

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1362

SPONSOR: Committee on Children and Families and Senator Diaz-Balart

SUBJECT: Interstate Compact on Adoptions and Medical Assistance

DATE: March 17, 2000 REVISED: \_\_\_\_\_

|    | ANALYST      | STAFF DIRECTOR | REFERENCE | ACTION              |
|----|--------------|----------------|-----------|---------------------|
| 1. | <u>Dowds</u> | <u>Whiddon</u> | <u>CF</u> | <u>Favorable/CS</u> |
| 2. | _____        | _____          | <u>HC</u> | _____               |
| 3. | _____        | _____          | <u>GO</u> | _____               |
| 4. | _____        | _____          | _____     | _____               |
| 5. | _____        | _____          | _____     | _____               |

## I. Summary:

CS/SB 1362 creates the Interstate Compact on Adoption and Medical Assistance and authorizes the Department of Children and Family Services to enter into interstate compacts with other states to provide for interstate protections of adoption assistance and medical assistance for children with special needs. 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 children with special needs in the Title IV-E adoption program.

The bill stipulates the provisions of the Interstate Compact on Adoption and Medical Assistance. These provisions include authorizing the Department of Children and Family Services to enter into supplemental agreements; stipulating required components of the interstate compacts; limiting the special needs children covered to those from other states where an interstate compact with Florida exists; allowing Florida to add additional procedures and social services; and requiring that the provisions of this Compact be included in appropriate state plans required by applicable federal laws. The bill also prohibits the Department of Children and Family Services from expanding the financial commitment of Florida beyond its current obligation for the adoption assistance agreements and Medicaid in its interstate agreements with other states for the implementation of this Compact.

This bill creates sections 409.406 and 409.407 of the Florida Statutes.

## 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) (based on eligibility criteria in effect July 1996) 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 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, enacted on April 17, 1986, 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.

For non-Title IV-E children with special needs in a state-funded adoption assistance program, the Adoption and Safe Families Act of 1997 required that states provide these children with health insurance coverage. 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. This act does not require other states to provide Medicaid eligibility to our state funded adoption assistance children with special needs, as is provided for Title IV-E children. 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, it presents barriers. Providers in the other states have to be willing to become Florida Medicaid providers and accept Florida Medicaid reimbursements. The process is considered both cumbersome and counterproductive to meeting the health care needs of the special needs child.

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 stipulates 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 states 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 (Compact) creates a framework for formalizing the interstate cooperation envisioned in 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 between the member states is utilized to facilitate a 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. There is the designation of a compact administrator for the state. This person coordinates with in-state and out-of-state officials to facilitate the provision of benefits and services for special needs adopted children, processes compact forms, and serves as an information resource. The Compact also mandates the use of Compact forms and administrative procedures. The utilization of standard forms and procedures can prevent the problems with re-establishing Medicaid eligibility in a different state.

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

CS/SB 1362 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 Adoptions and Medical Assistance:

- Authorizes the Department of Children and Family Services to enter into interstate compacts with agencies of other states to provide procedures for interstate adoption assistance service delivery and payments, including Medicaid.
- Authorizes the Department of Children and Family Services to participate in the development of and enter into other supplemental agreements to implement and improve the operation of the Compact.
- The interstate compacts entered into between Florida and other states are required to have the following components:
  - ▶ 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 this Compact continue for the duration of the agreements. This would only apply to the non-Title IV-E children, since states are already mandated to provide Medicaid coverage to Title IV-E children that 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.
- Children with special needs who are subject to a Title IV-E adoption assistance agreement with another state are eligible for Medicaid and entitled to receive a Medicaid card upon submission of the adoption assistance agreement from the adoption assistance state. Adoptive parents will be required to show that the adoption assistance agreement is still in force at least yearly.
- A state may elect to provide the automatic qualification for Medicaid to children with special needs subject to a state funded adoption assistance agreement.

- The 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.
- The interstate compact entered into may contain, at the state's option, provisions for establishing procedures and entitlement to other necessary social services for the child in accordance with applicable laws.
- 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, since federal funds are paying for some or all of the costs.

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.

Section 409.407, F.S., is created to prohibit the Department of Children and Family Services, 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 enabling legislation provides the framework for the interstate compacts entered into by member states and is purposefully constructed in a manner that allows states flexibility to execute supplemental agreements to improve aspects of the interstate cooperation, add necessary social services, and incorporate changes to relevant federal acts. While flexibility is valuable to accommodate service delivery and procedural improvements to assist adoptive families or comply with new federal laws, any expansion in Florida's financial commitment in the interstate compacts with other states should require prior legislative approval.

The bill provides an effective date of July 1, 2000.

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

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

None.

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

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

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:

The Agency for Health Care Administration reports no fiscal 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, which offsets any the provision of Medicaid to state funded children with special needs from another state who move to Florida.

The Department of Children and Family Services reports that two positions will be required to fully operationalize the Compact. One professional Senior Human Services Program Specialist position is identified to serve as the coordinator of the interstate compact on medical assistance. In addition, an Administrative Assistant I position is identified to process the incoming and outgoing mail, maintain the filing system, and support the specialist and office. 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 \$137,834 for the first year, and \$112,102 for the second year.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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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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