

**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:

**1 SECTION 1. SHORT TITLE.**

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

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

8       (a) MEDICAID STATE PLAN REQUIREMENT.—Section  
9 1902 of the Social Security Act (42 U.S.C. 1396a) is  
10 amended—

11           (1) in subsection (a)(84)—

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

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

16               (C) by adding at the end the following new  
17 subparagraph:

1           “(D) beginning October 1, 2023, in the  
2 case of individuals who are eligible juveniles de-  
3 scribed in subsection (m)(2), are scheduled to  
4 be released from placement in a public institu-  
5 tion following adjudication, and who the State  
6 determines pursuant to subparagraph (B) or  
7 (C), as applicable, meet the eligibility require-  
8 ments for medical assistance under the State  
9 plan, the State shall have in place a plan to en-  
10 sure, and in accordance with such plan, pro-  
11 vide—

12           “(i) for, prior to the release of such  
13 an eligible juvenile from such public insti-  
14 tution (or not later than one week after re-  
15 lease from the public institution), and in  
16 coordination with such institution—

17           “(I) any screening described in  
18 section 1905(r) for which such eligible  
19 juvenile qualifies based on the inter-  
20 vals established pursuant to such sec-  
21 tion;

22           “(II) any screening which such  
23 eligible juvenile did not receive in ac-  
24 cordance with such intervals due to

1 the incarceration of such eligible juve-  
2 nile; and

3 “(III) a behavioral health or  
4 mental health screening that is a  
5 screening service described under sec-  
6 tion 1905(r)(1), if such screening was  
7 not otherwise conducted pursuant to  
8 this clause;

9 “(ii) for, not later than the latter of  
10 the date on which such eligible juvenile is  
11 released from such institution, or the date  
12 on which the screenings pursuant to clause  
13 (i) for such eligible juvenile are conducted,  
14 referrals for such eligible juvenile to the  
15 appropriate services, including necessary  
16 health care, diagnostic services, treatment,  
17 and other measures described in section  
18 1905(a), giving preference to providers of  
19 such services who are located in the geo-  
20 graphic region of the home or residence of  
21 such eligible juvenile when available, based  
22 on such screenings; and

23 “(iii) for, following the release of such  
24 eligible juvenile from such institution, and  
25 the completion of the screenings conducted

1                   pursuant to clause (i), not less than 30  
2                   days of targeted case management services  
3                   furnished by a provider in the geographic  
4                   region of the home or residence of such eli-  
5                   gible juvenile.”; and

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

8                   (b) CLARIFICATION OF FEDERAL FINANCIAL PAR-  
9                   TICIPATION.—The subdivision (A) of section 1905(a) of  
10                  the Social Security Act (42 U.S.C. 1396d(a)) following  
11                  paragraph (31) of such section is amended by striking  
12                  “(except in the case of individuals as a patient in a med-  
13                  ical institution)” and inserting “(except in the case of eli-  
14                  gible juveniles described in section 1902(a)(84)(D), and  
15                  individuals as a patient in a medical institution)”.

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

19                                 “(U) Section 1902(a)(84)(D) (relating to  
20                                 eligible juveniles scheduled to be released from  
21                                 placement in a public institution following adju-  
22                                 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 guidance to State Medicaid  
7 agencies, elementary and secondary schools, and school-  
8 based health centers on reducing administrative barriers  
9 to such schools and centers furnishing medical assistance  
10 and obtaining payment for such assistance under titles  
11 XIX and XXI of the Social Security Act (42 U.S.C. 1396  
12 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 payment under titles  
21 XIX and XXI of the Social Security Act (42 U.S.C.  
22 1396 et seq., 1397aa et seq.) for the provision of  
23 medical assistance, including such assistance pro-  
24 vided in accordance with an individualized education  
25 program or under the “free care” policy described in

1 the State Medicaid Director letter on payment for  
2 services issued on December 15, 2014 (#14-006);

3 (3) take into account reasons why small and  
4 rural local education agencies may not provide med-  
5 ical assistance, and consider approaches to encour-  
6 age such agencies to provide such assistance; and

7 (4) include best practices and examples of  
8 methods that State Medicaid agencies and local edu-  
9 cation agencies have used to pay for, and increase  
10 the availability of, medical assistance.

