

**Manual for the Administration of the
Interstate Compact on
Adoption and Medical Assistance
ICAMA**

INDEX

SECTION I

Background Information

- P.L. 96-272:
- ICAMA
- COBRA and ICAMA
- ASFA

1

SECTION II

Association of Administrators of the Interstate Compact on Adoption and Medical Assistance (AAICAMA)

3

SECTION III

The Role of the Compact Administrator

- Processor of ICAMA Forms
- Monitoring and Enforcement
- Trainer
- Information Resource

4

SECTION IV

Operational Tools

- Compact Text and Commentary
- Forms and Procedures
- Supplementary Agreements
- State Pages
- Secretariat Opinion

6

SECTION V

Procedures for Processing ICAMA Cases

- Introduction
- Definitions
- Procedures
 - Child Moves Between ICAMA Party States
 - Child Moves Into Non-Party State
 - Child Moves From First Resident State to Second Resident State
 - Medicaid Coverage for Children Receiving State-Funded Adoption Assistance

8

SECTION VI

ICAMA and ICPC

- ICAMA and ICPC Distinguished
- Compliance with ICPC

15

SECTION VII.

Legal Underpinnings of Special Needs Adoption

- Foster Care and Adoption
- Medical Assistance
- Article
- EPSDT

17

SECTION I

Background Information

P.L. 96-272

Recognizing that the extraordinary costs and demands of raising special needs children pose barriers to many prospective adoptive parents, states developed adoption subsidy programs. Following the states lead, Congress passed the Adoption Assistance and Child Welfare Act in 1980 (P.L. 96-272). Among other things, P.L. 96-272 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 who meet the program's eligibility criteria. In addition, P.L. 96-272 requires states to safeguard the interests of those children in interstate situations covered by adoption assistance agreements.¹

ICAMA

Through the established framework of the Interstate Compact on Adoption and Medical Assistance (ICAMA) member states meet the mandate of P.L. 96-272 that states protect the interstate interests of adopted special needs children.² The Compact, which has the force of law within and among the member states, provides for uniformity and consistency of policy and procedures when a child with special needs is adopted by a family in another state, or the adoptive family moves to another state. The children concerned are those adopted pursuant to adoption agreements between states and prospective adoptive parents under the terms of Title IV-E of the Social Security Act. Through the Compact, states may also extend these protections to children adopted through state-funded subsidy programs.

COBRA and ICAMA

In 1985, Congress passed the Consolidated Omnibus Reconciliation Act (COBRA) which made two changes in Title XIX Medicaid, affecting special needs adoption. First, it mandated that the state of residence provides Medicaid to all children adopted under the Title IV-E federally assisted adoption subsidy program. Prior to the COBRA, the adoption assistance state was the Medicaid source. Therefore, if an adoptive parent moved to another state, or adopted a child from a state other than their state of residence, they would have to find a provider to take the out-of-state Medicaid card provided by the adoption assistance state. Many medical service providers were reluctant to recognize the Medicaid card of another state because, among other things, it required them to become certified providers of that state.

While the mandate constituted a significant step, COBRA did not provide any administrative mechanism by which the provision of Medicaid across state lines would be facilitated. Each state's Medicaid program differs: the forms, information required, benefits, and coverage varies substantially. Without the Compact, these systematic differences provide barriers to children and

1. Social Security Act, Section 473 et seq.

2. "... the agreement shall contain provisions for the protection (under and interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and the child move to another state while the agreement is effective (Section 475 of the SSA) (emphasis added).

families receiving medical benefits in interstate situations. Problems include documentation, establishing eligibility, and problems not being resolved because no one is ultimately responsible for ensuring that the benefits are received. The Compact prevents these problems because there are standard forms and procedures that meet federal and state requirements with maximum administrative simplicity. Further, regular and reliable channels for information exchange are features of ICAMA. ICAMA predates COBRA. It makes the very same demand of the party states as Congress imposed upon them through federal law. ICAMA goes further, however, by establishing an administrative structure for adherence to a uniform system through which critical services are made available to the children concerned.

