

STORAGE NAME: h0881a.jo.doc
DATE: February 8, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
JUDICIAL OVERSIGHT
ANALYSIS**

BILL #: HB 881
RELATING TO: Interstate Compact on Adoption
SPONSOR(S): Committee on Child & Family Security and Representative Detert
TIED BILL(S): none

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILD & FAMILY SECURITY YEAS 7 NAYS 0
- (2) JUDICIAL OVERSIGHT YEAS 8 NAYS 0
- (3) COUNCIL FOR HEALTHY COMMUNITIES
- (4)
- (5)

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

HB 881 creates the Interstate Compact on Adoption and Medical Assistance. This bill sets 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 to provide protections for adoption assistance and medical assistance for children with special needs. The primary focus of these 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.

The fiscal impact of this bill is estimated to be \$ 137,834 in FY 02 – 03 and \$112,102 in FY 03 – 04.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Adoption Assistance and Child Welfare Act of 1980 established, among other things, a federally aided adoption assistance program under Title IV-E of the Social Security Act. Through this program, the federal government contributes to the cost incurred by states of providing adoption subsidies and Medicaid for children with special needs who meet the program's eligibility criteria. A child with special needs who meets the eligibility criteria for the Title IV-E adoption assistance program is a child who:

M is eligible for either Temporary Assistance to Needy Families (TANF) while in his or her parents' home, Title IV-E Foster Care Maintenance or Supplemental Security Income (SSI);

M is determined to be a special needs child due to 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 for which there have been unsuccessful efforts to place for adoption the child without adoption assistance;

M is found to be deprived of parental support;

M meets the established asset and income levels; and

M is under the age of 18 years and has never been married.

In addition to the federal adoption assistance program, states have established state funded adoption assistance programs. Section 409.166, Florida Statutes, sets forth Florida's subsidized adoption program for special needs children. State funded support is provided in the form of a monthly payment in an amount determined through agreement between the adoptive parents and the Department of Children & Family Services (DCF). The agreement shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted. The amount of the subsidy may be readjusted periodically based upon changes in those circumstances. However, in no case is the amount of the adoption subsidy payment to be in excess of the foster care maintenance payment. 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 necessary 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), Florida Statutes, provides that children eligible for Title IV-E of the Social Security Act for adoption subsidies are eligible for Medicaid in Florida and the law applies to children in the Title IV-E Adoption Assistance program regardless of whether they live in Florida or in another state.

The Adoption and Safe Families Act of 1997 (ASFA) requires states to provide health care coverage for any child with special needs for whom there is an adoption assistance agreement between the state and the adoptive parents, and who the state has determined could not be placed for adoption without medical assistance because of those special needs. Such health care coverage can be provided through Medicaid, or one or more state medical assistance programs, if such coverage is Medicaid-comparable. Forty-four states have entered into an agreement (interstate compact) to provide a seamless system for issuing a Medicaid card and providing other services to special needs children and their adoptive families who move from another state. Florida is not currently part of this state interstate compact.

In 1997, there were 15,621 special needs children with Florida adoption assistance agreements in effect, with 1,406 of those children living in other states. Of these special needs children with adoption assistance living in other states, 1,125 have their Medicaid coverage provided by the other state under federal requirements because they are Title IV-E eligible. Florida provides Medicaid coverage to the remaining 281 special needs children with Florida adoption assistance agreements who are not Title IV-E eligible.

By comparison, 622 special needs children with adoption assistance agreements from other states lived in Florida in 1997. Of these 622 children with adoption agreements from other states, Florida provided 414 with Medicaid because they are Title IV-E eligible. Other states provide Medicaid to the 208 children they have adoption agreements with who are living in Florida and who are not Title IV-E eligible. More recent data on the number of out-of-state children in Florida will not be available until another national survey is completed.

C. EFFECT OF PROPOSED CHANGES:

The bill creates in statute the Interstate Compact on Adoptions and Medical Assistance (409.406, Florida Statutes). The bill authorizes the DCF to enter into agreements with the child protection agencies of other states participating in the compact. 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.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 409.406, Florida Statutes, establishing the Interstate Compact on Adoption and Medical Assistance.

Statutory format for interstate compacts is unique (see 409.401, Florida Statutes, relating to the Interstate Compact on the Placement of Children). Accordingly, the language of the compact is usually adopted verbatim, including the use of the word 'Article.'

Article I.

