



## II. Present Situation:

Congress passed the Adoption Assistance and Child Welfare Act in 1980 which, among other things, established a federally aided adoption assistance program under Title IV-E of the Social Security Act. Through this program, the federal government contributes to the states' cost of providing adoption subsidies and Medicaid for children with special needs who meet the program's eligibility criteria. Children with special needs who meet the eligibility criteria for the Title IV-E adoption assistance program are children who: (1) were eligible for either Aid to Families with Dependent Children (AFDC) while in their natural parents' home, Title IV-E Foster Care Maintenance or Supplemental Security Income (SSI); (2) are determined a special needs child due to their ethnic background, being over the age of 8 years, belonging to a sibling group, or having medical conditions or physical, mental or emotional disabilities, and there have been unsuccessful efforts to place the child without adoption assistance; (3) are found to be deprived of parental support; (4) meet the established asset and income levels; and (5) are under the age of 18 years and have never been married.

In addition to the Title IV-E adoption assistance program, states have established state funded adoption assistance programs. Section 409.166, F.S., sets forth Florida's subsidized adoption program for special needs children. The eligibility for the state funded program basically mirrors the federal requirements for Title IV-E. The difference is that the child is not required to have been eligible for AFDC, SSI or Title IV-E Foster Care Maintenance, nor must the child continue to be deprived of parental support at the termination of parental rights hearing. The subsidy provided to children through a state funded adoption assistance program is not matched with federal funds.

Medical assistance is one of the most crucial support services for children with special needs. The Consolidated Omnibus Reconciliation Act (COBRA) of 1985 required the state of residence to provide Title IV-E children with special needs under the federal adoption assistance program with Medicaid, regardless of whether or not that state was responsible for the adoption. This provision, in essence, provided an automatic Medicaid qualification requirement for this group of children across all states. Section 409.903(4), F.S., provides that children eligible for Title IV-E of the Social Security Act for adoption subsidies are eligible for Medicaid in Florida and applies to both Florida's and other states' Title IV-E adoption assistance program children.

The Adoption and Safe Families Act of 1997 required that states provide health insurance coverage to children with special needs in a state-funded adoption assistance program. COBRA gave states the option of providing this health insurance coverage by extending Medicaid eligibility and coverage to these children. Section 409.903(4), F.S., also provides this Medicaid eligibility and coverage to children for whom the state has assumed responsibility and who are in the subsidized adoption program but do not qualify for Title IV-E. For these non-Title IV-E children, Florida Medicaid is responsible for the services received by the child regardless of where the child lives. When the child is living in another state and covered by Florida Medicaid, providers in that state may be resistant to becoming Florida Medicaid providers and accepting Florida Medicaid reimbursements.

Adoption assistance agreements are agreements entered into between the state and the parent who adopts a child with special needs. Both federal and state funded adoption assistance

agreements provide a level of support which is determined by the circumstances of the adoptive parent and the needs of the child. In either agreement, the amount of the adoption assistance payment cannot exceed the foster care maintenance payment which would have been paid during the same period had the child been in a foster family home.

In Florida, there were 15,621 children with special needs receiving adoption subsidies in 1997. Of these children, 1,406 were Florida adoption assistance agreement children who were living in other states; 1,125 were Title IV-E and 281 were non-Title IV-E. During this same period, 622 children with special needs with adoption assistance agreements from other states were living in Florida; 414 were Title IV-E and 208 were non-Title IV-E.

The Adoption Assistance and Child Welfare Act of 1980 requires that the Title IV-E adoption assistance agreements remain in effect regardless of the state of residence of the adoptive parents. Adoptive parents may move from one state to another, and many special needs children who are free for adoption are being placed with families across state lines. Children with special needs subject to the Title IV-E adoption assistance agreements all meet the same eligibility criteria regardless of the state of residence, and all receive federal match funds. While each state continues its adoption assistance agreement subsidy directly to the parents when the family moves out of the state, re-establishing Medicaid eligibility once in the other state becomes problematic. Every state's Medicaid program differs; the forms, information required, benefits and coverage vary substantially.

The Interstate Compact on Adoption and Medical Assistance creates a framework for formalizing the interstate cooperation pursuant to the Adoption Assistance and Child Welfare Act of 1980. The first nine states entered into the compact in 1986. Today, 44 states are party to the compact. The compact provides for uniformity and consistency of policy and procedures to ensure the continuation of health care and potentially other post-adoption services when a child with special needs is adopted by a family in another state or the adoptive family moves to another state.

The primary focus of the compact is the smooth transition of Medicaid eligibility from one state to another for, at a minimum, the special needs children in the Title IV-E adoption program and, at the state's discretion, the non-Title IV-E special needs children in the state's adoption subsidy program. Specifically, with a state's adoption of the compact, an agreed upon process among the member states is utilized to facilitate the seamless provision of Medicaid as special needs adoptive families move from one state to another. State funded special needs adoption subsidy children are provided with the same transition process for Medicaid as Title IV-E children. Each state's compact administrator coordinates with in-state and out-of-state officials to facilitate the provision of benefits and services for special needs adopted children who move into and out of the state. The compact also mandates the use of compact forms and administrative procedures, since use of standard forms and procedures can prevent the problems with re-establishing Medicaid eligibility in a different state.

