



## AAP Headquarters

345 Park Blvd  
Itasca, IL 60143  
Phone: 630/626-6000  
Fax: 847/434-8000  
www.aap.org

## Reply to

### AAP Washington Office

601 13th St NW, Suite 400N  
Washington, DC 20005  
Phone: 202/347-8600  
E-mail: kids1st@aap.org

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July 11, 2023

The Honorable Gus Bilirakis  
U.S. House of Representatives  
2306 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Kathy Castor  
U.S. House of Representatives  
2052 Rayburn House Office Building  
Washington, D.C. 20515

Dear Representatives Bilirakis and Castor:

On behalf of the American Academy of Pediatrics (AAP), a non-profit professional organization of 67,000 primary care pediatricians, pediatric medical sub-specialists, and pediatric surgical specialists dedicated to the health, safety and well-being of infants, children, adolescents, and young adults, I am writing to share our opposition to the *Ensuring Medicaid Continuity for Children in Foster Care Act of 2023* (H.R. 4056). The AAP is concerned this legislation will cause significant unintended harm by prioritizing institutionalization of children and youth who instead need more community-based mental health supports to live safely in family settings.

The bipartisan *Family First Prevention Services Act* (Family First) is a landmark child welfare reform law that is creating critical policy change to better serve vulnerable children and families in two ways: 1) preventing unnecessary foster care placements with services to keep families safely together; and 2) prioritizing family-based placements for children who do need to enter foster care, and ensuring that residential treatment settings are high-quality and appropriate when children require specialized time-limited care not available in a family setting.

Family First made critical policy changes to improve standards for residential treatment. These reforms emphasize that children and youth only enter such a setting if they have a need that cannot be met in a family placement, and if a particular setting is high-quality enough to meet those needs. Family First does this by creating a new program model, the Qualified Residential Treatment Programs (QRTP). The law is designed to ensure QRTP placements are appropriate, time-limited, and meet a child's treatment needs so that they do not languish in settings which do not support their growth, development, and healing. QRTPs also must offer aftercare supports to facilitate a transition to the community after residential treatment. These standards align with what physicians and other child health experts know: children fare best in families.

The *Ensuring Medicaid Continuity for Children in Foster Care Act of 2023* (H.R. 4056) would create a major federal exemption from Medicaid oversight law for QRTPs. The Medicaid Institution for Mental Disease (IMD) exclusion generally prohibits Medicaid payments to facilities primarily providing mental health and substance use disorder treatment services if they have more than 16 beds. By significantly expanding investment in residential treatment instead of community-based settings, H.R. 4056 would create an incentive to place more children in large-scale institutions, undermining the bipartisan Congressional intent behind Family First.

At a time of pediatric mental health crisis, we need more bipartisan investment in community-based mental health services. Prioritizing institutionalization through significant changes to longstanding Medicaid policy will not expand those needed services and will instead drive interventions via residential treatment. The AAP instead encourages Congress to invest in the community-based services that support young people's success in families. This will help both avoid unnecessary institutionalization and ensure there are needed supports for those transitioning from residential treatment to a family.

The AAP is fully committed to the success of Family First. It is essential to ensure that there are not unintended consequences from interactions between the IMD exclusion and Family First's QRTP requirements. Today, Medicaid waiver authority supports states in creating a comprehensive, coordinated system of care for serious mental illness and serious emotional disturbance that can include residential care such as a QRTP; this targeted authority ensures that Medicaid can meet the needs of its enrollees when states take a holistic approach to mental and behavioral health. However, enacting a sweeping federal exemption for all QRTPs could create unintended consequences that lead to children and youth languishing in large facilities, without the community-based supports they need to thrive in families.

We would welcome the opportunity to continue discussions with you and other critical stakeholders about how to ensure the effective implementation of this vital law without creating unintended harms or undermining the intent of Family First. If the AAP can be of any further assistance, please do not hesitate to contact Zach Laris in our Washington, D.C. office at 202/347-8600 or [zlaris@aap.org](mailto:zlaris@aap.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Sandy L. Chung'.

Sandy L. Chung, MD, FAAP  
President

SC/zml