



NC DEPARTMENT OF  
**HEALTH AND  
HUMAN SERVICES**  
Division of Health Benefits

**ROY COOPER** • Governor  
**KODY H. KINSLEY** • Secretary  
**DAVE RICHARD** • Deputy Secretary, NC Medicaid

January 24, 2023

Deputy Administrator Daniel Tsai  
U.S. Department of Health and Human Services  
330 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Deputy Administrator Tsai,

On behalf of the citizens of North Carolina, I am pleased to submit to the U.S. Department of Health and Human Services (DHHS) a request to amend the North Carolina Section 1115 Demonstration Project (11-W00313/4).

North Carolina's current waiver approval authorizes significant transformations of North Carolina's Medicaid delivery system through a mandatory managed care program, the Healthy Opportunities Pilots (formerly known as the "Enhanced Case Management and Other Services Pilot Program"), and a waiver of the institution for mental diseases (IMD) exclusion for substance use disorder treatment. The mandatory managed care program offers three types of integrated prepaid health plans including:

- **Standard Plans** targeted to the majority of the Medicaid population, which launched in July 2021;
- **Behavioral Health Intellectual/Development Disability Tailored Plans** (BH I/DD Tailored Plans) targeted to individuals with significant behavioral health needs, intellectual/developmental disabilities, and traumatic brain injuries, which is scheduled to launch in 2023 and
- **The Children and Families Specialty Plan** (formerly known as the "Specialized PHP for Children in Foster Care" and also "Specialized Plan for Children in Foster Care and Formerly in Foster Care"), which is scheduled to launch by the end of 2024.

The state is proposing to amend its 1115 demonstration with the following changes:

**NC MEDICAID**

**NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH BENEFITS**

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- Extending Medicaid eligibility to parents and caretaker relatives of children/youth in foster care who are making reasonable efforts to comply with a court-ordered plan of reunification, allowing them to maintain coverage while the child/youth is in foster care; and
- Expanding eligibility for the Children and Families Specialty Plan to include certain Medicaid-eligible parents, custodians, and guardians of children/youth in foster care (i.e., those described in the previous bullet); siblings of children/youth in foster care; certain family members receiving Child Protective Services (CPS) In-Home Services; minor children of children/youth in foster care and those receiving adoption assistance; and minor children of former foster youth.<sup>1</sup>

Prior to submitting this amendment, North Carolina sought feedback from the public and the Eastern Band of Cherokee Indians, North Carolina’s only federally recognized tribe. Comments received from the Tribe related to Tribal policy and were supportive of expanding eligibility to support foster care families. Public comments were generally supportive of the amendment.

With the end of the continuous coverage requirements coming in April, the State is requesting that DHHS approve effective April 1, 2023, the portion of this amendment extending Medicaid eligibility to certain parents and caretaker relatives of children/youth in foster care. Knowing the complexity of negotiating an 1115 amendment, we do not anticipate having approval prior to April 1, 2023, and so we request that DHHS allow for a retroactive effective date back to April 1, 2023. This would enable the State to retain the parents and caretaker relatives eligible for this group on Medicaid if at redetermination the State concludes that such individual no longer qualifies for Medicaid under any other eligibility group (for example, if during the continuous coverage period, a child in the household was placed in foster care, thereby decreasing the household size and thus the income limits to qualify for coverage). Without coverage approval retroactive to April 1, 2023, some parents and caretaker relatives who would qualify for this new eligibility category but were unlucky enough to have their redetermination before this amendment request could be approved, would drop from coverage.

Thank you for considering these requests. We greatly appreciate DHHS’s continued partnership on North Carolina’s 1115 waiver demonstration as we work towards our shared goals of advancing high-value care, improving population health, engaging, and supporting providers, and promoting the sustainability of the Medicaid program.

Sincerely,



Dave Richard  
Attachment

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<sup>1</sup> This change is pending legislative action.