In addition, COBRA provided states with the option of extending Medicaid coverage to children adopted pursuant to state-funded adoption subsidy programs, if the child met the outlined criteria.³ ICAMA is also the mechanism by which the provision of Medicaid for children receiving state-funded adoption assistance is facilitated. Further, under the Compact, states who have elected the option to provide Medicaid to this population of children are required to provide this benefit to children residing in their state who are receiving state-funded adoption assistance from another state that has determined eligibility for Medicaid for the child under the COBRA option. (*See Exhibit IV-C: Secretariat Opinion #1.*)

ASFA

On November 13, 1997, the President signed the Adoption and Safe Families Act of 1997 (P.L. 105-89) into law. Among the many provisions related to adoption, the provision of health insurance for children receiving state-funded adoption assistance is directly relevant to the Interstate Compact on Adoption and Medical Assistance. ASFA requires an expansion of health coverage to children receiving state-funded adoption assistance. It requires that states provide health insurance coverage for “any child who has been determined to be a child with special needs, for whom there is a state-funded adoption assistance agreement between the State and an adoptive parent(s), and who the State has determined cannot be placed without medical assistance because the child has special needs for medical, mental health, or rehabilitative care.” Such coverage may be provided through Medicaid or a state health insurance program, as long as the medical benefits of the state program (including mental health) are of the same kind and type provided under Medicaid. In addition, the law provides that in order to be eligible to receive child welfare demonstration waivers or adoption incentive payments in the years 2001 and 2002, states must “provide health insurance to any child with special needs (as determined under section 473 (c)) for whom there is in effect an adoption assistance agreement between a state and an adoptive parent or parents.” Again, ICAMA is the mechanism by which Medicaid can be provided on an interstate basis for children receiving state-funded adoption assistance.

³ The Consolidated Omnibus Reconciliation Act of 1985 made two changes in Title XIX, Medicaid. First, it required the state of residence to provide Medicaid to all children adopted under the federally assisted adoption subsidy program. Second, COBRA gives the states the option of extending Title XIX Medicaid to children adopted pursuant to state-funded adoption subsidy programs if they meet the following Eligibility criteria: (1) there is an adoption assistance agreement between the State and the adoptive parents; (2) the state agency has determined that the child cannot be placed for adoption without Medicaid because the child has a special need for medical or rehabilitative care; and (3) before or at the time the adoption assistance agreement was executed, the child would have been eligible for medical assistance given his own income and resources or the child was receiving or was eligible to receive Medicaid as either a mandatory or optional categorically needy (Section 1902(a)(10)(ii)(VII) SSA; CFR 435.227)

SECTION II

Association of Administrators of the Interstate Compact on Adoption and Medical Assistance (AAICAMA)

In July 1986, the Association of Administrators of the Interstate Compact on Adoption and Medical Assistance (AAICAMA) was formed by the then 15 member states. AAICAMA was formed to facilitate, provide technical assistance, and support states in the administration of the Compact. Since 1986, the American Public Human Services Association (APHSA), formerly the American Public Welfare Association (APWA), has served as the Secretariat to AAICAMA.

The first priority of the Association is to provide services for effective and efficient administration of ICAMA by all of the member states. Through its Secretariat, the Association provides its member states with:

- Materials and procedures required for implementation and ongoing operation of ICAMA;
- Central guidance, technical advice and assistance in providing interstate administration;
- Assistance in understanding the laws affecting special needs adoption; and
- Impartiality and neutrality in resolving disputes and engendering interstate cooperation.

