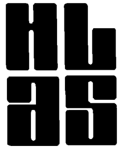

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INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

Senate Bill 1505 as passed by the Senate
First Analysis (12-10-02)

Sponsor: Sen. Bev Hammerstrom
House Committee: Family and Children Services
Senate Committee: Families, Mental Health, and Human Services

THE APPARENT PROBLEM:

The federal Adoption Assistance and Child Welfare Act [P.L. 96-272 (1980)] established a federally aided adoption assistance program under Title IV-E of the federal Social Security Act (42 U.S.C. 670 to 679b), which provides funding to states for adoption subsidy payments to parents who adopt children with special needs. These payments are designed to offset some (not all) of the extra costs associated with raising a child with special needs. Under state statute, there are two types of adoption subsidies to help adoptive parents meet their financial obligations relating to raising a child with special needs. First, there is a medical subsidy to help offset a portion of the medical costs related to a physical, mental, or emotional condition that existed prior to adoption. Secondly, there is a maintenance subsidy that offsets a portion of the costs of raising the child until he or she reaches 18 years of age.

The Interstate Compact on Adoption and Medical Assistance (ICAMA) established a formal mechanism to ensure that children receiving assistance under Title IV-E continue to receive medical and other services even as they move from state to state. At present, Michigan is one of five states that are not part of that compact. As such, legislation has been introduced that would enter the state into the compact.

THE CONTENT OF THE BILL:

The bill would amend the Social Welfare Act to enter the state into the Interstate Compact on Adoption and Medical Assistance. The compact would be construed liberally so as to strengthen protections for each adopted child with special needs for whom the state pays adoption assistance when the child's state of residence is a state other than the state committed to provide adoption assistance, and to provide substantive assurances and operating procedures that promote the delivery of medical assistance and other services to a child on an interstate basis through medical assistance programs established by the laws of each state that is a party to the compact.

In addition, the bill would authorize the Family Independence Agency to negotiate and enter into interstate compacts with agencies of other states for the provision of adoption assistance for an adopted child with special needs, who moves into or out of this state, and on behalf of whom adoption assistance is provided by the state or another state that is party to such a compact. When such a compact is entered into, and for as long as it remains in force, the compact would have the force and effect of law. A compact that the state enters into would have to include the following:

• A provision making it available for joinder by all states;

• A provision for withdrawal from the compact upon written notice to the parties, but with a period of one year between the date of the notice and the effective date of the withdrawal;

• A requirement that the protections under the compact continue in force for the duration of the adoption assistance and are applicable to all children and their adoptive parents who, on the effective date of the withdrawal, are receiving adoption assistance from a party state other than the one in which they reside;

• A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing

between the adoptive parents and the state child welfare agency of the state that undertakes to provide the assistance. Such an agreement would be for the benefit of the adopted child and enforceable by the adoptive parents and the state agency that provides the assistance;

- Other provisions as appropriate.

In addition, the act permits the FIA to pay a support subsidy to the adoptive parents of a child who is placed in the home of the adoptive parents pursuant to the Adoption Code or the adoption laws of any other state or tribal government if, among other reasons, the FIA certifies that the adopted child is indeed eligible for a support subsidy. Eligibility requires that a reasonable, albeit unsuccessful, effort has been made to place the adopted child with appropriate parents without the adoption subsidy or a prospective placement is the only placement that is in the child's best interests and the adoptive parents are requesting a support subsidy, and that the adopted child was in foster care for at least four months prior to certification for the support subsidy. The bill would delete the above requirements, and simply require the FIA to certify that the adopted child is a "child with special needs". [This provision is also contained in House Bill 6552.]

In addition, the bill delineates between a support subsidy and a medical subsidy. The act defines 'adoption subsidy' to mean a support subsidy or medical subsidy, or both. Rather, the bill defines 'adoption assistance' and 'medical assistance' separately. As such, provisions in the act that applied to adoption subsidies, would apply to, under the bill, adoption assistance. The bill, however, would add similar provisions that apply to 'medical assistance'. The bill also states that if the medical subsidy eligibility were certified, the FIA and the adoptive parent would enter into a medical subsidy agreement concerning the identification of the physical, mental, or emotional condition covered by the subsidy; the duration of the agreement; and the conditions for continued eligibility for the subsidy as established by statute.

BACKGROUND INFORMATION:

The Interstate Compact on Adoption and Medical Assistance (ICAMA). The compact contains two major sections pertaining to adoption assistance and medical assistance, among other ancillary provisions. Under the ICAMA, each state is required to determine the amounts of support for children with special needs and their adoptive parents in accordance with its own laws. Any services or benefits provided for a child by the residence state (the state in which the child is a resident by virtue of the residence of the adoptive parents) and the adoption assistance state (the state that is party to an adoption assistance agreement) may be facilitated by the party states on each other's behalf. As such, the personnel of the child welfare agencies of the party states will assist each other, as well as the beneficiaries of the adoption assistance agreements, in assuring prompt and full access to all benefits expressly included in such agreements.

With regard to medical assistance (Medicaid), the compact requires that the adopted special needs children be eligible for such medical assistance for as long as the adoption assistance agreement remains in effect. When a child who is covered by an adoption assistance agreement is living in another party state, payment or reimbursement for any medical services and benefits not covered by the Medicaid program of the residence state shall be made by the adoption assistance state as required by its law. Further, a child receiving medical assistance whose residence is changed from one party state to another party state shall be eligible for Medicaid under the medical assistance program of the new state of residence.

Inspector General's Report. In June 1996, the Office of Inspector General within the federal Department of Health and Human Services assessed how the membership in the ICAMA affected the efforts of member states to protect the interest of adopted children with special needs as they move from one state to another (OEI-02-95-00040). At the time of the study, there were 29 member states.

The OGI reported that, in general, membership in the ICAMA provides states with significant administrative advantages in maintaining medical assistance for adopted special needs children. Specifically, OIG noted that states benefited from the following advantages: "active involvement in assisting IV-E children, an accessible contact person, standard forms and instructions, the ability to issue timely Medicaid cards, good coordination, and active Secretariat (administrator). As a result, all member states are satisfied with the compact. In contrast, most non-member states do not enjoy these benefits."

However, the report noted that the majority of non-member states saw no need to join and were content with their own system of providing medical assistance to Title IV-E children that move into their state. The report noted that, "[m]any non-member states are reluctant to join the compact. They feel

that the compact offers these children (those receiving Title IV-E assistance) no additional medical or financial benefits."

The reported concluded that "compact membership is advantageous to states and families with IV-E children" and "even if a state elects not to join the compact, it may still benefit by adopting some of the compact's procedures such as designating a contact person to whom other states and family members can turn to for information and assistance."

FISCAL IMPLICATIONS:

Citing figures from the Family Independence Agency, the House Fiscal Agency reports that the annual cost of joining the ICAMA is $3,000, half of which could be covered with federal funding. However, state participation may save funds for services and administration due to reciprocity agreement. (12-5-02)

ARGUMENTS:

For:

The fact that Michigan is one of five states that are not are a part of the ICAMA creates some problems regarding the provision of adoption and medical assistance in interstate cases, especially when families and their adopted children move from Michigan to a state that has joined the compact. The compact guarantees reciprocity among the states and serves to coordinate care in interstate cases, thereby ensuring the children and their families see no disruption in the assistance provided to them by Michigan and other states. Furthermore, it should be noted that joining the compact in no way alters current FIA policy regarding the adoption and medical subsidy program.

POSITIONS:

The Family Independence Agency supports the bill. (12-5-02)

Analyst: M. Wolf

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.