### **III. Effect of Proposed Changes:**

SB 1230 creates the Interstate Compact on Adoption and Medical Assistance, as s. 409.406, F.S. This act provides enabling legislation that authorizes the Department of Children and Family

Services to enter into interstate agreements (or compacts) with other states to provide for interstate protections of adoption assistance and medical assistance for children with special needs. The primary focus of the interstate compacts is the provision of Medicaid coverage for special needs children covered by adoption assistance agreements. The interstate compacts provide an agreed upon process for facilitating an immediate and smooth re-establishment of Medicaid eligibility for families with special needs children under adoption assistance programs who move into or out of Florida. The bill allows non-Title IV-E children with special needs in the state funded adoption subsidy program to receive Medicaid from their state of residence, as is currently provided to Title IV-E special needs adoption children and discontinues the practice of depending on the state responsible for the adoption to provide the Medicaid coverage.

Specifically, the bill stipulates the following provisions for the Interstate Compact on Adoption and Medical Assistance:

- Authorizes the department to enter into interstate compacts with agencies of other states to provide procedures for interstate adoption assistance service delivery and payments, including Medicaid;
- Allows the department to participate in the development of and enter into other supplemental agreements to implement and improve the operation of the compact.
- Requires that interstate compacts between Florida and other states contain:
  - a provision making the compact available to be legally joined by all states;
  - a provision for withdrawal from the compact but with a 1-year notice of the withdrawal;
  - a requirement that if Florida (or any state) withdraws from the compact, the obligation to those adoption assistance agreements covered by the compact continues for the duration of the agreements. This continued obligation would only apply to the non-Title IV-E children, since states are already mandated to provide Medicaid coverage to Title IV-E children who move to their state;
  - a requirement that the instances of adoption assistance to which the compact applies be covered by a written adoption assistance agreement between the parent and the state;
  - other provisions as are appropriate to the proper administration of the compact;
- Provides an entitlement to Medicaid for children with special needs who are subject to a Title IV-E adoption assistance agreement with another state upon submission of the adoption assistance agreement from the adoption assistance state, with a requirement that adoptive parents show that the adoption assistance agreement is still in force at least yearly;
- Specifies that the terms of the compact apply to children who are the subjects of federal adoption assistance agreements and allows the state to elect to provide the benefits under the compact to children who are subject to a state funded adoption assistance agreement;

- Specifies that provision of Medicaid as stipulated in the compact is only available for children under adoption assistance agreements from states that have entered into an interstate compact with Florida; and
- Requires that the provision of adoption assistance and Medicaid as provided for by this compact must be included in the state plans for the Adoption Assistance and Child Welfare Act of 1980, Titles IV-E and XIX of the Social Security act and any other applicable federal law.

The bill creates s. 409.407, F.S., which prohibits the department, as it enters into interstate agreements with other states for the implementation of this compact, from expanding the financial commitment of the state beyond its current financial obligation for the adoption assistance agreements and Medicaid.

The provisions of this bill set forth a framework and statutory authority for the Department of Children and Family Services to enter into reciprocal interstate compacts with the other compact member states. Rulemaking authority is provided to the department for the adoption of rules necessary to administer this compact. The effect of this bill is to extend the resident state Medicaid coverage to children with special needs in state funded adoption assistance programs. When a child with special needs in a state funded adoption program moves to another state with which Florida has an interstate compact, the other state would cover the medical expenses for the child through its Medicaid program that would have been paid by Florida Medicaid if the agreement were not in place. Likewise, if a child from another state moves to Florida, Florida Medicaid would provide coverage.

The bill provides an effective date of July 1, 2001.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

This bill will permit families with children with special needs in the state funded adoption assistance program to more easily access health care services when they move to another state by eliminating the need to locate and only use providers who are willing to become Florida Medicaid providers and accept Florida Medicaid reimbursement.

**C. Government Sector Impact:**

Florida is currently required to provide Medicaid coverage to children with special needs on state funded adoption assistance agreements even when they move out of the state. Based on the latest numbers available on Florida state funded adoption assistance children with special needs who have moved to other states compared to state funded children with special needs from another state who have moved to Florida, the Department of Children and Family Services reports that the net effect of this legislation would be at least neutral.

The Agency for Health Care Administration also reports that there should be no fiscal impact since the agreement to provide the Medicaid is reciprocal with other states.

The Department of Children and Family Services reports that two positions will be required to fully implement the compact. One professional OMC II position is identified to serve as the deputy compact administrator. In addition, an Administrative Assistant III position is identified for system/administrative support. A computer software program will be needed to enter, track and monitor Florida children leaving the state and children from other states moving into Florida. These costs are estimated at \$148,553 for the first year, and \$122,314 for the second year.

**VI. Technical Deficiencies:**

The bill, on page 4, line 29 through page 5, line 2, allows the state, at the option of the department, with the concurrence of AHCA, to elect to provide the benefits under the compact to children under state adoption assistance agreements. Florida children who are in subsidized, non Title IV-E adoptions are members of a mandatory coverage group described in s. 409.904(4), F.S.. The bill should be amended to clarify that children who are in non Title IV-E adoption assistance programs originating in other states are also covered by the terms of the compact.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Children and Families:

States the legislative direction to provide Medicaid to the children in the state adoption assistance program from other states. The discretion provided to the Department of Children and Families and the Agency for Health Care Administration is to determine that the other state has also entered into the compact and provides Medicaid to its state adoption assistance children.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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