The Association also may be viewed by the states as an arm of their administrative structure. The Secretariat serves to assist states in the formation of policies and practice concerning special needs children. The Secretariat provides states with technical assistance in administering the Compact, but it cannot force states to act in a certain manner. Matters concerning administration of the adoption assistance program (including benefits and services), whether involving an intrastate or interstate situation, are resolved with reference to federal and state law. The Compact, as a part of state law and a contractual obligation of the state, is a source of rights, duties and obligations. Hence, decisions that affect interstate concerns are guided not only by federal law, but state law, including ICAMA. *(See Issue Brief. IV: Decision-Making Under the Interstate Compact on Adoption and Medical Assistance.)*

In 1995, AAICAMA amended its bylaws to allow for associate membership by private, nonprofit adoption organizations and tribes involved in special needs adoption. The reason for this change came about as a result of an identified need to bring public and private adoption professionals together so that services to special needs children and their adoptive families could be enhanced. At this time, the Association also revised its mission statement. Following is the mission statement of the Association.

Membership in AAICAMA

The (designated) administrator and deputies are recognized members of AAICAMA (see Article II of the Bylaws, Section IV). Only the administrator or, in his/her absence, a deputy, or designated proxy from the state, may vote at the Annual Business Meeting of the Association.

SECTION III

The Role of the Compact Administrator

Under the Compact, the most important figure is the administrator(s). Clearly without active and involved state administrators and their deputies, ICAMA would be meaningless. The Compact administrator is responsible for coordinating with in-state and out-of-state officials to facilitate the provision of benefits and services for special needs children and their adoptive families, processing ICAMA forms, monitoring and enforcing compliance with ICAMA procedures and guidelines, training agency personnel, and serving as an information resource. Following is a more detailed description of these duties.

Processor of ICAMA Forms

The administrator is responsible for processing and reviewing all forms under the Compact. This function involves ascertaining that all necessary information is provided on the forms and necessary attachments are provided. The processing concerns incoming and outgoing forms. To that end, the administrator must act to facilitate the receipt of benefits in a residence state in a timely manner. It is recommended that each state, the adoption assistance state and the residence state, complete all required actions on an interstate transaction in no more than seven (7) working days.

The importance of this role cannot be overstated. As the processor of ICAMA forms, the administrator ensures the state's compliance with its law and contractual obligations. The *Legal and Administrative Bases for the Required Use of ICAMA Forms* is the topic of Issue Brief XII.

Monitoring and Enforcement

It is the responsibility of the administrator to promote and advance compliance with ICAMA policy and requirements. An important aspect of this function is a thorough working knowledge of ICAMA procedures to facilitate identification and resolution of problems. Further, Maintenance of cooperative relationships with other ICAMA administrators and often ICPC compact administrators, is necessary in order to prevent problematic situations from arising. In the event of errors or omissions, the administrator should initiate corrective action by giving notice to a sending state of incomplete or missing information that should appear on the form in question. Moreover, the adoption or residence state administrator should promptly alert the Compact contact in the other state about any change in the child's status that would affect the receipt or eligibility of the federal program benefits.

Compact administrators are also urged to use ICAMA forms in their dealing with non-compact states. The uniformity and consistency afforded under ICAMA forms makes it less burdensome to maintain records on special needs children living in another state.

Trainer

The administrator is responsible for training all parties on the state or local level in the operation and requirements of the Compact. All personnel involved in adoption and medical assistance should

receive up-to-date information on the operation of the Compact among the member states and the specific requirements for its functioning in that particular state. In addition, the administrator is responsible for ensuring that Compact procedures are incorporated into the state agency's operating policy and procedures manual. Administrators should be aware of, and contribute to, the development of state policy and procedures that would affect the Compact in their state.

Information Resource

The administrator is responsible for providing information about adoption assistance and related services or facilitating contact with others that can provide requested information.

The ICAMA State Page is the administrator's source of ongoing communication about the programs and policies of his/her state. Responding to state page data requests is one of the most important information resource functions of the administrator. In fact, the importance of State Pages as a directory of state services and personnel cannot be overstated. Up-to-date State Page entries help all administrators make the proper connections within other states.

SECTION IV

Operational Tools

Compact Text and Commentary

The Compact text is, first and foremost, the embodiment of the contract that is binding on all signatory states. Examination of the document reveals the governing goals and objectives of party states concerning a matter of mutual concern, that is, protection of the interstate interests of special needs adopted children. The terms and conditions that support the agreement between the states to act in concert for the benefit of adopted special needs children are set forth with specificity. Furthermore, the Compact text also should be viewed as a working agreement that directs party states in regard to their rights and obligations.

