

## **CHAPTER 50-28 ADOPTION ASSISTANCE**

### **50-28-01. Definitions.**

As used in this chapter:

1. "Adoption assistance" means the payment or payments for the maintenance of a child which are made or committed to be made pursuant to an adoption assistance program established by the laws of a party state.
2. "Adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.
3. "Child with special needs" means an individual under twenty-one years of age, who was or will be adopted before reaching eighteen years of age, and who has any of the special needs described in section 50-09-02.2.
4. "Compact" means the interstate compact on adoption and medical assistance.
5. "Department" means the department of health and human services.
6. "Medical assistance" means a program operated by a state under a state plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].
7. "Party state" means a state that has adopted the compact.
8. "Residence state" means the state in which the child lives.
9. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

### **50-28-02. Adoption assistance.**

1. This state determines the amounts of adoption assistance it will provide to a child with special needs. Adoption assistance may be subject to periodic re-evaluation of eligibility.
2. Adoption assistance and medical assistance to which this compact applies is that provided from the effective date of an adoption assistance agreement.
3. An adoption assistance agreement must be written, signed by the adoptive parents and on behalf of the state, and include:
  - a. A commitment that adoption assistance is payable without regard for the state of residence of the adoptive parents;
  - b. Provisions identifying the types of care and services toward which the adoption assistance state must make payments;
  - c. A commitment to make medical assistance available to the child in accordance with this chapter;
  - d. A declaration that the agreement is for the benefit of the child, the adoptive parents, and the state, and that it is enforceable by any of them; and
  - e. The date or dates upon which each payment or other benefit is to commence.
4. Any services or benefits provided for a child by this state as the residence state or the adoption assistance state may be facilitated by the department on behalf of another party state. Staff of the department shall assist staff of the child welfare agencies of other party states and the beneficiaries of adoption assistance agreements in assuring prompt and full access to all benefits included in such agreements.
5. Adoption assistance payments made by this state on behalf of a child living in another state must be made on the same basis and in the same amounts as they would be made if the child were living in this state, except that the laws of the adoption assistance program of the state in which the child lives may provide for the payment of higher amounts.
6. The department shall provide adoption assistance payments to adoptive parents using an automated clearing house to provide for electronic fund transfers. To receive payment, adoptive parents shall provide sufficient documentation to enable the department to provide electronic funds transfers through an automated clearing house. No other forms of adoptive assistance payments are permitted, unless approved by the department.

#### **50-28-03. Medical assistance.**

1. Except as provided in subsection 2:
  - a. A child, for whom this state has agreed under the terms of an adoption assistance agreement to provide medical assistance, is eligible for medical assistance in this state during the entire period for which the agreement is in effect and shall receive the same benefits as any other child who is covered by the medical assistance program in this state;
  - b. When a child, who is covered by an adoption assistance agreement under which this state is the adoption state, is living in another party state, payment for any medical services and benefits specified under the terms of the adoption assistance agreement, which are not available to the child under the medical assistance program of the residence state, must be made by this state as required by its law; and
  - c. A child, for whom a party state has agreed under the terms of an adoption assistance agreement to provide medical assistance, is eligible for medical assistance in this state during the entire period this state is the child's residence state, and shall receive the same benefits as any other child who is covered by the medical assistance program in this state.
2. Medical assistance may be subject to periodic re-evaluation of eligibility, provided that:
  - a. No re-evaluation may depend upon whether the adoptive parents are eligible for medical assistance; and
  - b. Financial eligibility is based solely upon the child's income and assets.

#### **50-28-04. Compact administration.**

1. The commissioner of the department or commissioner's designee shall:
  - a. Execute one or more interstate compacts on behalf of this state, not inconsistent with this chapter, to implement the purposes of this chapter; and
  - b. Designate a compact administrator and a deputy compact administrator as the commissioner or designee deems necessary.
2. The compact administrator shall:
  - a. Coordinate all activities under this compact within this state;
  - b. Be the principal contact for officials and agencies within and without this state for the facilitation of interstate relations involving this compact and benefits and services provided under this compact; and
  - c. Assist child welfare agency staff from other party states and adoptive families receiving adoption and medical assistance on an interstate basis.
3. Acting with compact administrators from other party states, the compact administrator:
  - a. Shall develop uniform forms and administrative procedures for the interstate monitoring and delivery of adoption and medical assistance benefits and services pursuant to this compact; and
  - b. May enter into supplementary agreements, not inconsistent with the compact, with some or all party states, provided that no supplementary agreement may relieve a party state of any obligation to provide adoption and medical assistance in accordance with applicable state and federal law and this compact.

#### **50-28-05. Joinder and withdrawal.**

1. This state's joinder of the compact is effective upon execution of the compact by the commissioner of the department or commissioner's designee.
2. The compact may be joined by any state.
3. This state may withdraw from the compact only by written notice sent to the appropriate officials of all other party states, but no such notice may take effect until one year after it is given.
4. All adoption assistance agreements outstanding and to which this state is a signatory at the time when its withdrawal from the compact takes effect must continue until they expire or are terminated in accordance with their provisions. Until such expiration or termination, all beneficiaries of the agreements involved shall continue to have all

rights and obligations conferred or imposed by the compact, and this state shall continue to administer the compact to the extent necessary to fully implement those rights and obligations.