

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



November 2, 1993

ALL-COUNTY LETTER NO. 93-86

TO: ALL COUNTY WELFARE DIRECTORS
ALL PUBLIC AND PRIVATE ADOPTION
AGENCIES
SDSS ADOPTIONS DISTRICT OFFICES

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation
Change
 Court Order or Settlement
Agreement
 Clarification Requested by
One or More Counties
 Initiated by SDSS

SUBJECT: ADOPTION ASSISTANCE PROGRAM LEGISLATIVE CHANGES

REFERENCE: Assembly Bill 930 (Chapter 1087, Statutes of 1993),
ACIN I-50-92

The Governor has signed Assembly Bill 930, a bill which substantially revises the Adoption Assistance Program. This letter discusses implementation of the new law.

Assembly Bill 930 is an urgency statute. Thus it took effect on October 11, 1993, the day that it was chaptered. This legislation makes several significant changes in the Adoption Assistance Program (AAP) regarding eligibility, payment amount determination, maximum payment amounts and related matters. In general, the revised statute affects only Adoption Assistance Agreements first completed on or after October 1, 1992. The statute authorizes the Department to adopt implementing regulations on an emergency basis. Pending the adoption of these regulations, the following guidelines regarding the most significant program changes are provided for all adoption agencies to use:

Eligibility

- o The legal definition of the term "special needs" is eliminated to avoid widespread confusion about the differences between characteristics and circumstances which render a child eligible for AAP benefits versus the nature of specific benefits available through the program. It has been replaced by a description of the factors necessary for AAP eligibility.
- o The child must be placed for a domestic adoption by an adoption agency. The new statute clarifies that children adopted through the Intercountry Adoption Program or the Independent Adoption Program are not eligible for adoption assistance. This provision does not affect independent adoption AAP cases in which the initial Adoption Assistance Agreement was completed before October 11, 1993.

At the time of adoptive placement, the child must: 1) be under the supervision of a county welfare department as a juvenile court dependent or as the subject of a legal guardianship; 2) be relinquished to a licensed California public or private adoption agency or the Department and found by the responsible public child welfare agency to be otherwise "at risk of dependency;" or 3) be committed to the Department after a failed independent or intercountry adoption.

- o In order for the child's AAP eligibility to be based on a mental, physical, emotional or medical disability, the presence of that disability must be "certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession."

Payment Amount Determination

- o As in the past, determination of need for any cash benefits for the family does not include a means test.
- o Actual payment amounts are to be negotiated between the adoption agency and the adoptive family. Welfare and Institutions Code Section 16119 provides detailed guidelines for the agency and family to follow in this process. In brief, when considering payments for basic care, these negotiations should start with the assumption that families whose incomes are below the state median income may require payment at an amount up to the state approved basic foster care rate in order to meet the child's need for basic care; and, the assumption that families with income above the state median income are to be "considered to be able to meet the normal child rearing expenses encompassed in the state approved basic foster family home care rate." Regardless of family income, consideration of family resources available to meet the child's needs shall also take into account any unusual or unique family expenses.

According to the United States Department of Housing and Urban Development (HUD) the projected California 1993 median income for a family of four is \$44,600. For equity, HUD decreases this median for smaller families and increases it for larger families using the following table:

| Number of Persons in Family and Percentage Adjustments | | | | | | | |
|--|-----|-----|------|------|------|------|------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 70% | 80% | 90% | Base | 108% | 116% | 124% | 132% |

Thus, for a family of six, the base figure of \$44,600 is multiplied by 116 percent (i.e., 1.16) yielding \$51,736.

- o The payment may include an amount equivalent to the specialized care increment which would have been paid had the child remained in foster care if the need is present, the family lacks the resources to meet the need and the family's additional costs are documented.
- o Funding of group home placements is allowed in limited circumstances. The county adoption agency or the department must determine that "placement is necessary for the temporary resolution of mental or emotional problems related to a condition that existed prior to the adoptive placement." The same agency must select the placement after consultation with the adoptive family. The placement must be part of a plan for return of the child to the adoptive family and must not exceed eighteen months in length.
- o The provision allowing provision of Medi-Cal benefits without a cash AAP payment which had applied only to cases in which the payment is eligible for Federal financial participation is extended to all cases.

