

Bridges



Association of Administrators of the Interstate Compact on Adoption and Medical Assistance

Spring 2007

ICAMA and Medicaid: Understanding the COBRA Option and COBRA Reciprocity

by Sharon McCartney, Program Manager, AAICAMA

Part I in a three-part series on COBRA reciprocity

What's in a name? ICAMA's name—the Interstate Compact on Adoption and Medical Assistance—has three components, the IC, the A, and the MA. The first component refers to what it is—an interstate compact, fostering collaboration between member states. The second and third components refer to the subjects of that collaboration—adoption assistance and medical assistance.

The Interstate Compact is the "how". The Compact provides a framework for interstate coordination to remove barriers to the adoption of children with special needs and facilitates the interstate transfer of adoptive, educational, medical, and post-adoption services. It provides a connection between states to establish good practice, improve current practice, and develop long-term strategies to promote interstate collaborations that strengthen permanency. The Compact is designed to achieve and promote all these things.

Adoption assistance and medical assistance is the "what". Adoption assistance and medical assistance (Medicaid) are primarily the issues that drive the need for state collaboration in interstate adoption. State coordination and communication work to ensure the initial and uninterrupted receipt of services by children adopted with special needs. However, the issue that overwhelmingly creates the greatest need for collabo-

ration is Medicaid. The challenges presented by the provision of Medicaid across state lines drives much of the Compact's focus. When it comes to the ICAMA, the "M" and the "A" may come last in the acronym, but they come first in requested service.

Medical assistance for children adopted from the public child welfare system is often received through their eligibility for adoption assistance. For a child to be eligible for adoption assistance, they must be assessed by a state to be a child with special needs. The designation of special needs varies by state, but often its basis is that of a physical, mental, or emotional disability. Addressing that disability is a priority for adoptive families and medical services are crucial in meeting that need—crucial and often expensive. Medical assistance can ameliorate the financial impact a child's special needs may have on an adoptive family and strengthen placement.

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Eligibility for adoption assistance usually carries with it eligibility for medical assistance—the problem in interstate is that the medical assistance does not always carry.

Adoption Assistance and Medicaid Eligibility

There are two types of adoption assistance—Title IV-E and state-funded. Children who are eligible for Federal, Title IV-E adoption assistance are guaranteed Medicaid in all cases, intra- and interstate.¹ This is known as categorical eligibility for Medicaid.² Children who are not eligible for Title IV-E adoption assistance may be eligible for state-funded adoption assistance. However, state-funded adoption assistance does not come with the same guarantee of medical assistance in all states as Title IV-E adoption assistance.

The COBRA Option

States are not required by Federal law to provide Medicaid to their state-funded adoption assistance eligible children. States have the option of extending Medicaid to children receiving state-funded adoption assistance from the state without regard to the income of their adoptive parents. This is known as the COBRA option, after the provision found in the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).³

The COBRA option allows a state to provide Medicaid to the state's own state-funded adoption assistance eligible children who reside in the state and meet the COBRA eligibility criteria outlined in Federal law.⁴ Once the COBRA option is elected, states can receive Federal financial support for a percentage of the cost of providing Medicaid to their state-funded adoption assistance eligible children who reside in-state. Forty-nine states and D.C. have elected the COBRA option.

Determining Medicaid eligibility for state-funded children residing in an adoption assistance state is a four-step process. Ask yourself:

1. Is the child eligible for state-funded adoption assistance?
2. Does the child reside in the state that provides the state-funded adoption assistance? (meaning, is the state of residence also the adoption assistance state)
3. Has the state of residence elected the COBRA option?
4. Does the child meet the COBRA option eligibility criteria?

Note: There are three eligibility criteria for the COBRA option:

- ❖ There must be a state adoption assistance agreement in effect.
- ❖ The state must determine that the child cannot be placed for adoption without Medicaid because the child has special needs for medical or rehabilitative care.
- ❖ Before or at the time the adoption assistance agreement was executed:
 - a.) The child would have been eligible for medical assistance given their own income and resources or
 - b.) The child was receiving Medicaid as an eligible member of a mandatory or optional categorically needy group.

If the answer to all four questions is, “yes”, then the child is eligible to receive Medicaid from their adoption assistance state/state of residence. But the COBRA option only covers a state's own state-funded adoption assistance eligible children who reside in the state. What happens to these children interstate? What happens to the Medicaid eligibility of a state-funded adoption assistance eligible child when they are preadoptive and placed across state lines or adopted and move to another state? This issue is known as COBRA reciprocity.

What is COBRA Reciprocity?

COBRA reciprocity is an interstate vehicle for the provision of Medicaid. COBRA reciprocity refers to the decision states make to extend Medicaid to children residing in the state who receive state-funded adoption assistance from another state. States are not required to offer COBRA reciprocity. Like the COBRA option, COBRA reciprocity is state optional. States can choose the COBRA option and not choose COBRA reciprocity. States can choose to provide Medicaid only to resident children receiving state-funded adoption assistance from their state and not provide Medicaid to resident children receiving state funded adoption assistance from another state. Additionally, if states do choose to offer COBRA reciprocity, they do not have to offer it to all states. The two most common examples of how states extend COBRA reciprocity include offering reciprocity to children from all states or to ICAMA-member states only. Once a state has chosen COBRA reciprocity, it has elected to establish a policy to pro-

¹ 42 USC 673 (b)(1) and 42 USC 1396a (10)(A)(i)(I) and 42 CFR 435.145

² 42 USC 1396 (a)(10)(i)(I)

³ 42 USC 1396 (a)(10)(A)(ii)(VIII) and 42 CFR 435.227

⁴ *Ibid*

vide Medicaid to children who reside in the state, receive state-funded adoption assistance from another state and meet the COBRA eligibility criteria outlined above.

Before determining if a state-funded adoption assistance eligible child can receive Medicaid in an interstate case, you must know the following four things:

1. Has the new state of residence elected the COBRA option? And if the new state has elected the option, *then-*
2. Has the new state of residence elected COBRA reciprocity? And if the new state has elected COBRA reciprocity, *then-*
3. How does the new state extend COBRA reciprocity? Does the new state extend COBRA reciprocity to the adoption assistance state?*
4. Does the child meet the eligibility criteria for the COBRA option?

