources and Services  
7 Administration, shall award grants, contracts, or coopera-  
8 tive agreements to eligible entities for the purpose of sup-  
9 porting evidence-based pediatric mental health and sub-  
10 stance use disorder workforce training.

11 “(b) ELIGIBLE ENTITIES.—Entities eligible for  
12 grants under subsection (a) include—

13 “(1) children’s hospitals;

14 “(2) facilities that are eligible to receive funds  
15 under section 340E or 340H;

16 “(3) nonprofit medical facilities that predomi-  
17 nantly treat individuals under the age of 21;

18 “(4) rural health clinics and Federally qualified  
19 health centers (as such terms are defined in section  
20 1861(aa) of the Social Security Act);

21 “(5) entities that employ mental health and  
22 substance use disorder professionals, such as child  
23 and adolescent psychiatrists, psychologists, develop-  
24 mental and behavioral pediatricians, general pedia-  
25 tricians, advanced practice nurses, social workers, li-

1 censed professional counselors, or other licensed pro-  
2 fessionals that provide mental health or substance  
3 use disorder services to patients under 21 years of  
4 age; and

5 “(6) other pediatric health care providers as de-  
6 termined appropriate by the Secretary.

7 “(c) USE OF FUNDS.—Activities that may be sup-  
8 ported through an award under subsection (a) include the  
9 following:

10 “(1) Training to enhance the capabilities of the  
11 existing pediatric workforce, including pediatricians,  
12 primary care physicians, advanced practice reg-  
13 istered nurses, and other pediatric health care pro-  
14 viders, including expanded training in pediatric men-  
15 tal health and substance use disorders, and cul-  
16 turally and developmentally appropriate care for  
17 children with mental health conditions.

18 “(2) Training to support multi-disciplinary  
19 teams to provide pediatric mental health and sub-  
20 stance use disorder treatment, including through in-  
21 tegrated care models.

22 “(3) Initiatives to accelerate the time to licen-  
23 sure within the pediatric mental health or substance  
24 use disorder workforce.

1           “(4) Activities to expand recruitment and reten-  
2           tion, increase workforce diversity, or enhance work-  
3           force training for critical pediatric mental health  
4           professions, including—

5                   “(A) child and adolescent psychiatrists;

6                   “(B) psychiatric nurses;

7                   “(C) psychologists;

8                   “(D) family therapists;

9                   “(E) social workers;

10                  “(F) mental health counselors;

11                  “(G) developmental and behavioral pedia-  
12                  tricians;

13                  “(H) pediatric substance use disorder spe-  
14                  cialists; and

15                  “(I) other mental health care providers as  
16                  determined appropriate by the Secretary.

17           “(d) AUTHORIZATION OF APPROPRIATIONS.—To  
18           carry out this section, there is authorized to be appro-  
19           priated \$100,000,000 for each of fiscal years 2023  
20           through 2027.”.

21   **SEC. 7. INCREASING FEDERAL INVESTMENT IN PEDIATRIC**  
22                   **BEHAVIORAL HEALTH SERVICES.**

23           The Public Health Service Act (42 U.S.C. 201 et  
24           seq.) is amended by adding at the end the following:

1 **“TITLE XXXIV—ASSISTANCE FOR**  
2 **CONSTRUCTION AND MOD-**  
3 **ERNIZATION OF CHILDREN’S**  
4 **MENTAL HEALTH AND SUB-**  
5 **STANCE USE DISORDER IN-**  
6 **FRASTRUCTURE**

7 **“SEC. 3401. INCREASING FEDERAL INVESTMENT IN PEDI-**  
8 **ATRIC BEHAVIORAL HEALTH SERVICES.**

9 “(a) IN GENERAL.—The Secretary, acting through  
10 the Administrator of the Health Resources and Services  
11 Administration, shall award grants, contracts, or coopera-  
12 tive agreements to eligible entities for the purpose of im-  
13 proving their ability to provide pediatric behavioral health  
14 services, including by—

15 “(1) constructing or modernizing sites of care  
16 for pediatric behavioral health services;

17 “(2) expanding capacity to provide pediatric be-  
18 havioral health services, including enhancements to  
19 digital infrastructure, telehealth capabilities, or other  
20 improvements to patient care infrastructure;

21 “(3) supporting the reallocation of existing re-  
22 sources to accommodate pediatric behavioral health  
23 patients, including by converting or adding a suffi-  
24 cient number of beds to establish or increase the  
25 hospital’s inventory of licensed and operational,

1 short-term psychiatric and substance use inpatient  
2 beds; and

3 “(4) addressing gaps in the continuum of care  
4 for children, by expanding capacity to provide inter-  
5 mediate levels of care, such as intensive outpatient  
6 services, partial hospitalization programs, and day  
7 programs that can prevent hospitalizations and sup-  
8 port children as they transition back to their homes  
9 and communities.

10 “(b) ELIGIBILITY.—To be eligible to seek an award  
11 under this section, an entity shall be a hospital or rural  
12 health clinic that predominantly treats individuals under  
13 the age of 21, including any hospital that receives funds  
14 under section 340E.

15 “(c) AUTHORIZATION OF APPROPRIATIONS.—To  
16 carry out this section, there is authorized to be appro-  
17 priated \$2,000,000,000 for each of fiscal years 2023  
18 through 2027.

19 “(d) SUPPLEMENT, NOT SUPPLANT.—Funds pro-  
20 vided under this section shall be used to supplement, not  
21 supplant Federal and non-Federal funds available for car-  
22 rying out the activities described in this section.

23 “(e) REPORTING.—

24 “(1) REPORTS FROM AWARD RECIPIENTS.—Not  
25 later than 180 days after the completion of activities

1 funded by an award under this section, the entity  
2 that received such award shall submit a report to  
3 the Secretary on the activities conducted using funds  
4 from such award, and other information as the Sec-  
5 retary may require.

6 “(2) REPORTS TO CONGRESS.—Not later than  
7 one year, the Secretary shall submit to the Com-  
8 mittee on Energy and Commerce of the House of  
9 Representatives and the Committee on Health, Edu-  
10 cation, Labor, and Pensions of the Senate a report  
11 on the projects and activities conducted with funds  
12 awarded under this section, and the outcome of such  
13 projects and activities. Such report shall include—

14 “(A) the number of projects supported by  
15 awards made under this section;

16 “(B) an overview of the impact, if any, of  
17 such projects on pediatric health care infra-  
18 structure, including any impact on access to pe-  
19 diatric mental health and substance use dis-  
20 order services;

21 “(C) recommendations for improving the  
22 investment program under this section; and

23 “(D) any other considerations as the Sec-  
24 retary determines appropriate.”.

○