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)).

1 **SEC. 4. GUIDANCE TO STATES ON SUPPORTING MENTAL,**  
2 **EMOTIONAL, AND BEHAVIORAL HEALTH**  
3 **SERVICES, AND ON THE AVAILABILITY OF**  
4 **TELEHEALTH UNDER MEDICAID.**

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

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

14 (2) provision of such services to underserved  
15 communities;

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

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

21 **SEC. 5. ENSURING CHILDREN RECEIVE TIMELY ACCESS TO**  
22 **CARE.**

23 (a) GUIDANCE TO STATES ON FLEXIBILITIES TO EN-  
24 SURE PROVIDER CAPACITY TO PROVIDE PEDIATRIC MEN-  
25 TAL, EMOTIONAL, AND BEHAVIORAL CRISIS CARE.—Not  
26 later than July 1, 2024, the Secretary of Health and

1 Human Services shall provide guidance to States on exist-  
2 ing flexibilities under State plans (or waivers of such  
3 plans) under title XIX of the Social Security Act (42  
4 U.S.C. 1396 et seq.) to support children in crisis or in  
5 need of intensive mental, emotional, or behavioral health  
6 services.

7 (b) ENSURING CONSISTENT REVIEW AND STATE IM-  
8 PLEMENTATION OF EARLY AND PERIODIC SCREENING,  
9 DIAGNOSTIC, AND TREATMENT SERVICES.—Section  
10 1905(r) of the Social Security Act (42 U.S.C. 1396d(r))  
11 is amended by adding at the end the following: “Not later  
12 than January 1, 2025, and not later than each January  
13 1 thereafter, the Secretary shall review implementation of  
14 the requirements of this subsection by States, including  
15 such requirements relating to services provided by a man-  
16 aged care entity, identify and disseminate best practices  
17 for ensuring comprehensive coverage of services, identify  
18 gaps and deficiencies in meeting Federal requirements,  
19 and provide guidance to States on addressing identified  
20 gaps and disparities and meeting Federal coverage re-  
21 quirements in order to ensure children have access to be-  
22 havioral health services.”.



1 **SEC. 6. STRATEGIES TO INCREASE ACCESS TO TELE-**  
2 **HEALTH UNDER MEDICAID AND CHILDREN'S**  
3 **HEALTH INSURANCE PROGRAM.**

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

- 17 (1) telehealth delivery of covered services;
- 18 (2) recommended voluntary billing codes, modi-  
19 fiers, and place-of-service designations for telehealth  
20 and other virtual health care services;
- 21 (3) the simplification or alignment (including  
22 through reciprocity) of provider licensing,  
23 credentialing, and enrollment protocols with respect  
24 to telehealth across States, State Medicaid plans  
25 under such title XIX, and Medicaid managed care

1 organizations, including during national public  
2 health emergencies;

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

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

11 **SEC. 7. REMOVAL OF INMATE LIMITATIONS ON BENEFITS**  
12 **UNDER MEDICAID.**

13 (a) IN GENERAL.—The subdivision (A) of section  
14 1905(a) of the Social Security Act (42 U.S.C. 1396d(a))  
15 following paragraph (31) of such section, as amended by  
16 section 2(b), is further amended by striking “and individ-  
17 uals as a patient in a medical institution” and inserting  
18 “, individuals as a patient in a medical institution, or, at  
19 the option of the State, for an individual who is a juvenile,  
20 while such individual is an inmate of a public institution  
21 pending disposition of charges”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) shall take effect on the first day of the first  
24 calendar quarter that begins after the date that is 18  
25 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.”.