The Compact is composed of eight Articles addressing various topics including the findings of the states concerning special needs adoption (Article I) to Construction and Severability (Article VIII). The commentary is an aid in understanding and interpreting the Compact provisions. Written for layman, the Commentary addresses the rationale for each of the several Articles, including their scope and applicability (Exhibit IV-A)

Forms and Procedures

Article VI(B) directs the Compact administrators to develop uniform forms and procedures. The administrators must approve all forms and procedures at the Annual Meeting to make them binding upon the party states. These are explained in detail in Section IV.

Supplementary Agreements

Article VI(c) authorizes some or all party states to enter into a supplementary agreements(s) consistent with the Compact. Any such agreements would be in addition to the Compact, and would be binding only upon those party states that adopt the measure. To date, ICAMA has only developed one supplementary agreement to the Compact. It is described below:

Supplementary Agreement I: Interstate Fair Hearing Rule gives the non-residents of the adoption assistance state the choice of appearing in person at an administrative proceeding or relying upon written submission or telephone. The aggrieved party has 30 days to decide whether to proceed by the substitute procedures allowed by this rule (Exhibit IV-B).

ICAMA states wishing to adopt the rule execute it in the same manner as they execute the Compact. The agreement, however, is binding on and effective only for the signing states. The rule is appropriate as an agreement supplementary to the Compact because it is more than a procedural device by which adoptive parents can obtain relief from erroneous or omitted state action. It furthers the cooperative interstate approaches which the Compact states have declared to be their common policy and objective.

State Pages

ICAMA State Pages are prepared and updated annually by each party state administrator. The information provided concerns the identity and means to contact staff in the states with responsibility related to the Compact. Included in the State Pages is a useful and easy reference source for administrators. By eliminating non-directed, time-consuming calls to states in search of answers concerning services, benefits and associated requirements, the State Pages help reduce administrative burdens.

Secretariat Opinions

The Secretariat furnishes advisory opinions on issues related to the administration and effect of the Compact to administrators and others officially involved in the operation of the Compact. This is one type of technical assistance provided by the Secretariat. The Secretariat, however, does not have enforcement powers. Consequently, any implementing action is the responsibility of the inquirer or others that may be involved in the specific situation. To date, only one secretariat opinion has been issued—Secretariat Opinion #1: Medical Coverage for Children Receiving State-Funded Adoption Assistance in Interstate Situations .

SECTION V

Procedures for Processing ICAMA Cases

Introduction

Through the established framework of the Interstate Compact on Adoption and Medical Assistance (ICAMA), party states meet the mandate of P.L. 96-272 (the Adoption Assistance and Child Welfare Act of 1980) for the protection of the interstate interests of adopted special needs children. The children concerned are those adopted pursuant to Adoption Assistance Agreements between states and prospective adoptive parents under the terms of Title IV-E of the Social Security Act. Through the Compact, states may also extend these protections to special needs children adopted through state-funded subsidy programs.

Definitions

<i>Adoption Assistance</i>	is financial assistance provided to the adoptive parents to assist in meeting the child’s special needs.
<i>Adoption Assistance Agreement</i>	is an agreement between the adoptive parents and a state, agency, or subdivision thereof, in accordance with which the adoptive parents are to receive financial assistance and services on behalf of a child with special needs.
<i>Adoption Assistance State</i>	is the state that is the signatory to an Adoption Assistance Agreement on behalf of a particular child
<i>Adoptive Parents</i>	is either the singular or plural of the word “adoptive parent.”
<i>Certification</i>	is the guarantee, as stated on the Notice of Medicaid Eligibility/Case Activation (Form 6.01) from the Compact Administrator of the Adoption Assistance State, that the attached Adoption Assistance Agreement is a true copy of the Agreement which is current and in effect.
<i>Child with Special Needs</i>	is a child on whose behalf adoption assistance payments are being made to facilitate and maintain an adoption. A child with special needs is a child for whom a state has determined that the child cannot return home and who has specific factors or conditions which make the child hard to place. These factors or conditions include age, race, sibling groups, and physical, mental, and emotional disabilities. Before a child is considered a child with special needs, there must have been a reasonable effort made to place the child without adoption assistance, except for those children who are being adopted by foster parents with whom they have bonded.
<i>COBRA</i>	is the Consolidated Omnibus Budget Reconciliation Act of 1986. COBRA mandates that children receiving Title IV-E adoption assistance payments are categorically eligible to receive Medicaid in the state of residence.