* *Note: The adoption assistance state is the state that is referenced to determine if a new state of residence will provide Medicaid in an interstate, state-funded adoption assistance case.*

Putting It All Together

Scenarios can often be a good practice tool for testing understanding. The following are scenarios that will present cases involving the COBRA option and COBRA reciprocity and provide questions and answers based on the scenarios.

Meet Howard. Howard is a twelve-year-old boy who is eligible for state-funded adoption assistance. State A is Howard's adoption assistance state.

Scenario Number One: Howard lives in State A. State A determines that Howard is eligible for state-funded adoption assistance in State A. Howard is placed for adoption with a family who lives in State A.

Question: Must State A provide Medicaid to Howard? Answer: No, State A can determine Howard to be eligible for adoption assistance and not provide Medicaid to him.

Question: If State A does provide Medicaid to Howard, what is the name of law that addresses this provision? Answer: The COBRA of 1985 (Cite: 42 USC 1396 (a)(10)(A)(ii)(VIII) and 42 CFR 435.227)

Scenario Number 2: Howard and his family move from State A to State B. State B does not have the COBRA option and does not have COBRA reciprocity.*

Question: Is State B responsible for providing Medicaid to Howard, who is now a resident of State B? Answer: No, State B is not responsible for providing Medicaid to Howard.

Follow-up question: What would need to be true of State B and State A in order for State B to be responsible for providing Medicaid to Howard?

Scenario Number 3: Howard moves from State A to State B. State A is a non-ICAMA member state. State B has the COBRA option and extends COBRA reciprocity to ICAMA-member states only.*

Question: Is State B responsible for providing Medicaid to Howard? Answer: No, although State B has elected COBRA reciprocity, State A is not an ICAMA-member and State B extends COBRA reciprocity to ICAMA-member states only.

Scenario Number 4: Howard moves from State A to State B. State A is an ICAMA-member state. State B has the COBRA option and extends COBRA reciprocity to all states.*

Question: Is State B responsible for providing Medicaid to Howard? Answer: Yes, because State B has elected COBRA reciprocity and extends it to all states, which includes State A.

Follow-up question: What piece of information about State A is unnecessary to answer the question? Answer: State A is an ICAMA-member state. Since State B extends COBRA reciprocity to all states, it is immaterial that State A is an ICAMA-member state.

Consider: We know that Howard will receive Medicaid from State B because State B has chosen a policy of COBRA reciprocity and extends that policy to State A—but do we know which medical services Howard will receive from State B? The answer lies in an understanding of State Medicaid Plans, the terms used in an adoption assistance agreement, and the definition of the term “reciprocity” as it applies to the interstate provision of Medicaid for children eligible for state-funded adoption assistance. Part II in this series will address these issues in a *Bridges* special edition, to be published in Summer 2007.

**Note: For a current update on state COBRA reciprocity policy, contact AAICAMA to receive its COBRA Option/Reciprocity Chart. Please call at 202.682.0100 or e-mail Sharon McCartney at SMCartney@aphsa.org.*

Responding to Adoptive Parents' Needs – The Oregon Model for Post Adoption Service

by Claudia Hutchison, M.A., Adoption Specialist

Exchange and its services, please see their website at <http://www.nwae.org>

The Key: Adoptive Parents

In 1996 - 1997 the Oregon Department of Human Services (DHS) undertook extensive research into all aspects of its adoption program. The goal was to identify areas of adoption services that were working well and those that needed improvement. Questionnaires were sent and group interviews were conducted with state adoption professionals, private adoption agencies, and community partner program staff. The Oregon State Legislature formed an Adoption Task Force to study the state's adoption program and offer recommendations. The research included, and, in fact, emphasized input from parents who had adopted a child through the state child welfare system. These adoptive families selected at random throughout the state were mailed detailed, written surveys and invited to participate in focus groups held in all geographic regions of Oregon.

The results identified the need for several key improvements. Improvements included more targeted adoptive family recruitment, increased efficiency in pre-adoption process, and speedier court finalizations - practices all aimed at shortening the length of time to permanency. In addition to these improvements, the professionals and parents of Oregon called for improved post adoption services statewide. Specific suggestions included an adoptive parent lending library and a toll free "warm line" for information and assistance. Using the research findings, Oregon DHS developed an *Adoption Reform Strategic Plan* in 1998 which identified improvement of post adoption services as one of the plan's strategic goals.

The Answer: The Oregon Post Adoption Resource Center

In response to the need for improved post adoption servicing, DHS announced a request for proposal that was released to the private sector in late 1998 for development of a statewide post adoption resource center. Based on prior positive experiences with the private sector, Oregon decided on public-private collaboration for the project. DHS selected the Northwest Resource Associates (NwRA) of Seattle, WA, to create the Oregon Post Adoption Resource Center ("ORPARC" or "the Center"). NwRA oversees The Northwest Adoption Exchange, of which Oregon has long been a member. For more information on the

Oregon funds the Center using monies under the Federal Title IV- B program (Subsection 2). Since first opening its doors in April of 1999, ORPARC has become a national model of excellence in the provision of services to strengthen and sustain families who have adopted children from the Oregon child welfare system.

The Input: Going Right to the Source

The success of the Oregon Post Adoption Resource Center is attributed largely to the on-going input from its primary users, the adoptive parents, along with national and local experts and community partners. ORPARC staff understands the value of those who directly use and implement post adoptive service programs and makes program changes and implementations in consultation with the parents and professionals it serves. Staff gathers input in numerous ways, such as frequent visits to adoptive parent support groups around the state, and "parent advisory" get-togethers. Users are also invited to contact staff at any time with ideas and suggestions. Parent input is solicited via evaluations given at every parent training and is used to select future training topics. Additionally, the ORPARC website offers a user input/feed-back area and an on-line survey. An Advisory Committee of national experts provides feedback on services, library materials and research. In all that the Center does, whether developing new topics for parent trainings, adding resources to the library, or undertaking a new service such as the *Therapy with Adoptive Families: Postgraduate Certificate Program*, its audience is always a part of the process.

The Services: Reaching Adoptive Families

The Center is accessible by e-mail and a toll-free number to offer supportive listening and problem-solving to eligible adoptive families. The toll-free number is 800.764.8367 and the number for the Portland Metropolitan Area is 503.241.0799. E-mail ORPARC at orparc@nwresource.org. The Center tracks adoptive parent support groups, assists in the start-up of new parent groups, and provides trainings, consultation, and materials to existing groups. Services include a lending library, parent trainings, a services database, referrals, information, and general assistance.