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# NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

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### I. Introduction

The North Carolina Medicaid Reform demonstration, currently approved through October 31, 2024, is the centerpiece of North Carolina’s efforts to reform its Medicaid delivery system with the goals of advancing integrated, high-value care, improving population health, engaging, and supporting providers, and establishing a more sustainable program with more predictable costs. The demonstration aims to achieve these goals by authorizing, among other features:

- **A mandatory managed care program<sup>2</sup>** offering three types of integrated prepaid health plans (PHPs), including:
  - **Standard Plans** targeted to the majority of the Medicaid population, which launched in July 2021;
  - **Behavioral Health Intellectual/Development Disability Tailored Plans (BH I/DD Tailored Plans)** targeted to individuals with significant behavioral health needs, intellectual/developmental disabilities, and traumatic brain injury, which is scheduled to launch in 2023; and
  - **The Children and Families Specialty Plan** (formerly known as the “Specialized PHP for Children in Foster Care” and also “Specialized Plan for Children in Foster Care and Formerly in Foster Care”), which is scheduled to launch by the end of 2024<sup>3</sup>;
- **Healthy Opportunities Pilots** (“Pilots”; formerly known as the “Enhanced Case Management and Other Services Pilot Program”) to test the impact of providing select, evidence-based, non-medical interventions related to housing, food, transportation, and interpersonal safety to high-need Medicaid enrollees; and
- **A waiver of the institution for mental diseases (IMD) exclusion** for substance use disorder (SUD) treatment to expand access to the full continuum of SUD care.

In January 2022, the State submitted a separate waiver amendment, which proposed to change the demonstration’s end date, adjust populations covered under the BH I/DD Tailored Plans, modify implementation details of the Healthy Opportunities Pilots (including expanding eligibility to certain additional populations), and exclude the COVID-19 testing group from mandatory managed care. The State is seeking to further amend its 1115 demonstration to make targeted changes to eligibility and the delivery system for families being served by the North Carolina Child Placement Services and Child Protective Services (i.e., the child welfare system). The proposed changes are the following:

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<sup>2</sup> Members of federally recognized tribes and individuals eligible for Indian Health Services are not required to enroll in a PHP.

<sup>3</sup> In 2022, North Carolina intends to identify a new name for the CFSP to better represent the objective of the managed care plan and its target populations.

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- Extending Medicaid eligibility to parents and caretaker relatives of children/youth in foster care who are making reasonable efforts to comply with a court-ordered plan of reunification, allowing them to maintain coverage while the child/youth is in foster care; and
- Expanding eligibility for the Children and Families Specialty Plan to include certain Medicaid-eligible parents, custodians, and guardians of children/youth in foster care (i.e., those described in the previous bullet); siblings of children/youth in foster care; certain family members receiving Child Protective Services (CPS) In-Home Services; minor children of children/youth in foster care and those receiving adoption assistance; and minor children of former foster youth.

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## II. Goals and Objectives of the Waiver Amendment

North Carolina's request to amend the demonstration seeks to achieve the following:

- **Ensuring parents and caretaker relatives who have recently lost custody of a child to maintain access to needed services and supports.** Consistent with the Families First Coronavirus Response Act, ), North Carolina has temporarily suspended terminations of coverage since the beginning of the federal COVID-19 Public Health Emergency. However, due to the passage of the Consolidated Appropriations Act of 2023 the State plans to begin the process for terminations of coverage in April 2023. For example, certain Medicaid-eligible parents who lose custody of their child may also lose their Medicaid coverage due to no longer being considered a parent or caretaker relative for the purposes of Medicaid eligibility. This is particularly problematic, since in many cases, parents lose custody of children due to untreated mental health conditions or SUDs that jeopardize the health and welfare of the child. Losing Medicaid coverage can make it even more difficult for these individuals to get the care that they need and create significant barriers to family reunification. Allowing these individuals to maintain their Medicaid eligibility would allow these individuals to seek needed treatment while their child is in the custody of the North Carolina Department of Social Services (including seeking court-ordered treatment), improve the health of the parent, and forge stronger pathways to family reunification. Knowing the complexity of negotiating an 1115 amendment, the State expects that even with an expedited approval process, the State would not have this amendment approved prior to April 1, 2023. Accordingly, the State requests that CMS allow for a retroactive effective date back to April 1, 2023, for this portion of the amendment request. This would enable the State to retain the parents and caretaker relatives eligible for this group on Medicaid if at redetermination the State concludes that such individual no longer qualifies for Medicaid under any other eligibility group. Without coverage approval retroactive to April 1, 2023, some parents and caretaker relatives who would qualify for this new eligibility category but were

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<sup>4</sup> This change is pending legislative action.