<i>COBRA Option</i>	is the provision in COBRA that provides states with the flexibility of providing Medicaid coverage for non-IV-E children who have special needs and are receiving state funded adoption assistance. In order for a child to be eligible for the COBRA option, the child must have a special medical or rehabilitative need, which is specified on the Adoption Assistance Agreement.
<i>Compact Administrator</i>	is the person in the state that has responsibility for the administration of ICAMA.
<i>Fair Hearing</i>	is a system under which adoptive parents may appeal the denial of or exclusion from adoption assistance. The types of situations which would constitute grounds for a fair hearing include: (a) relevant facts regarding the child, the birth family, or child's background were known and not presented to the adoptive parents prior to the legalization of the adoption; (b) denial of assistance which was based on a means test of the adoptive parents; (c) erroneous determination by the state that a child is ineligible for adoption assistance; and (d) failure by the state agency to advise adoptive parents of the availability of adoption assistance.
<i>Medicaid Identification Document</i>	is a Medicaid Card.
<i>Party State</i>	is a state that is a member of the Interstate Compact on Adoption and Medical Assistance.
<i>Resident State</i>	is the state in which the child lives.
<i>Third Party Insurance</i>	is any health insurance, other than Medicaid, the adoptive parents have that provides coverage for the adopted child.
<i>Title IV-E</i>	is a federal funding source for a child who meets eligibility requirements.

Procedures

There are three different situations that fall under the Interstate Compact on Adoption and Medical Assistance (ICAMA). These three situations and the procedures that must be followed are described on the following pages.

I. Child Moves Between ICAMA Party States

A. Responsibilities of Adoption Assistance State

1. Notify the new state of residence of the child's eligibility for Medicaid.

The Compact Administrator sends:

- a. A completed Notice of Medicaid Eligibility/Case Activation (Form 6.01) to the new state of residence along with:
- b. A copy of the Adoption Assistance Agreement, which must show that the child is eligible for Medicaid based on Title IV-E eligibility or state option.

2. Inform the adoptive family that the new Resident State has been notified that the child is eligible to receive Medicaid benefits in the new state of residence.

The Compact Administrator sends the family:

- a. A copy of the Notice of Medicaid Eligibility/Case Activation (Form 6.01); and
- b. The original Notice of Action (Form 6.02); and
- c. A copy of the current Adoption Assistance Agreement.

B. Responsibilities of Resident State

1. To ensure that documentation for the child's Medicaid eligibility is complete.

The Compact Administrator will ensure that:

- a. The Notice of Medicaid Eligibility/Case Activation (Form 6.01) is signed and dated; and
- b. The Notice of Medicaid Eligibility/Case Activation (Form 6.01) and the Adoption Assistance Agreement clearly state that the child is Title IV-E **or** that the child's eligibility is based on state option; and
- c. The names of the adoptive parents are provided and the address in the new resident state is clearly indicated; and
- d. The most current Adoption Assistance Agreement is attached; and
- e. The child is coming from a Compact State; and
- f. Demographic information on the child is listed and includes name, date of birth, and social security number.

2. Open a case in each child's name.

The Compact Administrator will:

- a. Make copies of the documents; and
- b. Create a file for each adopted child in the family.