Provides findings related to the need for assistance and other special measures necessary to find parents for special needs children and the difficulties of maintaining service provision when adoptive parents move to other states, or are residents of another state, and the special difficulties encountered by service providers when provision of services takes place in other states.

Article II.

Provides that the purpose of the act is to authorize DCF to enter into agreements with other states on behalf of adopted children receiving services from the department, and to develop procedures for adoption assistance payments and medical payments.

Article III.

Provides definitions for terms used in this compact including, but not limited to, the "adoption assistance state" which is the state that signs an adoption assistance agreement in a particular case and the "residence state" which is where the child actually resides.

Article IV.

Authorizes the DCF to develop, negotiate and enter into interstate compacts for adoption assistance that have the force and effect of law.

Article V.

Requires that all interstate compacts contain the following provisions:

M The compact can be joined by all states.

M States can withdraw from the compact by written notice, but the withdrawal does not take effect for one year.

M All children and families covered by the compact continue to receive assistance after withdrawal. (This applies only to non-Title IV-E children, since states are already mandated to provide Medicaid coverage to Title IV-E children who move to their state.)

M A written agreement between the adoptive parents and the child welfare agency of the state providing assistance covers each assistance case, and it is enforceable by the parents and the state agency providing the assistance.

M Any other appropriate provisions for administration of the compact.

Article VI.

Provides for options that may include procedures and entitlements for medical and other social services for children living in a state other than the one responsible for services or costs.

Article VII.

Delineates requirements for the provision of medical assistance that include:

M A child with special needs having an adoption assistance agreement with another state is entitled to medical assistance as soon as Florida receives a certified copy of the agreement. Adoptive parents are required to show the adoptive agreement is still in force at least annually.

M DCF and the Agency for Health Care Administration (AHCA) may provide Medicaid benefits to children under a state adoption agreement in addition to children required to be provided Title IV-E support under a federal adoption assistance agreement.

M Under this agreement AHCA will provide the same assistance to children from other states as it does to Florida children.

M Florida will only provide benefits for children under adoption assistance agreements from states that have entered into an interstate compact with Florida.

Article VIII.

Requires the department and agencies administering the provisions of this act to include in any state plan pursuant to applicable federal aid and law (including the Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272), Titles IV (E) and XIX of the Social Security Act) the provisions of adoption and medical assistance for which the federal government pays for any cost.

Section 2. Creates section 409.407, Florida Statutes, prohibiting DCF, as it enters into agreements with other states for implementing this compact, from expanding the financial commitment of Florida beyond its current obligation for the adoption assistance agreements and Medicaid.

Section 3. Provides for an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

AHCA reports that there should be no fiscal impact on the agency since the agreement to provide Medicaid is reciprocal with other states.

DCF estimates one professional senior human services program specialist position will be needed to serve as the coordinator of the interstate compact on medical assistance, and one administrative assistant I position will be needed 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.

	FY 02-03	FY 03-04
Recurring Expenditures (@ FTE's)	\$112,102	\$112,102
Nonrecurring Expenditures	\$ 25,732	
TOTAL Program Costs	\$137,834	\$112,102

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will permit families with children with special needs in the state funded adoption assistance program to have easier access to 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.

D. FISCAL COMMENTS:

DCF estimates Florida will not have a fiscal impact from benefit coverage from the compact because of the reciprocal nature of the agreements. Special needs children under adoption assistance agreements who are eligible for IV-E benefits already have Medicaid coverage by the state where they reside under federal IV-E requirements. Under the compact, children who are not IV-E eligible, will also have their Medicaid match provided by the state where the child lives. Under the provisions of the compact, Florida would have provided the Medicaid match for 208 special needs children in 1997 from states having an adoption assistance compact agreement with Florida. In exchange compact states would provide the Medicaid match for 281 special needs children with adoptive assistance agreements from Florida residing there.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditures of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

NONE

B. RULE-MAKING AUTHORITY:

This bill requires the DCF to adopt administrative rules necessary to administer this act.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

STORAGE NAME: h0881a.jo.doc

DATE: February 8, 2002

PAGE: 7

VII. SIGNATURES:

COMMITTEE ON CHILD & FAMILY SECURITY:

Prepared by:

Robert Brown-Barrios

Staff Director:

Robert Brown-Barrios

AS REVISED BY THE COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Carol Preston

Staff Director:

Nathan L. Bond, J.D.