The lending library ships resources direct to family's homes in prepaid, return postage packages. The library offers a variety of books, videos, DVDs, audiotapes, article collections, and information packets. The collection has 800 titles with multiple applications, a growing number of which are available in Spanish. Some materials are for use with children and others are resources for relatives and guardianship parents. Families may view the library catalogue on line or they may request a hard copy of the catalogue. Many library users seek resource recommendations from the ORPARC staff. Library items can be accessed by topic, such as: open adoption, trans-racial adoption, teen issues, Fetal Alcohol Spectrum Disorder (FASD), medical and psychological issues, sexual abuse, and Post Traumatic Stress Disorder. A gift from the Hannah Andersson Foundation of Oregon has allowed the library to augment its collection with items of special interest to caseworkers and therapists who work directly with state adoptive families. To research these resources, ORPARC developed and continually updates a statewide database on issues such as mental health, support groups, mentor programs, respite care, developmental disability services, educational programs, and summer camps. Staff uses the database to assist families in locating services.

In the past two years, ORPARC has significantly expanded its offerings to relative and grandparent care-givers. Networking with a neighborhood Urban League Center, a YWCA program, and the local branch of the Oregon DHS, ORPARC initiated an educational/support group for the "Grands" (grandparents) and other relatives in the role of parent. ORPARC trainings now include three new topics on relative issues (*See seminar title list below*). ORPARC has partnered with DHS to provide retreats and conferences for relatives and grandparent caretakers. ORPARC serves on the statewide task force for the Relatives as Parents Program (RAPP), which distributes grants for Relative Support Groups through the Brookdale Foundation, compiles and distributes the Oregon Legal Guide for Relatives, and has just completed the Oregon Resource Guide for Relatives. The RAPP task force includes partners from Oregon State University Extension, AARP, DHS-Child Welfare, DHS-Self-Sufficiency, and DHS-Aging and Disability. For more information on the RAPP, please see the program's website at:

<http://www.brookdalefoundation.org/relativesasparents.htm>

The Oregon Post Adoption Resource Center also collaborates with the state's Lifespan Respite Care Network to develop and strengthen respite care resources for adoptive families. Resources are organized by county and families can contact the Network through the DHS website at: http://www.oregon.gov/DHS/spd/caregiving/ls_networks.shtml

ORPARC is lauded for the quality of its parent trainings and continually assesses and informs training needs using adoptive parent support group and parent advisory committee feedback. ORPARC offers seminars on important topics not available through other sources and holds them in all regions of the state. Upcoming trainings are posted on the ORPARC website and announced in the quarterly newsletter. Popular seminars include the titles *Relative Issues in Adoption: Grief and Loss; It Was Not Supposed to Be Like This: Relative Parenting; Rebuilding a Family: Relative Parenting; How to Manage Stress; Long Term Success in Adoption; Positive Parenting; Understanding Attachment; Talking to Children about Adoption; Sibling Issues in Adoption; Navigating Openness in Adoption, and Advocating for Your Child's Education*. Two trainings are offered in Spanish, one on Fetal Alcohol Spectrum Disorder and another entitled, *Talking to Children*.

The Partners: A Comprehensive Approach

Successful partnering is vital to any program that involves multiple groups. Many professionals touch the life of an adopted child, and ORPARC includes these professionals in order to create a comprehensive approach to meeting the particular needs associated with adoption. One important partner is the child's teacher. Working with parents to meet an identified need, the Center created a program to improve the educational outcomes of adopted children. A multi-state effort led to the compilation of articles and booklets into a teacher-focused information packet entitled, *Adoption Awareness for Educators*. The core of the packet is a video created by the Arizona Children's Association, *Family Diversity in the Classroom: The Adopted Child*. The Northwest Adoptive Families Association of Oregon provided funds to create the packet folders. Parents can request the packet to share with their child's school, or teachers can request the packet directly from ORPARC to improve and sensitize their practice. Six hundred packets have been distributed to schools statewide.

Along with permanency, adoption can often bring with it emotional issues. The issues particular to adoption, such as grief, control, loss, and attachment, can lead to be-

havioral concerns that require professional therapeutic attention. ORPARC created a second program to address the scarcity of adequate adoption-competent therapists throughout the state. ORPARC and the Oregon Department of Human Services partnered with Portland State University's Graduate School of Education and Graduate School of Social Work to develop a Graduate Certificate Program in Adoptive Family Therapy for Mental Health Professionals. A survey to adoptive parents and professionals statewide was used to develop topics for ten class sessions. The program has trained 45 mental health providers from both urban and rural communities. For complete program information, see Portland State University's webpage on *Therapy with Adoptive Families: A Post-graduate Training Certificate* at: <http://www.ceed.pdx.edu/adoption>

Note: To read an article on Oregon's Graduate Certificate Program, entitled, *Does Anyone Speak Adoption?*, written by Kathy Ledesma, then Adoption Program Manager in the Oregon Department of Human Services, Office of Permanency for Children and Child Safety, contact the Association of the Interstate Compact on Adoption and Medical Assistance to receive its Fall 2004 edition of *Bridges*. Digital copies are available by phoning AAICAMA at 202.682.0100 or e-mailing SMcCartney@aphsa.org

The Staff: A Great Resource

The Center offers many resources to meet the post adoption needs of families. One of the greatest of

these resources is its staff. The background and experience of ORPARC's staff contributes directly to its success. Composed of experienced child welfare professionals, several with personal connections to adoption, staff brings valuable professional assets that benefit adoptive families. One staff is bi-lingual and able to assist Spanish-speaking callers and present educational seminars to Spanish-speaking parent groups. Another is a former public school teacher who assists parents in understanding special education law and services. ORPARC's Program Manager brings eight years' prior experience as a licensed marriage and family therapist specializing in adoption. Two additional staff members are family support specialists and have backgrounds in adoption and child welfare.

Staff is available to families 44 hours a week to increase parent access and satisfaction with the Center, and, ultimately, permanency. Phone lines are staffed two weekday evenings and weekend consultations can be arranged to fit parent schedules. By design, staff does not have on-going caseloads. This allows staff to focus solely on post placement concerns and research and respond to parent requests quickly and effectively.