3. Facilitate the issuance of a Medicaid card based on the documentation provided.

The Compact Administrator will:

- a. Forward the documentation to appropriate Medicaid office; or
- b. Apply whatever procedures are followed in your state.

4. Notify the Adoption Assistance state of the child's Medicaid status.

The Compact Administrator will

- a. Complete Sections A, B, and C of Report of Change in Child/Family Status (Form 6.03); and
- b. Send it to the Adoption Assistance State informing them that the Medicaid case was opened and whether or not a Medicaid card has been issued.

II. Child Moves into Non-Party State

Even though the child is moving into a non-party state, both the Adoption Assistance State and the non-party state may use ICAMA forms.

A. Issues in Processing Cases

1. In non-ICAMA party states, no one person may have been identified as the contact person for facilitating these cases.
2. Since the Association of Administrators of ICAMA provides an updated list of identified contacts to whom the documentation may be sent, it is suggested that that person be contacted, preferably by telephone. This way, current information on procedures for obtaining the Medicaid card for the child can be obtained.
3. Once the paperwork has been processed, the Compact Administrator should follow up with a phone call to ensure that the documentation has been received and the Medicaid case is being opened.
4. The Compact Administrator may have to assist the family more than usual in accessing Medicaid.
5. You probably will not receive a report from the resident state on Report of Change of Child/Family Status (Form 6.03) indicating that a Medicaid case has been opened for the child in the new state of residence.

B. Responsibilities of Adoption Assistance State

1. Notify the new state of residence of the child's eligibility for Medicaid.

The Compact Administrator sends:

- a. A completed Notice of Medicaid Eligibility/Case Activation (Form 6.01) to the new state of residence along with:
- b. A copy of the Adoption Assistance Agreement, which must show that the child is eligible for Medicaid based on Title IV-E eligibility **or** state option.

2. Inform the adoptive family that the new Resident State has been notified that the child may be or is eligible to receive Medicaid benefits in the new state of residence.

The Compact Administrator sends the family:

- a. A copy of the Notice of Medicaid Eligibility/Case Activation (Form 6.01); and
- b. The original Notice of Action (Form 6.02); and
- c. A copy of the current Adoption Assistance Agreement.

III. Child Moves from First Resident State to Second Resident State

A. Responsibilities of the Compact Administrator in First Resident State

1. Ensure that the necessary documentation is forwarded to the second state of residence.

The Compact Administrator will:

- a. Notify Medicaid office that the child is moving to another state and that the Medicaid card must be closed;
- b. Complete Sections A, B, D and E of the Report of Change in Child/Family Status (Form 6.03) and send it to the Adoption Assistance state, which from then on is responsible for communicating directly with the second state of residence in matters involving the child's continuing eligibility for Medicaid in the new state.

2. Close child's case.

B. Responsibilities of Second Resident State

1. Ensure that documentation for the child's Medicaid eligibility is complete.

The Compact Administrator will ensure that:

- a. The new Notice of Medicaid Eligibility/Case Activation (Form 6.01) is signed and dated; and
- b. The initial Notice of Eligibility and the Adoption Assistance Agreement clearly state that the child is Title IV-E or that the child's eligibility is based on the COBRA option; and
- c. The names of the adoptive parents are provided and the address in the second resident state is clearly indicated; and
- d. The most current Adoption Assistance Agreement is attached; and
- e. Demographic information on the child is listed and includes name, date of birth, social security number, race, and gender.

2. Open a case in each child's name.

The Compact Administrator will

- a. Make copies of the documents; and
- b. Create a file for each adopted child in the family.

3. Facilitate the issuance of a Medicaid card based on the documentation provided.

The Compact Administrator will:

- a. Forward the documentation to appropriate Medicaid office; or

- b. Apply whatever procedures are followed in your state.
4. Notify the Adoption Assistance state of the child's Medicaid status.

The Compact Administrator will

- a. Complete Section A, B, and C of Report of Change in Child/Family Status (Form 6.03); and
- b. Send it to the Adoption Assistance State informing them whether or the child's new Medicaid card has been issued.