<sup>5</sup> These individuals would need to enroll in a BH I/DD Tailored Plan in order to access certain behavioral health and I/DD services, including Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID) services and services available through North Carolina's Innovations and Traumatic Brain Injury (TBI) waivers.

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unlucky enough to have their redetermination before this amendment request could be approved, would drop from coverage.

- **Providing family-centered care to children and families involved in the child welfare system.** All family members of a child served by the child welfare system have unique needs that require health care providers, care managers, and others involved in the individual's care to have specialized skills and expertise. Allowing parents and siblings of children/youth in foster care to enroll in the Children and Families Specialty Plan would provide families with access to staff and providers who are trained and best equipped to support families served by the child welfare system. It would also provide opportunities for plan staff and providers to more effectively coordinate the delivery of health and health-related services across the entire family unit. Families receiving CPS In-Home Services have similar needs and would benefit from the same access to well trained professionals who are coordinating care with the goal of avoiding children's entry in to foster care.

### III. Proposed Changes to the Demonstration

#### Expand Medicaid Eligibility to Parents of Children in the Foster Care System

North Carolina's budget act, [Session Law 2021-180](#), requires the North Carolina Department of Health and Human Services (the Department) to seek approval from CMS to allow certain parents and caretakers of children in foster care to retain Medicaid eligibility. The statutory text at the time of submission of this waiver amendment specifies that coverage is maintained for parents or caretakers when they lose legal custody of a child and the child is temporarily in foster care or receiving foster care assistance (regardless of the type of out-of-home placement) as long as the parent or caretaker continues to meet Medicaid income eligibility requirements and is making reasonable efforts to enable reunification, as defined in statute. This amendment seeks authority to implement this policy in order to allow parents and caretakers to be able to access needed treatment and prevent gaps in coverage while the family works toward reunification. For the purposes of this provision, the Department seeks to include all parents and caretakers who meet the federal definition of "caretaker relative", as defined in 42 CFR § 435.4.<sup>6</sup>

#### Expand Eligibility for the Children and Families Specialty Plan

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<sup>6</sup> A relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care and is one of the following: father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece; the spouse of such parent or relative, even after the marriage is terminated by death or divorce; or, at State option, another relative of the child based on blood (including those of half-blood), adoption, or marriage, the domestic partner of the parent or other caretaker relative, or an adult with whom the child is living and who assumes primary responsibility for the dependent child's care.

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In order to support family preservation, reunification, and permanency and align with the Family First Prevention Services Act, North Carolina seeks to expand eligibility for the Children and Families Specialty Plan to certain family members of individuals served by the child welfare system. The State proposes to provide these individuals with the option of enrolling in the Children and Families Specialty Plan. Under this proposal, these individuals would enroll in a Standard Plan, BH I/DD Tailored Plan (as eligible), EBCI Tribal Option (as eligible), or access services through NC Medicaid Direct (as eligible) but would have the choice to enroll in the Children and Families Specialty Plan (i.e., they would not *default* into this plan). North Carolina proposes to make this option available to the following groups:

- Parents, guardians, and custodians of children/youth in foster care;
- Minor siblings of children/youth in foster care; and
- Family members receiving CPS In-Home Services, specifically:
  - All adults included in the CPS In-Home Services Agreement as caregivers; and
  - All minor children included in the CPS In-Home Services Agreement.

Additionally, North Carolina seeks to default enroll minor children of children/youth in foster care, children/youth receiving adoption assistance, and former foster youth in the Children and Families Specialty Plan. When this vulnerable population embarks on parenthood at a young age, it is important to keep the minor child enrolled in the same health plan in order to assist the parent in balancing their own health needs with parenting duties; it will also create administrative efficiencies for North Carolina. Minor children will have the option to change plans at any time during the coverage year, just as the parent does.