Together, committed staff and dedicated parents combine to make the Oregon Post Adoption Resource Center the success it is and the model it can be to create other state programs targeted to strengthen permanency through post adoption programming. To learn more about the programs, staff, and services that are ORPARC, please visit their website at: <http://www.orparc.org> or phone 800.764.8367 (toll-free).



CONGRATULATIONS! The Oregon Post Adoption Resource Center was awarded a 2006 Adoption Excellence Award from the Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS). Writer Claudia Hutchison, former ORPARC Program Manager, has received a 2006 Angel in Adoption award from the U.S. Congressional Committee on Adoption Institute.

ADOPTION ASSISTANCE and MEDICAID UPDATE

New Child Welfare Policy Manual Update Regarding Title IV-E Training Costs

The Administration of Children and Families will soon issue new Questions and Answers for the Child Welfare Policy Manual (CWPM) regarding Federal reimbursement to states for Title IV-E training expenditures. AAICAMA is often asked if AAICAMA training at the AAICAMA conference can be considered a reimbursable IV-E training cost. Below are four of the questions that will be posted in the Child Welfare Policy Manual that address this state concern.

The *Child Welfare Policy Manual* is an excellent resource for questions relating to children receiving Title IV-E adoption assistance or foster care. The manual is provided by the U.S. Department of Health and Human Services, Administration for Children & Families and is maintained by the Children's Bureau. Section 8 is dedicated entirely to Title IV-E. Check back to the Manual to see all eight new questions and answers on Title IV-E training costs.

CWPM link: http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/index.jsp

8.1H TITLE IV-E, Administrative Functions/Costs, Training

Question: What are the Title IV-E training topics that the State may claim at the 75 percent match rate under section 474(3)(A) of the Social Security Act and 45 CFR 1356.60(b)?

Answer: In general, the training topics must be closely related to one of the examples cited in 45 CFR 1356.60(c)(1) and (2) as allowable administrative activities under the title IV-E program. The regulatory examples of allowable activities include:

- ✓ Eligibility determinations and re-determinations
- ✓ Fair hearings and appeals
- ✓ Rate setting
- ✓ Referral to services
- ✓ Preparation for and participation in judicial determinations
- ✓ Placement of the child
- ✓ Development of the case plan
- ✓ Case reviews
- ✓ Case management and supervision
- ✓ Recruitment and licensing of foster homes and institutions

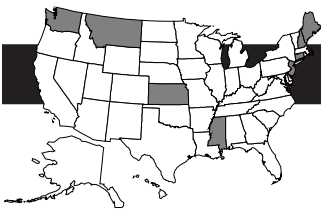
Additional examples of allowable administrative activities specifically applicable to the Title IV-E adoption assistance program include, but are not limited to:

- ✓ Grievance procedures
- ✓ Negotiation and review of adoption assistance agreements
- ✓ Post-placement management of subsidy payments
- ✓ Home studies
- ✓ A proportionate share of the development and use of adoption exchanges

There are many training topics that are closely related to these Title IV-E allowable activities that the State may train its workers on and claim at the 75 percent rate. The following are some examples:

- ✓ Social work practice, such as family centered practice and social work methods including interviewing and assessment.
- ✓ Cultural competency related to children and families.
- ✓ Title IV-E policies and procedures.
- ✓ Child abuse and neglect issues and general overviews of the issues involved in child abuse and neglect investigations, if the training is not related to how to conduct an investigation of child abuse and neglect.
- ✓ Permanency planning including using kinship care as a resource for children involved with the child welfare system.
- ✓ Effects of separation, grief and loss, child development, and visitation.
- ✓ Communication skills required to work with children and families.
- ✓ Ethics training associated with a title IV-E State plan requirement.
- ✓ Contract negotiation, monitoring or voucher processing related to the IV-E program.
- ✓ Adoption and Foster Care Analysis and Reporting System (AFCARS), Statewide Automated Child Welfare Information System (SACWIS) or other child welfare automated system functionality that is closely related to allowable administrative activities that the State has chosen to claim as title IV-E training rather than as SACWIS developmental or operational costs (see AT-ACF-OISM-001).
- ✓ Training on referrals to services, not how to perform the service.

Legal and Related References: Social Security Act – Sections 471(a)(8), 471(a)(15), 474(3)(A) and 477(b)(3)(D); 45 CFR 1356.60(b), (c) and (d); 235.64(a)(1) and (2); CWPM, Section 3.1H, Q/A #1; AT-ACF-OISM-001



STATE INFORMATION EXCHANGE

NCSL Reports on 2005 State Child Welfare Legislation

The National Conference of State Legislatures issued a report in July 2006 on significant state child welfare legislation enacted during the 2005 calendar year. State Child Welfare Legislation 2005 found a major focus of state legislatures was on promoting or enhancing kinship care and the use of relatives as care providers, including establishing and amending guardianship laws to include relatives as placement options. Additional areas addressed by the states last year were: substance-exposed newborns and methamphetamine abuse, education of children in foster care, court handling of child welfare cases, and extension of foster care beyond the age of 18. The following are some examples.

Report link: <http://www.ncsl.org/print/cyf/cwlegislation05.pdf>
(complete report available)

Adoption: Many states passed new laws on the adoption of children from foster care

- Alaska, Arkansas, California, Idaho, Kentucky, Pennsylvania and South Dakota enacted measures to facilitate adoption of children by relatives and other caregivers.
- Arkansas streamlined the adoption process for families that previously have adopted through the child welfare agency.
- Arizona and North Carolina mandated studies to improve adoption promotion and incentives.
- California allowed for reinstatement of parental rights if a child has not been adopted within three years after being freed for adoption.
- Maryland, Nevada, New Hampshire and New York authorized enforceable agreements for post-adoption contact between birth families and adopted children.
- Several states increased post-adoption financial support, including Connecticut (funding for post-secondary education), New Mexico (extension of a subsidy to age 21 for medically fragile youth), Rhode Island (adoption tax credit) and Texas (medical assistance for adopted children not eligible for a subsidy).

Education: States passed a variety of laws in 2005 to improve educational outcomes for children in the child welfare system

- Arkansas, Oregon and Virginia passed laws to minimize educational disruptions caused by foster care placement. Montana required the school superintendent to pay tuition for students in foster care who are placed outside of their school districts.
- Arkansas and Delaware enacted measures regarding eligibility for federal funds for the education of certain foster children under the McKinney-Vento Homeless Assistance Act.
- Arkansas and Maryland required improved coordination and communication between child welfare agencies and school systems.
- California passed measures dealing with educational decision making for foster children and extension of foster care for youth pursuing a high school equivalency certificate. It also urged Congress to enact an exception to the Family Educational Rights and Privacy Act to allow schools to share records with child death teams.
- Texas required the development of an educational passport for foster children.