IV. Medicaid Coverage for Children Receiving State-Funded Adoption Assistance

- Children receiving state-funded adoption assistance and Medicaid from the adoption assistance state are not automatically eligible to receive Medicaid in the new state of residence.⁴
- **The child is eligible IF:**
 1. the adoption assistance state has elected to provide Medicaid to children receiving state-funded adoption assistance and included Medicaid as a benefit in the adoption assistance agreement;
 2. the new residence state has elected the COBRA option; and
 3. the new residence state has agreed to provide this benefit to all eligible children with adoption assistance agreements, not just children with adoption assistance agreements with their state.

Note: Under ICAMA, residence states are required to provide Medicaid to children receiving state-funded adoption assistance when: (1) both states are members of ICAMA; (2) both States have elected the option to provide Medicaid to this category of children; and (3) the child meets the eligibility criteria. (See, Exhibit IV-C)

Note: See Chapter VII for an explanation regarding the changes under the Adoption and Safe Families Act regarding the provision of Medical Assistance For Children Receiving State-Funded Adoption Assistance and a list of states that currently have the COBRA option and provide reciprocity.

4. The Consolidated Omnibus Reconciliation Act of 1985 made two changes in Title XIX, Medicaid. First, it required the state of residence to provide Medicaid to all children adopted under the federally assisted adoption subsidy program. Second, COBRA gives the states the option of extending Title XIX Medicaid to children adopted pursuant to state-funded adoption subsidy programs if they meet the following Eligibility criteria: (1) there is an adoption assistance agreement between the State and the adoptive parents; (2) the state agency has determined that the child cannot be placed for adoption without Medicaid because the child has a special need for medical or rehabilitative care; and (3) before or at the time the adoption assistance agreement was executed, the child would have been eligible for medical assistance given his own income and resources or the child was receiving or was eligible to receive Medicaid as either mandatory or optional categorically needy (Section 1902(a)(10)(ii)(VII) SSA; CFR 435.227)

A. Responsibilities of Adoption Assistance State

1. The Compact Administrator should call the Compact Administrator / Contact person in the new residence state to determine if they have elected the COBRA option
2. **If the state does not have the option:** The Compact administrator should inform the family that they will not be eligible for Medicaid in the new state of residence and assist them in (1) finding a provider that will take the adoption assistance state's Medicaid, or (2) assist them in finding a way to get medical assistance.
3. **If the state does have the option and will reciprocate:** The Compact Administrator should fill out the ICAMA forms as outlined above.
4. **Problems:** call the AAICAMA manager at (202) 682-0100

B. Responsibilities of Resident State

If the resident state provides Medicaid for children receiving state-funded adoption assistance from another state who have been determined eligible for Medicaid under the COBRA option by the adoption assistance state, then the responsibilities of the resident state are the same as when a child moves between ICAMA party states.

SECTION VI ICAMA and ICPC

ICAMA and ICPC Distinguished

The Interstate Compact on the Placement of Children (ICPC) governs the placement of children across state lines. It is the law in 50 states, the District of Columbia and the Virgin Islands. ICPC mandates that certain procedures be followed in making interstate placements for children in: (1) foster care, including foster homes, group homes, residential treatment facilities and institutions; (2) placement with a parent or relatives when a parent, close relative or non-agency guardian is not making the placement; (3) preliminary adoptive placements; and (4) in certain kinds of confinement of juveniles who have been adjudged delinquent. The ICPC rules and regulations do not apply to placements in medical, mental retardation and mental health facilities, Job Corp, the military, visits up to 30 days or boarding schools. Placement of children not in state custody by close relatives to close relatives is also excluded. The purpose of ICPC is to ensure the placement for the child is not contrary to the welfare of the child.

The Interstate Compact on Adoption and Medical Assistance (ICAMA) governs adoptive placements only. ICAMA has established procedures to protect the rights of children covered by the Adoption Assistance Agreements who are initially placed in another state or who move with their families to another state while the agreement is in effect. The purpose of ICAMA is to ensure continued medical coverage and other supports and services for adopted children who are adopted or move across state lines.