Overpayments

- o Recovery of overpayments by grant reduction or other means, is specifically authorized.
- o An overpayment may occur if the family does not inform the adoption agency of changes in circumstances which could affect the payment amount or if the child does not receive the services for which benefits were authorized.

Documentation

- o Documentation of the entire AAP eligibility and payment determination process continues to be necessary. In addition, the statute specifically requires documentation of the following events:
 - When applicable, the certification by a qualified professional that the child has a disability that requires assistance.
 - The search for a non subsidy adoptive home or the reason that the search requirement is waived.
 - In the case of a child relinquished to a public or private adoption agency, the finding by the public child welfare agency (i.e., the child welfare services agency of the county welfare department) that the child would otherwise have been at risk of dependency.
 - The costs to be incurred because of the child's qualifying condition or needs and the assessment of the adoptive family's resources to pay for the identified needs.
 - The Adoption Assistance Agreement itself.

Private Agency Cases

- o In the case of a child relinquished to a licensed private adoption agency, the responsibility for determining eligibility and the amount and duration of assistance rests with the public adoption agency (county adoption agency or the Department) that provides agency adoption services in the county that would be responsible for paying AAP if the child would be found eligible. There has been no change in this requirement.

Existing Agreements

- o Adoption agencies are neither required nor expected to review all Adoption Assistance Agreements initially completed between October 1, 1992, and October 11, 1993, the effective date of the new law. However, it is probable that agencies and families will agree to revise some of these agreements. Also, agencies must respond to requests from families to reconsider existing AAP agreements in light of the newly enacted provisions.

A copy of Assembly Bill 930 as chaptered (signed) is attached. If you have any question concerning these revisions to the Adoption Assistance Program, please contact Joseph Magruder, Adoptions Policy Consultant, at (916) 323-0524 (Calnet 473-0524).



MARJORIE KELLY
Deputy Director
Children and Family Services

c: CWDA

Attachment

Assembly Bill No. 930

CHAPTER 1087

An act to amend Sections 16115.5, 16118, 16119, 16120.1, and 16121 of, to amend, repeal, and add Section 16120 of, to add Sections 16120.05 and 16121.05 to, and to repeal Section 16116 of, the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

LEGISLATIVE COUNSEL'S DIGEST

AB 930, B. Friedman. Public social services.

Existing law requires the State Department of Social Services to administer the Adoption Assistance Program, under which aid is provided to persons adopting special needs children. Each county is required to make eligibility determinations under the program and to make the aid payments under the program, with the state being responsible for a share of the costs of adoption assistance payments.

Existing law provides for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which payments are made on behalf of qualified children placed in foster care. AFDC-FC rates are determined in accordance with various provisions, including requirements for higher rates for children with special needs.

Existing law contains specific requirements regarding the basis for payments under adoption assistance agreements entered into on or after October 1, 1992.

This bill would make changes in eligibility criteria for the Adoption Assistance Program, as well as in procedures to be used by the department or the responsible county entity for determining eligibility with certain requirements being inapplicable to adoption assistance agreements entered into prior to October 1, 1992. It would also require that adoption assistance payments be used only to pay for unmet needs of the child.

This bill would require the department to develop emergency regulations implementing these eligibility provisions.

By increasing the duties of each county in making eligibility determinations, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000

statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 16115.5 of the Welfare and Institutions Code is amended to read:

16115.5. It is the intent of the Legislature in enacting this chapter to benefit children residing in foster homes by providing the stability and security of permanent homes, and in so doing, achieve a reduction in foster home care. It is not the intent of this chapter to increase expenditures but to provide for payments to adoptive parents to enable them to meet the needs of children who meet the criteria established in Sections 16116, 16120, and 16121.

SEC. 2. Section 16116 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 16118 of the Welfare and Institutions Code is amended to read:

16118. (a) The department shall establish and administer the program to be carried out by the department or the county pursuant to this chapter. The department shall adopt any regulations necessary to carry out the provisions of this chapter.