Foster Families: A few states passed measures to acknowledge and support foster families

- California enacted provisions regarding visitation rights, the development of a shared responsibility plan and participation in Aid to Families with Dependent Children-Foster Care (AFDC-FC) benefits for children in foster care who are parents.
- Oregon and Pennsylvania enumerated the rights of foster parents.

Health Care: A number of states passed legislation to improve health care, particularly behavioral health care, for children in the child welfare system

- Connecticut required its child welfare agency to provide health care for any child under its supervision who is not receiving Medicaid

(Continued on next page)

benefits. Connecticut also required an integrated behavioral health services system for certain Medicaid enrollees and children receiving voluntary services from the child welfare agency.

- Idaho, Illinois, Indiana and Iowa passed laws to improve the delivery of behavioral health care services to children.
- Michigan required its child welfare agency to clarify the types of children who go into specialized foster care and the kinds of services that they receive.
- Oklahoma created a task force on reactive attachment disorder among children in the custody of the child welfare agency.
- Texas required the design of a comprehensive and cost-effective medical services delivery model.
- Wyoming required a CPS agency to refer a child under age 6 for educational and developmental screening and assessment.

Kinship Care and Guardianship: In 2005, many states passed laws regarding kinship caregivers both in and outside of the child welfare system

- Arizona, Arkansas and Texas passed legislation promoting the use of relatives as foster caregivers.
- Several states established or amended existing guardianship initiatives:
 - Maine established a state-funded guardianship subsidy program.
 - Maryland and Tennessee authorized courts to grant custody or guardianship as a permanent placement.
 - New Jersey required its child welfare agency to promote the kinship legal guardianship program to potential kinship guardians.
 - Ohio created a new permanency incentive program, including incentive payments to kinship guardians and custodians.
 - Wisconsin created a subsidized guardianship program.
 - The District of Columbia created a new grandparent caregiver subsidy pilot program.

- Colorado and New York imposed new requirements regarding searches for and identification of relatives who could serve as placement resources.
- Hawaii, New York and Washington expanded or clarified the authority of kinship caregivers to make decisions regarding a child's health care or education.
- Tennessee funded new services to elderly foster parents and disabled relative caregivers.
- Maryland, Montana and Virginia emphasized consideration of relatives in placement decisions.
- Washington required an oversight committee to monitor kinship care recommendations and activities.

COLORADO, NEW HAMPSHIRE, NEBRASKA

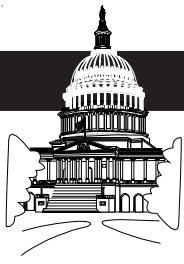
Current adoption bills

The Colorado and New Hampshire state Houses passed separate legislation in March 2007 that would permit joint adoptions by unmarried partners. The Colorado bill (HB1330) was approved by a 39-25 vote on March 14 and the New Hampshire bill (HB51) won on a 234-127 vote on March 21; both measures are pending action in their respective state Senates. In addition, similar legislation (LB571) was considered by the Nebraska Senate Judiciary Committee on March 20, but it has not progressed. Gay individuals in Colorado are permitted to adopt, but couples are barred from adopting jointly; in Nebraska a 2002 Supreme Court ruling barred adoptions by unmarried partners, although Nebraska law permits individuals to adopt. In New Hampshire, gay singles can adopt but same-sex couples can do so only in six of the state's 10 counties because of different interpretations of the law by judges.

CO bill link: <http://www.leg.state.co.us/clics/clics2007a/csl.nsf/fsbillcont3/>

NH bill link: <http://www.gencourt.state.nh.us/legislation/2007/HB0051.html>

(continued on page 13)



Senate Joins House in Lauding ASFA and Promoting Foster Adoptions

(11.06) The U.S. Senate passed a resolution (S. Res. 547) intended to recognize the success of the Adoption and Safe Families Act of 1997 (P.L. 105-89) in significantly increasing the number of children adopted from foster care, to mark the creation of National Adoption Day and National Adoption Month - which occur in November - and to generally raise awareness and encourage Americans to adopt. Last year, 45 states and the District of Columbia participated in events for National Adoption Day, resulting in the finalization of more than 3,300 adoptions of children from foster care. The U.S. House passed an identical resolution (H. Res. 959) in September 2006.

Resolution link: <http://www.thomas.gov> (Search for S. Res. 547 in the bill search field.)

Department of State, Final Rule, Hague Intercountry Adoption Convention

(11.06) The Department of State reached a milestone in its preparations for U.S. ratification of The Hague Intercountry Adoption Convention. The Department issued a final rule, 22 CFR Part 97, that establishes procedures for applying to the State Department for certificates (when an adoption has been finalized) and declarations (when custody for purposes of adoption has been granted) for Convention adoptions involving the emigration of a child from the United States. Before the Department will issue a Hague Adoption Certificate or Hague Custody Declaration, the applicant must demonstrate that the adoption or custody have been completed in accordance with the Convention, as implemented through the Intercountry Adoption Act of 2000 (the Convention's implementing legislation) and the final rule.

Final rule link: http://travel.state.gov/family/adoption/convention/convention_2957.html

U.S. Children Adopted Abroad

The Department of State (DOS) has announced that it will start collecting statistics on U.S. children adopted abroad. Currently, the DOS can only estimate the number of such adoptions. The DOS will require adoption service providers to file reports about children who emigrate to all countries, including those that are not part of the Hague Convention.

Link: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ279.106.pdf

(See *The Intercountry Adoption Act of 2000*, Section 104 (b)(a)(2) re: Annual Report on Intercountry Adoptions, Report Elements)

It is important to note that the reporting and other requirements *will not begin until the United States becomes a Convention country.*

Please see the DOS at <http://www.travel.state.gov> for additional information.

Bill to Ensure Foster Children's Use of Social Security

(2.15.07) The House proposed legislation, the Foster Children Self-Support Act (HR1104), that would prevent state use of Social Security or SSI benefits of foster youth to offset foster care costs, require states to determine foster children's eligibility for SSI or disability benefits under Social Security, and calls for developing plans for collecting and managing such funds for youth in care.