#### IV. Summary of Waiver and Expenditure Authorities Requested

Table 1 below lists the additional waivers and expenditure authorities that North Carolina is seeking to support the policies described above.

**Table 1: Waiver Authorities Requested**

Policy	Waiver/Expenditure Authority	Statutory and Regulatory Citation
Expand Medicaid eligibility to parents and caretaker relatives of children in the foster care system.	Expenditure authority	Section 1115(a)(2)

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**V. Budget Neutrality**

The table below provides estimated enrollment and projected expenditures for the proposed expansion of eligibility to parents and caretaker relatives of children entering the foster care system.

**Table 2: Estimated Expenditures**

	DY 02 (11/19 – 10/20)	DY 03 (11/20 – 10/21)	DY 04 (11/21 – 10/22)	DY 05 (11/22 – 10/23)	DY 06 (11/23 – 10/24)	5 Year Total
Estimated Members	0	0	0	5,000	5,075	10,075
Estimated Aggregate Expenditures	\$0	\$0	\$0	\$35,188,035	\$112,290,651	\$147,478,687

The enrollment estimates for individuals who will be eligible in this group reflect the number enrolled at full ramp up. The expenditures were estimated by taking the approved waiver cost per eligible for the TANF Adult population and adjusting it upward to account for the expected increased behavioral health needs of this new population. This was done by utilizing estimated cost differentials between Standard Plan and anticipated BH I/DD Tailored Plan populations.

**VI. Evaluation**

In its current waiver approval, North Carolina articulated the following demonstration goals:

1. Measurably improve health outcomes via a new delivery system;
2. Maximize high-value care to ensure sustainability of the Medicaid program; and
3. Reduce SUD.

North Carolina’s requests to extend Medicaid eligibility to parents of children in the foster care system and expand eligibility for the Children and Families Specialty Plan seek to advance each of the three goals above for family members of children/youth in foster care. Each of these goals can be evaluated under their related hypotheses, as described in the State’s current waiver approval, which include the following:

**Measurably Improve Health**

- The implementation of BH I/DD Tailored Plans and the Children and Families Specialty Plan will increase the quality of care for individuals with serious mental illness, serious emotional disturbance, SUD, and I/DD, and for children in foster care and North Carolina former foster care youth.
- The implementation of Medicaid managed care will increase the rate of use of behavioral health services in the appropriate level of care and improve the quality of behavioral health care received.



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- The implementation of Medicaid managed care will decrease the long-term use of opioids and increase the use of medication-assisted treatment (MAT) and other opioid treatment services.

#### Maximize High-Value Care to Ensure the Sustainability of the Program

- The implementation of Medicaid managed care will decrease the use of emergency departments for non-urgent use and hospital admissions for ambulatory sensitive conditions.
- The implementation of Medicaid managed care will increase the number of enrollees receiving care management, overall and during transitions in care.

#### Reduce Substance Use Disorder (SUD)

- Expanding coverage of SUD services to include residential services furnished in institutions for mental disease (IMDs) as part of a comprehensive strategy will decrease the long-term use of opioids and increase the use of MAT and other opioid treatment services.
- Expanding coverage of SUD services to include residential services furnished to short-term residents in IMDs with a SUD diagnosis as part of a comprehensive strategy will result in improved care quality and outcomes for patients with SUD.

North Carolina proposes adding the following hypotheses specific to the provisions requested as part of this amendment:

- Extending Medicaid eligibility to parents of children in the foster care system will increase rates of Medicaid coverage for parents of children in the foster care system, thereby reducing a critical barrier to care.
- Extending Medicaid eligibility to parents of children in the foster care system will maintain access to care for parents with SUD and those who were recently released from the criminal justice system.
- Expanding eligibility for the Children and Families Specialty Plan to family members will increase rates of Medicaid utilization for eligible family members and shorten the amount of time children with enrolled family members spend in the foster care system.
- Expanding eligibility for the Children and Families Specialty Plan to families receiving CPS In-Home Services will reduce the frequency at which enrolled children/youth enter the foster care system.

