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| <h1>ACF</h1> Administration for Children and Families | U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children, Youth and Families | |
| | 1. Log No: ACYF-PI-83-08 | 2. Issuance Date: August 10, 1983 |
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| | 4. Key Words: Adoption Assistance Agreements Entered Into, On or After October 1, 1983 | |

PROGRAM INSTRUCTION

TO: State Administrators of Public Welfare Agencies Administering Or Supervising The Administration Of Title IV-E

SUBJECT: Adoption Assistance Agreements Entered Into, On or After October 1, 1983 in which the Interests of the Child Must Be Adequately Protected, Regardless of the State of Residence of the Adoptive Parents at Any Given Time.

LEGAL AND RELATED REFERENCES: Section 475(3) of the Social Security Act; Section 101(a)(4)(A) and (B) of Public Law 96-272; 45 CFR 1356.40

BACKGROUND: Section 475(3)(B) requires that any adoption assistance agreement, effective on or after October 1, 1983, stipulate that the agreement . . . shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

In addition, Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, provided for the following: The Secretary of Health, Education, and Welfare shall take all possible steps to encourage and assist the various States to enter into interstate compacts (which are hereby approved by the Congress) under which the interests of any adopted child with respect to whom an adoption assistance agreement has been entered into by a State under section 473 of the Social Security Act will be adequately protected, on a reasonable and equitable basis which is approved by the Secretary, if and when the child and his or her adoptive parent (or parents) move to another State. (Section 101(a)4(B) of Public Law 96-272.

The American Public Welfare Association, through a grant from the Department, has been working with the States on a model State Act and Interstate Compact as one means of meeting the requirements previously described. It is not expected that this work will be available for

States' use before October 1, 1983. Therefore, this Instruction has been prepared to provide information to States on how to proceed, absent an Interstate Compact, to assure the protections required by the law are available on or after October 1, 1983.

ACTION REQUIRED: States providing adoption assistance from title IV-E shall stipulate in each adoption assistance agreement entered into on or after October 1, 1983 that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The written adoption assistance agreement shall contain provisions for the protection of the interests of the child in cases where the child is placed with adoptive parents living in another State and in cases where the adoptive parents and the child move to another State while the agreement is in effect. 45 CFR 1356.40(b) outlines what must be contained in the adoption assistance agreement.

The law permits the requirement for the protection of the interests of children receiving adoption assistance who move from one State to another to be met in a way other than by an interstate compact. In order to avoid jeopardy to Federal matching funds during this period when there is no model Act and Interstate Compact to facilitate the States' meeting their obligations, States which enter into adoption assistance agreements must take measures to assure that the terms of the agreements are met. Either directly, or through agreements with other States, services and medical care (children eligible for title IV-E adoption assistance payments are deemed eligible for title XIX (Medicaid) regardless of their residence within the nation) agreed upon between the State and parents must be provided (45 CFR 1356.40(e)).

The responsibility of the State to honor its commitments for title XIX and other services as specified in the adoption agreement, is based on the State's agreement to administer title IV-E. The authority for the State to enter into agreements and contracts with other States to honor commitments made in adoption assistance agreements is based on the State's statute or administrative procedures. It is our expectation that all States will wish to become parties to the Interstate Compact when it becomes available.

EFFECTIVE DATE: October 1, 1983

INQUIRIES TO: Regional Program Directors, ACYF

Lucy C. Biggs

Acting Commissioner

Administration for Children, Youth and Families