Link: <http://thomas.loc.gov/> and search for H.R.1104 in the bill search field.

The Tom Osborne Federal Youth Coordination Act

This Act is Title VIII of the recently enacted Older Americans Act (P.L. 109-365) and establishes the Federal Youth Development Council to provide advice and recommendations on Federal programs designed to serve youth. This interdepartmental council will meet quarterly to assess the needs of youth and to foster communication among the many Federal agencies that offer youth programs. Within 2 years, the Council will issue a report of its findings and recommendations to better integrate and coordinate Federal, State, and local policies affecting youth.

Summary link: <http://www.youthcoordinationact.org/ncy/ncyfederalyouthcoordinationact.htm?CFID=4393295&CFTOKEN=99955348>

Law link: <http://thomas.loc.gov>

PARENT PERSPECTIVES

The Collaboration to AdoptUsKids: Valuing Parent Opinion and Perspective

Edited by Sarah Gerstenzang, Assistant Director, The Collaboration To AdoptUsKids

The mandate of the Collaboration to AdoptUsKids is to recruit foster and adoptive parents for children in foster care. AdoptUsKids strives to ensure that the project includes parent perspective. That perspective is not only a part of AdoptUsKids, it is also a part of its staff. The Project Director, Barbara Holton, is an adoptive parent and so are the Assistant Director, Sarah Gerstenzang, and Stacey Leidner, a Child and Family Advocate. Their role as adoptive parents brings an informed understanding to AdoptUsKids. The parent perspective is reflected in AdoptUsKids by:

1. Parent Recruitment Campaigns. AdoptUsKids has created four media campaigns to recruit adoptive parents, the most recent of which was released in Spanish. All campaigns include parent interviews as a creative resource in developing the advertising material. For the Spanish-language campaign, focus groups were created to review the material and provide feedback before the ads were produced. Focus group participants included Latino families with members born in the US and families with members born internationally who were considering adopting, as well as other prospective adoptive parents and foster and/or adoptive parents. The participants were shown several Spanish-language advertisements and asked for their thoughts and feelings about the ads. The objective was to receive consumer feedback on the new Hispanic Adoption ads to be used for TV, radio, and print and to gauge consumer comprehension of the campaign's message. Participants were asked if the advertising was effective in motivating them to initiate steps towards fostering or adopting.

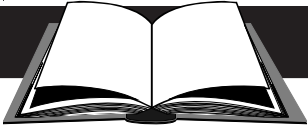
2. Responding to calls from prospective parents. AdoptUsKids fields hundreds of requests every week from prospective adoptive and foster parents. Families can be assisted in English or Spanish. Staff are trained to respond to requests with a parent's perspective in mind. Many families incorrectly believe that adoption is expensive and some have never met anyone who has fostered or adopted a child from foster care. Families often worry that they are not financially, emotionally, or physically equipped to be a foster or adoptive parent. They fear they are not "perfect" and will not be approved to foster or adopt. AdoptUsKids staff welcomes families, encourages them, and connects them to the appropriate staff and resources in their own states. Thousand of families have used the AdoptUsKids web site in their adoption journey.

3. Enlisting families to respond to media requests. Connecting foster and adoptive parents with prospective foster and adoptive parents is an effective recruitment strategy. English and Spanish speaking foster and adoptive families share their stories on the AdoptUsKids web site and with the local media across the country in an effort to connect these two groups. When AdoptUsKids is contacted by radio, television or newspapers asking for families to share their stories, they connect actual foster and adoptive families to participate in the interview. These families are the best advocates and serve as spokespersons.

4. Training and Technical Assistance to States and Tribes. AdoptUsKids provides Training and Technical Assistance (T&TA) to States. T&TA works with the States to promote the inclusion of foster and adoptive parents as full partners in their work and services. Parents are a large part of State foster care and adoption efforts. Parents are included in recruitment efforts and case planning meetings and serve as mentors and coaches for new and waiting families and as trainers or co-trainers for pre-service training.

5. Supporting Foster and Adoptive Parents. Parent support organizations are important and effective. They are a successful recruitment vehicle to new families for waiting children and provide a nurturing, supportive structure for existing foster and adoptive families. During the 5 years of the project a national network of parent support groups has developed. One hundred and seventy-five mini-grants have been awarded to parent groups in 48 states, the Cherokee Nation, Washington, D.C. and Puerto Rico. This network of parents is frequently called upon to provide input that shapes upcoming plans or publications and to add their viewpoint to recruitment efforts and media opportunities. When the Interstate Compact on the Placement of Children (the ICPC) was being revised, AdoptUsKids asked its network of parent group leaders to share their experiences with the Compact in order that the needs of prospective parents would guide and inform the rewrite.

Stories from media spokespersons, the grantees, and other adoptive and foster families are available on the AdoptUsKids web site. To find out more about the adoptive parent perspective, contact AdoptUsKids on their web site at: <http://www.adoptuskids.org>. You can also reach them by calling toll free at: (888)200-4005 or e-mailing: info@adoptuskids.org. To find out more about Parent Support Groups, contact Sylvia R. Franzmeier, Parent Group Manager. E-mail: sfranzmeier@adoptuskids.org Phone 281.413.7377.



Study Finds Adoptees Have More Health Care Needs, But More Support

A newly published study reports that adopted children are more likely to have special health care needs, learning disabilities and other mental health difficulties – but also finds that they receive more preventive medical and dental visits, and are more likely to have consistent health insurance, to be read to daily, to live in supportive neighborhoods, and to live in non-smoking households. *The Health and Well-being of Adopted Children*, by Matthew Bramlett, Laura Radel and Stephen Blumberg, was published in the February issue of *Pediatrics* (Volume 119, Issue 2). The researchers used data from a national children's health study, comparing 2,903 adopted children to almost 100,000 non-adopted children on 31 indicators.