(b) The department shall keep any records necessary to evaluate the program's effectiveness in encouraging and promoting the adoption of children eligible for the Adoption Assistance Program.

(c) The department or the county responsible for providing financial aid in the amount determined in Section 16120 shall have responsibility for certifying that the child meets the eligibility criteria and for determining the amount of financial assistance needed by the child and the adopting family.

(d) The department shall actively seek and make maximum use of federal funds that may be available for the purposes of this chapter. All gifts or grants received from private sources for the purpose of this chapter shall be used to offset public costs incurred under the program established by this chapter.

(e) For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Sections 16120 and 16120.1 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a

payment pursuant to Section 11450 under the Aid to Families with Dependent Children program or Section 11461 under the Aid to Families with Dependent Children-Foster Care program if the child were not adopted. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family. The responsible county shall certify eligibility on a form prescribed by the department.

SEC. 4. Section 16119 of the Welfare and Institutions Code is amended to read:

16119. (a) At the time application for adoption of a child who is potentially eligible for Adoption Assistance Program benefits is made, the department or the licensed adoption agency, whichever is appropriate, shall provide the prospective adoptive family with information, in writing, on the availability of Adoption Assistance Program benefits, with an explanation of the difference between these benefits and foster care payments. The department or the licensed adoption agency shall also provide the prospective adoptive family with information, in writing, on the availability of reimbursement for the nonrecurring expenses incurred in the adoption of the Adoption Assistance Program eligible child.

(b) The department or the county, whichever is responsible for determining the child's eligibility for the Adoption Assistance Program, shall assess the needs of the child and the resources of the family to meet those needs, including the family's financial status relative to available statewide median income data.

(c) The amount of an adoption assistance cash benefit, if any, shall be a negotiated amount based upon the needs of the child and the ability of the family to meet the child's needs. There shall be no means test used to determine an adoptive family's eligibility for the Adoption Assistance Program. The statewide median income data shall be used as a guideline to assist agencies and adoptive families in negotiating the amount of the Adoption Assistance Program benefit to be awarded to families to meet a child's needs for which other resources are unavailable. In all instances, actual living expenses, including any unusual expenses, shall be considered in evaluating the amount of benefit needed by the family to meet the child's needs. In those instances where an otherwise eligible child does not require a cash benefit, Medi-Cal eligibility may be established for the child, as needed.

(d) In applying the statewide median income guideline, agencies shall be guided by the following assumptions:

(1) Families with income below the statewide median income may qualify for an amount up to the state approved basic foster care rate plus any state approved specialized care increment for which the child would be eligible if in foster care.

(2) Families with income above the statewide median income shall be considered to be able to meet the normal child rearing expenses encompassed in the state approved basic foster family

home care rate, but may qualify to receive benefits in an amount up to the state approved specialized care increments the child would be eligible to receive if in foster care.

(e) The department or the licensed adoption agency shall inform the prospective adoptive family regarding the county responsible for providing financial aid to the adoptive family in an amount determined pursuant to Sections 16120 and 16120.1.

SEC. 5. Section 16120 of the Welfare and Institutions Code is amended to read:

16120. A child shall be eligible for Adoption Assistance Program benefits if all of the following conditions are met:

(a) The child has at least one of the following characteristics that are barriers to his or her adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of three years or older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.

(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional, or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability as defined in subdivision (a) of Section 4512, including those determined to require out-of-home nonmedical care as described in Section 11464.

(b) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

(c) The child is the subject of an agency adoption as defined in Section 220.20 of the Civil Code and was any of the following:

(1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency.

(2) Relinquished for adoption to a licensed California private or public adoption agency, or the department, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency.

(3) Committed to the department pursuant to Section 224.37 or 226.66 of the Civil Code.

(d) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap that warrants the continuation of assistance.

(e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of

adoption and has signed an adoption assistance agreement.

(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits.

(h) This section shall remain in effect only until January 1, 1994 and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994 deletes or extends that date.

SEC. 6. Section 16120 is added to the Welfare and Institutions Code, to read:

16120. A child shall be eligible for Adoption Assistance Program benefits if all of the following conditions are met:

(a) The child has at least one of the following characteristics that are barriers to his or her adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of three years or older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.