ICPC rules and regulations are required when making an interstate placement whether or not ICAMA is involved. ICPC applies if the caretaker (not an adoptive parent) and the child move from the state that made the original placement. Prior to the move there must be compliance with ICPC policies and procedures (especially ICPC Article III: Conditions for Placement). The conditions and obligations contained in ICPC Article V: Retention of Jurisdiction also apply. A move involving an existing interstate placement also would require reliance upon ICPC. Evaluation by the new receiving state of the placement circumstances provides that state with an opportunity to make a determination whether or not the placement appears “not to be contrary to the interests of the child.”

Compliance with ICPC

A prerequisite for interstate subsidized adoptive placements is compliance with ICPC. The sending agency must forward a Form ICPC-100A (Notice of Intent to Place a Child) to the ICPC administrator in the receiving state. Additionally, supporting information to permit the receiving state to conduct or review a home study must be provided at the time the ICPC-100A is sent. These materials are essential for an evaluation of the appropriateness of the placement. Children may not be placed with prospective adoptive parents unless the receiving state ICPC administrator issues a written finding that the placement “appears not to be contrary to the interests of the child.” Exceptions to these requirements are found in ICPC Article VIII: Limitations. It is rare that ICPC would be inapplicable for children who would be the subjects of Adoption Assistance Agreements.

The existence of an Adoption Assistance Agreement that would be binding for a state and the prospective adoptive parents does not satisfy the rules and regulations of ICPC. The mandates of ICPC and any other relevant laws must be met before the right to make a placement may be exercised by the custodial public or private agency, and before prospective parents have any right to

have children placed with them. Under federal law, and as provided for by ICAMA, children covered by Title IV-E Adoption Assistance Agreements are eligible for Medicaid in the state where they and their adoptive families reside. This means that the eligibility of the child for Medicaid (which is independent of

In an interstate adoptive placement, the finalization of the adoption ends the role of ICPC. At that point, the ICAMA administrators in the receiving state assume those responsibilities required by the Compact and those required by good practice. Disruption of the placement during the preliminary adoptive period means that the children concerned remain under the jurisdiction of ICPC. ICAMA is controlling when there is an Adoption Assistance Agreement currently in effect.

SECTION VII

Legal Underpinnings of Special Needs Adoption

In this Section, you will find pertinent provisions of federal law and federal regulations regarding the federal adoption assistance program and pertinent Medicaid provisions.

Foster Care and Adoption

Social Security Act Provisions

- Title IV, Part E (Title IV-E) of the Social Security Act (the Act) as amended by the Adoption and Safe Families Act. This title governs the federal foster care and adoption assistance programs.

Code of Federal Regulations Provisions

- Title 45 of the Code of Federal Regulations (CFR) Section 1356.40. Adoption assistance program: Administrative requirements to implement section 473 of the Act.
- Title 45 CFR, Section 1356.41. Nonrecurring expenses of adoption.

Medical Assistance

Social security Act Provisions

Title XIX, Section 1902 of the Social Security Act

- Section 1902(10)(A)—This is the mandate that children receiving Title IV-E adoption assistance are categorically eligible for Medicaid.
- Section 1902(10)(A)(ii)(VIII)—This is the provision that provides the option to states to provide Medicaid to children receiving state-funded adoption assistance.

Code of Federal Regulations Provisions

Chapter IV, Part 435. ELIGIBILITY

- Title 42 CFR, Section 435.145 Mandatory coverage of adoption assistance and foster care children
- Title 42 CFR, Section 435.227 Individuals under age 21 who are under State adoption assistance agreements
- Title 42 CFR, Section 435.403(g). State of residence for children receiving Title IV-E payments.
- Title 42 CFR, Section 435.403(k). Interstate Agreements

EPSDT

The Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program is a preventive and comprehensive health program for Medicaid-eligible individuals under age 21.

- Section 1905(r) of the Social Security Act defining the EPSDT Program