These hypotheses will be evaluated using a mixed methods approach. North Carolina will conduct an interrupted time series analysis on a monthly basis on Medicaid coverage and utilization rates for eligible parents and family members to determine the impact of the proposed policy changes. We will also conduct subpopulation analyses on parents with prior SUD diagnoses or criminal justice involvement using linked data. For this subpopulation, we will analyze continuity of medication coverage and utilization of psychosocial services.

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#### VII. Public Process

The public process for submitting this amendment conforms with the requirements of STC 15, including public notice requirements outlined in 42 CFR § 431.408 and Tribal consultation requirements described in section 1902(a)(73) of the Act, 42 CFR § 431.408(b), State Medicaid Director Letter #01-024, and North Carolina’s approved Medicaid State Plan. The State notes that this public process went well beyond the minimum requirements for amendments set forth in 59 Fed. Reg. 49249 (September 27, 1994), reflecting North Carolina commitment to engaging stakeholders and providing meaningful opportunities for input throughout the waiver amendment process.

#### Public Notice Process

North Carolina released this waiver amendment for public comment starting on April 22, 2022, and allowed the public to submit comments through May 23, 2022. The State posted the public notice materials (including the full public notice and abbreviated public notice, both of which included details on how to submit comments) and the [full amendment](#) request on the North Carolina Department of Health and Human Services (NC DHHS) [website](#). The State also published the abbreviated public notice in the newspapers of widest circulation in each city in North Carolina with a population of at least 100,000. North Carolina hosted two public hearings to seek input regarding the amendment. Hearings were held on May 3, 2022, and May 9, 2022. The public hearings included presentations from Department staff describing the proposed changes under the amendment and providing opportunities for public testimony.

#### Responses to Public Comments

North Carolina received comments from a variety of stakeholders during the public notice period, including consumer advocates, providers, counties, health plans and others. Key themes from the comments are described below. Comments were generally supportive of the proposed waiver amendment. North Carolina is not proposing any changes to the waiver amendment in response to comments received through the public notice process.

***Comment:* NC DHHS received several comments supporting the waiver amendment to extend Medicaid eligibility to parents of children/youth in foster care and expanding eligibility for the Children and Families Specialty Plan to include certain Medicaid eligible parents, custodians, and guardians of children/youth in foster care, sibling of children/youth in foster care and certain parents/family members receiving Child Protective Services In-Home Services and Foster Care.**

***NC DHHS Response:*** NC DHHS appreciates the commenters’ feedback and support of the waiver amendment that will allow parents to better manage their health by retaining access to needed services and promote family preservation, reunification, and permanency.

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**Comment:** NC DHHS received comments requesting that NC DHHS extending the Medicaid eligibility and coverage to also include children who are in kinship care to ensure that when children are living with relatives, they are still able to receive needed medical benefits that are identical to those received by children in foster care. NC DHHS was requested to consider the full definition of “caretaker relative” as defined in 42 CFR §435.4, specifically the provision from that supports “an adult with whom the child is living and who assumes primary responsibility for the dependent child’s care”. DHHS was also requested to consider including a provision in the 1115 waiver amendment that supports the option of the Children and Families Specialty Plan continuing to provide care for a 12-month period following reunification to promote continuity of care to support children and families.

**NC DHHS Response:** NC DHHS appreciates the commenters’ feedback and is seeking to include all parents who meet the federal definition of “caretaker relative”, as defined in 42 CFR §435.4, as included in waiver amendment’s provision to expand Medicaid eligibility. NC DHHS also proposes to provide the option of enrolling in the Children and Families Specialty Plan to all adults included in the CPS In-Home Services Agreement as caregivers and all minor children included in the In-Home Services Agreement.

**Comment:** NC DHHS received several comments supporting Trillium Health Resources Tailored Plan to manage all health care for children, young adults, and their family members with Medicaid who are involved in the foster system and concern regarding the timing of launching the separate statewide plan due to the Tailored Plan implementation. NC DHHS was requested to delay developing a statewide plan for foster care children to allow for time to measure changes due to the implementation of Tailored Plans and to have stakeholder dialogue.