(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional, or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability as defined in subdivision (a) of Section 4512, including those determined to require out-of-home nonmedical care as described in Section 11464.

(b) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

(c) The child is the subject of an agency adoption as defined in Section 8506 of the Family Code and was any of the following:

(1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency.

(2) Relinquished for adoption to a licensed California private or public adoption agency, or the department, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency.

(3) Committed to the department pursuant to Section 8805 or 8918 of the Family Code.

(d) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap that warrants the continuation of assistance.

(e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.

(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits.

(h) This section shall become operative on January 1, 1994.

SEC. 7. Section 16120.05 is added to the Welfare and Institutions Code, to read:

16120.05. The adoption assistance agreement shall, at a minimum, specify the amount and duration of assistance. The date for renewal of the agreement shall be set at the time of the initial negotiation of the adoption assistance agreement, and shall, thereafter be set at each subsequent renewal. The interval between any renewals shall not exceed two years. The renewal period shall be based on the specific qualifying condition of the child, and if applicable, documented by a licensed competent professional, operating within the scope of his or her profession, as to the diagnosis and prognosis of the child. Adoption Assistance Program payment levels shall be considered only after a full documentation of the costs to be incurred because of a child's qualifying condition, as well as an assessment of the adoptive family's resources to pay for identified needs of the child. An assessment of the availability of other community resources shall also be considered to pay or provide for identified costs. Adoption Assistance Program payments shall only be available to meet otherwise unmet needs when community or parental resources are not available for these purposes.

The adoption assistance agreement shall also specify the responsibility of the adopting family for reporting changes in circumstances.

SEC. 8. Section 16120.1 of the Welfare and Institutions Code, as amended by Section 133 of Chapter 722 of the Statutes of 1992, is amended to read:

16120.1. Upon the authorization of the department or, where appropriate, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, the responsible county shall directly reimburse eligible individuals for reasonable nonrecurring expenses, as defined by the department, incurred as a result of the adoption of a child eligible for the Adoption Assistance Program. The state shall provide payment

to the county for the reimbursement. Reimbursements shall conform to the eligibility criteria and claiming procedures established by the department and shall be subject to the following conditions:

(a) The amount of the payment shall be determined through agreement between the adopting parent or parents and the department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid. The agreement shall indicate the nature and the amount of the nonrecurring expenses to be paid. Payments shall be limited to an amount not to exceed four hundred dollars (\$400) for each placement eligible for the Adoption Assistance Program.

(b) There shall be no income eligibility requirement for an adoptive parent or adoptive parents in determining whether payments for nonrecurring expenses shall be made.

(c) Reimbursement for nonrecurring expenses shall be limited to costs incurred by or on behalf of an adoptive parent or adoptive parents that are not reimbursed from other sources. No payments shall be made under this section if the federal program for reimbursement of nonrecurring expenses for the adoption of eligible for the Adoption Assistance Program children pursuant to Section 673 of Title 42 of the United States Code is terminated.

(d) Reimbursement for nonrecurring expenses shall be in addition to any adoption expenses paid pursuant to Section 16121 and shall not be included in the computation of maximum benefits for which the adoptive family is eligible pursuant to Section 16121.

(e) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 9. Section 16120.1 of the Welfare and Institutions Code, as amended by Section 134 of Chapter 722 of the Statutes of 1992, is amended to read:

16120.1. Upon the authorization of the department or, where appropriate, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, the responsible county shall directly reimburse eligible individuals for reasonable nonrecurring expenses, as defined by the department, incurred as a result of the adoption of a child eligible for the Adoption Assistance Program. The state shall provide payment to the county for the reimbursement. Reimbursements shall conform to the eligibility criteria and claiming procedures established by the department and shall be subject to the following conditions:

(a) The amount of the payment shall be determined through agreement between the adoptive parent or adoptive parents and the department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid. The agreement shall indicate the nature and the amount of the nonrecurring expenses to be paid.

(b) There shall be no income eligibility requirement for an

adoptive parent or adoptive parents in determining whether payments for nonrecurring expenses shall be made.