Abstract link: <http://pediatrics.aappublications.org>

Adoptive Parents Invest More in Their Children

A recent study analyzing levels of parental investment in families with two biological parents and other family types found that families with two adoptive parents invested more in their children than did other family types, including families with two biological parents. When factors such as adoptive parents' higher income, older maternal age, and greater education were controlled for, the advantage diminished some but remained statistically significant. Data were drawn from the Early Childhood Longitudinal Study of approximately 13,000 first graders and their families. Parental investment was measured across four resource categories:

- ◆ Economic resources (ex. books, access to a computer)
- ◆ Cultural resources
- ◆ Interactional resources (ex. parental assistance with schoolwork and conversations with children)
- ◆ Social capital resources, including whether a child's parent seeks support from other parents and religious involvement

Results are discussed in terms of various sociological theories, including family structure theory and kin selection theory. *Adoptive Parents, Adaptive Parents:*

Evaluating the Importance of Biological Ties for Parental Investment, by Laura Hamilton, Brian Powell, and Simon Cheng, was published in the *American Sociological Review*, Volume 72, and is available for free download on the American Sociological Association website.

Link: <http://www.asanet.org/galleries/default-file/Feb07ASRAAdoption.pdf>

Updated Fact Sheet Provides an Overview of Medicaid

The Kaiser Foundation's Kaiser Commission on Medicaid and the Uninsured has updated the Medicaid at a Glance fact sheet which provides an overview of the Medicaid program, the populations that it serves, and the services that it covers.

Link: <http://www.kff.org/medicaid/7235.cfm>

Adoption and Foster Care by Lesbian and Gay Parents in the United States

This report by Gary Gates, Lee M.V. Badgett, Jennifer Ehrle Macomber, and Kate Chambers offers a demographic portrait of the estimated 65,500 adopted children and 14,100 foster children living with gay and lesbian parents. It also assesses the costs to child welfare systems of proposed bans on allowing gay, lesbian, and bisexual (GLB) people to foster. "An estimated 14,100 foster children are living with lesbian or gay parents. A national ban on gay and lesbian foster care could cost from \$87 to \$130 million. Costs to individual states could range from \$100,000 to \$27 million." Three states restrict GLB people from adopting and several states are considering restrictions on fostering.

Link: <http://www.urban.org/publications/411437.html>

Digital audio files link: <http://www.urban.org/Pressroom/otherevents/glbtagoption.cfm>

Study Shows Benefit of Intensive Adoption Preservation Services

A study of 99 families receiving intensive in-home services after adoptive placement in Missouri found that at 12 months, service characteristics (number of days, problems addressed) were the greatest predictor of the family's ability to remain intact; overall, 17 percent disrupted. "The Use of Intensive Family

(Continued on next page)

RESOURCE NOTES *(Continued)*

Preservation Services with Adoptive Families," by Marianne Berry, Jennifer Propp and Priscilla Martens, appears in the upcoming February issue of *Child and Family Social Work* (Volume 12, Issue 1). Other factors associated with a higher risk of disruption at the 12-month follow-up were older age of the child and full-time employment of the primary parent. This study provides evidence of the importance of adoption services for stabilizing at-risk placements.

Abstract link: <http://www.blackwell-synergy.com/>

Study Indicates Guardianship is as Stable as Adoption

(10.06) Newly published research compared the stability of 113 subsidized guardianship arrangements to 733 adoptions - all of whom were receiving services in Illinois; the researchers found no significant differences in the percentage of children in placement or the level of parental commitment to their children at the end of services. *A Comparison of Subsidized Guardianship and Child Welfare Adoptive Families Served by the Illinois Adoption and Guardianship Preservation Program*, by Jeanne Howard, Susan Smith, Diane Zosky, and Kim Woodman, was published in the most recent issue of the *Journal of Social Service Research* (Volume 32, Issue 3). The study did indicate

guardians were more likely to talk about legal dissolution of the permanency arrangements (44 percent) than were adoptive parents (30 percent); however, the findings overall suggest subsidized guardianship is a viable permanency arrangement.

Abstract link:

http://www.haworthpress.com/store/Toc_views.asp?sid=PXV9FPX0GWJJ9JKKNA34KQE2VSNH72A5&TOCName=J079v32n03%5FTOC&desc=Volume%3A%2032%20Issue%3A%203

National Resource Center Updates State Foster Care Policies

The National Resource Center for Family-Centered Practice and Permanency Planning revised the following four documents: Foster Home Licensing, Foster Parent In-Service Training, Foster Parent Pre-Service Training, and Limitations on the Number of Children in a Foster Home. Each has now been modified to include the most up-to-date, state-specific information.

Link: <http://www.hunter.cuny.edu/>

STATE INFORMATION EXCHANGE *(Continued from page 9)*

MINNESOTA

New website for permanency demonstration.

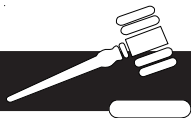
The Minnesota Department of Human Services (DHS) has established a website containing progress reports, FAQ's, forms and other information about the Minnesota Permanency Demonstration, a federally approved, Title IV-E child welfare demonstration project for families who choose to adopt or accept transfer of permanent, legal and physical custody in the foster care system. The Minnesota DHS began implementation of the five-

year permanency demonstration study in November 2005. If successful, the demonstration may be extended an additional five years.

Contact: John Hanna, Child Welfare Program Consultant, Title IV-E Child Welfare Demonstration Project, Minnesota Department of Human Services. Address: P.O. Box 64943; St. Paul, MN. 55164-0943. Phone: 651-431-4678. E-mail: John.Hanna@state.mn.us

Credits: National Conference of State Legislators, Evan B. Donaldson Adoption Institute, Minnesota Department of Human Services

National Center for Adoption Law and Policy, Center for Adoption Support and Education, Casey Family Programs, National Resource Center for Adoption, National Center for Youth Law



CASES OF INTEREST

State Law, Adoption Assistance Programs
California Appellate Courts: County of Los Angeles v. CDSS (Cite: No. B190434; 2007 Cal. App. Unpub. LEXIS 2845 (CA. Ct. App. April 9, 2007))

The Court of Appeal of California, Second Appellate District, Division Seven, affirmed a decision of the lower court which set aside a judgment granting a mother adoption assistance benefits for her son. The court held that California's Adoption Assistance Program was developed to encourage adoption of special needs children who would otherwise not be adopted. Since the child was not a hard-to-place child when he was adopted in 1985, his mother was not entitled to benefits as a result of his special needs that became apparent after the adoption was finalized.