**NC DHHS Response:** NC DHHS appreciates the commenters’ interest in ensuring a smooth launch of all managed care products. The State is still actively considering how best to launch a plan related to foster care and will take these comments under advisement. One consideration is that the application that was posted for public comment proposed a launch date of December 2023; however, the Department is now working towards an implementation deadline of December 2024.

**Comment:** NC DHHS received several questions related to how the State will ensure that parents comply with their court ordered reunification plan as a condition of Medicaid eligibility.

**NC DHHS Response:** NC DHHS appreciates the commenters’ questions and is working closely with the Division of Social Services to ensure that processes are in place for oversight.

**Comment:** NC DHHS received several questions related to educating individuals about plan eligibility.

**NC DHHS Response:** NC DHHS appreciates the commenters’ questions and eligible individuals will be informed about their eligibility by their child welfare worker.

**Comment:** NC DHHS received several questions related to whether additional funding would be available to support child welfare with coordinating care for enrollees.

**NC DHHS Response:** NC DHHS appreciates the commenters’ questions and is working with the Division of Social Services to determine resources that will be needed to accommodate the changes.

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**Comment: NC DHHS received several questions related to the financial impact of the separate statewide foster care plan.**

**NC DHHS Response:** NC DHHS has been developing projections over the cost of a separate statewide foster care plan.

#### **Tribal Consultation Process**

North Carolina provided a summary and a copy of the full waiver amendment through an email to Casey Cooper, CEO of CIHA and Vickie Bradley, Secretary of EBCI Public Health and Human Services to the Eastern Band of Cherokee Indians, on March 23, 2022. The summary highlighted key features of the amendment impacting the Tribe, as well as other key features. It also included instructions for providing comment.

#### **Summary of Input Gathered Through Tribal Consultation Process**

North Carolina received feedback from the Tribe on October 18, 2022. The Tribe indicated through its feedback that it endorses expanding eligibility to support both children and their families and included the following key comments:

- The Tribe noted that all waiver amendments and legislation should address Tribal Authorities and Tribal code on par with the NC General Statutes and Rules.
  - The Tribe provided language during the last legislative session to acknowledge the authority of EBCI's Family Safety Program for Tribal youth and incidents of abuse and neglect occurring on the boundary rather than the counties.
  - The Tribe stated that referencing Tribal codes is important as the definitions of abuse, neglect and maltreatment vary slightly. In addition, access to prevention services differs from the state. To maximize tribal sovereignty, the Tribe requested that Medicaid policy should match both the tribal and state systems and that reciprocity exist between the two as Tribal families and youth move on and off boundary while actively seeking supports.
- The Tribe requested that care management should be allowed for delegation to the Cherokee Indian Hospital Authority (CIHA) care management program offered through the EBCI Tribal Option or the AMH even when a member chooses the Child and Family Specialty Plan. The Tribe supports members being able to select other care management options but to have the default option be CIHA.
- The Tribe requested that members default to the Tribal Option and have access to the Child and Family Specialty Plan benefits without having to elect to a managed care plan.
- The Tribe stated that they support the option for families and their children to choose to participate in the Child and Family Specialty Plan, but that it should be an option and not mandatory enrollment.
- The Tribe recommended allowing non-tribal providers who deliver services to children in tribal custody to bill NC Tracks to streamline reimbursement.

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- The Tribe requested that the Child and Family Specialty Plan encourage the development of tribal specific services and supports based upon the model of the EBCI Family Safety approach and that coverage of all existing EPSDT “non state plan services” be included.

#### **VIII. Conclusion**

This amendment request seeks to expand and improve Medicaid coverage for families being served by the North Carolina child welfare system. These changes will allow parents of foster care children/youth to retain their Medicaid eligibility and provide the option for Medicaid-eligible parents and siblings of children served by the child welfare system to enroll in the Children and Families Specialty Plan, the same health plan that their child or sibling is enrolled in. We believe these changes will allow parents to better manage their health by retaining access to needed services, allow for a more “family-centered” approach to treating families served by the child welfare system, and promote family preservation, reunification, and permanency. North Carolina appreciates this opportunity to amend its 1115 demonstration and to continue to work with CMS to improve health care outcomes for the people of North Carolina.

#### **IX. State Contact**

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