(c) Reimbursement for nonrecurring expenses shall be limited to costs incurred by or on behalf of an adoptive parent or adoptive parents which are not reimbursed from other sources. No payments shall be made under this section if the federal program for reimbursement of nonrecurring expenses for the adoption of children eligible for the Adoption Assistance Program pursuant to Section 673 of Title 42 of the United States Code is terminated.

(d) Reimbursement for nonrecurring expenses shall be in addition to any adoption expenses paid pursuant to Section 16121 and shall not be included in the computation of maximum benefits for which the adoptive family is eligible pursuant to Section 16121.

(e) This section shall become operative on January 1, 1994.

SEC. 10. Section 16121 of the Welfare and Institutions Code is amended to read:

16121. In accordance with the adoption assistance agreement, the adoptive family shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstance of the adopting parents but that shall not exceed the age related state-approved foster family home care rate, and any applicable specialized care increment, for a child placed in a licensed or approved family home pursuant to subdivisions (a) to (d), inclusive, of Section 11461. Payment may be made on behalf of an otherwise eligible child in a state-approved group home or residential care treatment facility if the department or county responsible for determining payment has confirmed that the placement is necessary for the temporary resolution of mental or emotional problems related to a condition that existed prior to the adoptive placement. Out-of-home placements shall be in accordance with the applicable provisions of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code and other applicable statutes and regulations governing eligibility for AFDC-FC payments for placements in in-state and out-of-state facilities. The designation of the placement facility shall be made after consultation with the family by the department or county welfare agency responsible for determining the Adoption Assistance Program eligibility and authorizing financial aid. Group home or residential placement shall only be made as part of a plan for return of the child to the adoptive family, that shall actively participate in the plan. Adoption Assistance Program benefits shall not be authorized for payment of an eligible child's group home or residential treatment facility placement that exceeds an 18-month cumulative period of time for a specific episode or condition justifying that placement.

In the event that a family signs an adoption assistance agreement where a cash benefit is not awarded, the adopting family shall be otherwise eligible to receive Medi-Cal benefits for the child if it is

determined that the benefits are needed pursuant to this chapter.

This section shall apply to adoption assistance agreements signed on or after October 1, 1992.

SEC. 11. Section 16121.05 is added to the Welfare and Institutions Code, to read:

16121.05. (a) The adoptive parents shall report changes in the family's or child's circumstances, including, but not limited to, financial status, to the department or county responsible for determining the child's eligibility for the Adoption Assistance Program and for providing financial aid. Failure to report these changes to the department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid may result in current and future reduction of Adoption Assistance Program payments to recover past overpayments. A finding that an overpayment has occurred may also result in circumstances where the child has not received the services for which benefits were authorized. The department may recover any overpayments, and shall develop regulations that establish the means to recoup them, including an appropriate notice of action and appeal rights.

(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to receive adoption assistance in accordance with the terms of that agreement.

(c) Payment shall begin on or after the effective date of an adoption assistance agreement, or a deferred adoption assistance agreement, or a final decree of adoption, provided the adoption assistance agreement has been signed by all required parties prior to or at the time the adoption decree is issued by the court.

(d) Children on whose behalf an aid for adoption of children agreement had been executed prior to October 1, 1982, shall continue to receive aid for adoption of children benefits in accordance with the terms of that agreement. This aid for adoption of children agreement may be renewed, provided total benefits do not exceed five years. Prior to the end of the five-year period, if there is a continuing need related to a chronic health condition of the child that necessitated the initial financial assistance, the time period for which it may be given shall be determined by the department or the agency, but shall not extend past the time that the child reaches 18 years of age. Prior to the expiration of the extension period, if there is a continuing need, a parent may petition the department or the designated licensed adoption agency for a new period of termination. The department or the agency shall make its determination regarding the financial ability of the parents to meet the continuing medical needs of the child's health condition at the time of adoption, taking into consideration community resources.

SEC. 12. The State Department of Social Services shall develop regulations on an emergency basis for implementation of this act.

SEC. 13. Notwithstanding Section 17610 of the Government

Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the disruption of adoption opportunities for children needing a permanent family at the earliest possible time, it is necessary that this act take effect immediately.