Link: <http://www.courtinfo.ca.gov/opinions/nonpub/B190434.DOC>

Compact Law, the Interstate Compact on the Placement of Children (ICPC)

New York Supreme Court: In the Matter of Melinda D. and Claudia F. (Cite: 2006 N.Y. App. Div. LEXIS 6355)

The Supreme Court of NY reversed a lower court order dismissing a mother's habeas corpus petition asking for the return of her child to New York from Florida, reducing the mother's visitation, and recognizing as valid the Florida placement of the child with her foster mother. The Court noted that because the mother's surrender of her parental rights, executed subsequent to petition, had rendered the matter moot, further relief was not appropriate. The Court found an exception to the mootness doctrine because there was a likelihood of the repetition of the issue evading appellate review, and a showing of important questions not previously passed upon. The Court stressed the significance of following requirements of the Interstate Compact on the Placement of Children (ICPC); here, the ICPC's purpose of ensuring a child will not be placed out-of-state with an inappropriate caregiver was frustrated when the state of Florida failed to approve the foster mother as an appropriate placement.

Case link: http://www.courts.state.ny.us/reporter/3dseries/2006/2006_03777.htm

Florida Appellate Courts: C.K. v. Department of Children and Families (Cite: Nos. 4D06-3486 & 4D06-3578, 2007 Fla. App. LEXIS 1092 (Fla. App. Ct. January 31, 2007))

The Court of Appeals of Florida, Fourth District, affirmed the trial court's order that Appellant/Father comply with the Interstate Compact on the Placement of Children (ICPC), but reversed the lower court's finding that found father unfit for placement and an order that he attend counseling. The enforcement of the ICPC statute requiring a home study was upheld because the case involved the transfer of custody to an out of state non-custodial parent. The remaining orders were reversed because the minor child had not been found dependent with regard to father and there was an insufficient connection between fathers' alleged inappropriate activities and the endangerment of the minor child.

Link: <http://www.4dca.org/Jan2007/01-31-07/4D06-3486&3578.op.pdf>

Report on Child Welfare Class Action Litigation

Children's Rights has released a new report, *Improving the Child Welfare Workforce: Lessons Learned from Class Action Litigation*. The report summarizes the findings of a review of efforts to strengthen the child welfare workforce in the context of class action litigation in 12 jurisdictions across the nation. Children's Rights conducted this project in partnership with the National Center for Youth Law with support from Cornerstones for Kids. More than 70 key stakeholders were interviewed, including plaintiffs' counsel, current and former defendants (public child welfare agency representatives), current and former court monitors, representatives of foster parent and service provider membership organizations, judges, guardians ad litem, consultants, advocates, private providers, mediators, and university-agency training partnership staff-in these jurisdictions about provisions related to workforce issues that are included in the court orders in these cases; the progress made; and the barriers that hindered success. The report's recommendations provide a useful framework to guide current and future workforce reform efforts, in or outside of the context of litigation.

Report link: http://www.childrensrights.org/site/PageServer?pagename=workforce_report

CASES OF INTEREST *(Continued)*

Class Action Lawsuit against Nebraska Foster System Dismissed

U.S. District dismissed a class-action lawsuit, Carson v. Heineman, against the Nebraska State Health and Human Services Office on the grounds that federal courts should not intervene with the state court's authority. The lawsuit alleged that the state's foster care system was endangering the lives of 6,000 children by not addressing longstanding systematic problems, such as a shortage of foster homes, high caseloads, a lack of mental health services, and a lack of services and resources to encourage adoption. The case was filed in 2005 by Children's Rights Inc., the Nebraska Appleseed Center for Law in the Public Interest, and several private law firms. The plaintiffs have not decided whether they will appeal. In 2003, Nebraska had one of the nation's highest rates of out-of-home placements, 13.8 children per 1,000 in care compared with the national average rate of 7.2 children per 1,000.

Case link: <http://www.neappleseed.org/>

Note: To view the full-text of cases you must sign in to FindLaw.com.

Link: http://login.findlaw.com/scripts/case_login?dest=http://caselaw.lp.findlaw.com/data2/circs/9th/0655559p.pdf

Press release link: <http://www.neappleseed.org/>

Federal Law, Title IV-E, State Reimbursement

U.S. 8th Circuit Court of Appeals: MO Dept. of Social Services v. Michael O. Leavitt *(Cite: No.05-1985, 2006 U.S. App. LEXIS 13614)*

The United States Court of Appeals for the Eighth Circuit affirmed a decision of the district court granting summary judgment to the Secretary of the Department of Health and Human Services in an action brought by the Missouri Department of Social Services for reimbursement under Title IV-E of the Social Security Act, which provides for federal financial assistance for the provision of child placement services to designated single state agencies charged with the administration of the state plan for foster care and adoption assistance. Reimbursement was sought for removal, case planning and pre-placement activities performed by state juvenile officers, judicial employees who were supervised by juvenile or circuit court judges. The court held that because the Department of Social Services cannot supervise the juvenile officers' removal and pre-placement activities, the Departmental Appeals Board's decision that those actions were not reimbursable was not arbitrary or capricious and was supported by substantial evidence on the record.

Case link: <http://caselaw.lp.findlaw.com/data2/circs/8th/051985p.pdf>

NEW YORK

New York Becomes an Associate ICAMA Member. New York has signed a contract with the other signatories to ICAMA to become an Associate ICAMA Member for the 2006 Calendar year. Under associate membership, New York agrees to abide by Articles III, IV, and V of the Compact and further agrees that Articles I-V of the Compact are part of their contract with other signatories to ICAMA. New York will also be obligated to use ICAMA forms and procedures. New York's designated ICAMA contact is Carol McCarthy, Assistant Director, New York State Dept. of Family Assistance, Division of Development and Protection Services. The address is: New York State Adoption Service, Capital View Office Park; Room 323, North Bldg.; 52 Washington Street; Rensselaer, NY 12144-2796. Phone: (518) 473-5754 and fax: (518) 486-6326. E-mail Carol McCarthy at carol.mccarthy@dfa.state.ny.us

Note: Currently New York provides Medicaid to children residing in New York who receive state-funded adoption assistance from New York, but does not offer this benefit to children who reside in New York and receive state-funded adoption assistance from another state.



STAFF

Editor:

Sharon McCartney, J.D.

Contributing Editor:

Ursula Gilmore, M.A.

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Secretariat Services provided by:

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Human Services Association

810 First Street, NE, Suite 500

Washington, D.C. 20002

(202) 682-0100

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COMPACT ON ADOPTION AND MEDICAL ASSISTANCE, INC.

