

Welcome to the USC UCEDD Parent/Consumer Webinar Series

funded by grant #90DD0695 from
the Administration on Intellectual and Developmental Disabilities (AIDD)
Administration on Community Living
June 25, 2015



USC UNIVERSITY CENTER
FOR EXCELLENCE IN
DEVELOPMENTAL DISABILITIES



USC University of
Southern California

Your Moderator



Susan Kanegawa

USC UCEDD Family Support Coordinator

skanegawa@chla.usc.edu

www.uscucedd.org

The **USC University Center of Excellence in Developmental Disabilities at Children's Hospital Los Angeles (USC UCEDD)** is one of 68 UCEDDs funded to promote systemic change, advocacy, and capacity building in states on behalf of individuals with, or at risk for, developmental, behavioral and/or special health care needs and their families.

The USC UCEDD Webinar series is designed to educate the community about current policy issues which impact the lives of people we serve and their families. Our primary audience is individuals with special needs and their families. However, service providers, program managers, students in training and others are welcome as space allows. At this time, our webinars are in English only. We are exploring methods to make this series available in other languages in the future.

Structure and Logistics

During the Webinar



Take notes



Give your opinion



Type your questions

After the Webinar



Take
Survey



Download
slides



Watch and
Share

Poll:

Can you hear Susan and Marty?



Let us know in the chat box if we need to speak louder.

The ABLE Act

The New Law and Next Steps

By Marty Ford
Senior Executive Officer of Public Policy at The Arc

June 25, 2015



USC UNIVERSITY CENTER
FOR EXCELLENCE IN
DEVELOPMENTAL DISABILITIES



USC University of
Southern California



*For people with intellectual
and developmental disabilities*

About Our Presenter



Marty Ford is the Senior Executive Officer of Public Policy at The Arc in Washington, D.C.

www.thearc.org

The Arc works to protect people with intellectual and developmental disabilities and their families on the federal level through their public policy efforts. They champion the rights of people with intellectual and developmental disabilities and their families and have achieved legislative victories on behalf of their constituency. Their nearly 700 state and local chapters provide a voice at the local and state legislative levels.

The ABLE Act is Law

The Stephen Beck, Jr. Achieving a Better Life Experience (ABLE) Act

- Became law on December 19, 2014
- Creates a new option for some people with I/DD and their families to save for the future, while protecting eligibility for public benefits.

Presentation is based on what we know or presume now – much is yet to be determined.

What is an ABLE Account?

- ABLE accounts:
 - Established in the new Section 529A Qualified ABLE Programs
 - Qualified savings accounts that receive preferred federal tax treatment, similar to 529 college savings accounts
 - Enable eligible individuals to save for disability related expenses
 - Are generally NOT yet available; there are still some unknowns
 - Have advantages and disadvantages over other savings options
- Distributions will not count as income to beneficiary or contributor.
- Assets in account and distributions will be disregarded or given special treatment in determining eligibility for most federal means-tested benefits.
 - Focus today on Supplemental Security Income (SSI) and Medicaid

When will ABLE accounts be available?

- Federal regulations:
 - IRS published proposed regulations June 22.
 - Public comments due September 21.
- States may offer ABLE accounts before federal regulations become final.
- Each state must decide whether (and how) to offer a qualified ABLE program to residents – some have enacted; others considering authorizing legislation now.
- ABLE program availability will vary from state to state.

Who can be an ABLE account beneficiary?

To be eligible, individuals must meet two requirements:

1) Age requirement: must be disabled before age 26

2) Severity of disability:

- › Have been determined to meet disability requirements for Supplemental Security Income (SSI) or Social Security disability benefits,

OR

- › Submit a certification that meets criteria (essentially equal to Social Security level of disability) to be further established in regulations, including physician's diagnosis.

[“Disability” includes the Social Security definition of “blindness”]

What are some important requirements of an ABLE account?

- Each individual may have only one ABLE account.
- “Designated beneficiary” is account owner.
- Account must be established in designated beneficiary’s state of residence, or in contracting state.
- Total annual contributions may not exceed federal gift tax limit--currently \$14,000.
- Multiple individuals may make contributions to one ABLE account.
- Aggregate contributions may not exceed state limit for 529 savings accounts.

What can ABLÉ account funds be used for?

- Qualified disability expenses, related to individual's disability and made for his/her benefit, including:
 - Education
 - Housing
 - Transportation
 - Legal fees
 - Employment training and support
 - Assistive technology and personal support services
 - Health, prevention, and wellness
 - Financial management and administrative services
 - Expenses for oversight and monitoring
 - Funeral and burial expenses
 - Any other expenses approved by Secretary of the Treasury under regulations consistent with purpose of the program
- Expenditures for non-qualified expenditures will be penalized (tax and potential SSI penalties).

How do ABLE account assets impact eligibility for SSI benefits?

- The first \$100,000 in ABLE account assets will be disregarded.
 - SSI cash payments will be suspended if beneficiary's account balance exceeds \$100,000 - but SSI benefits (eligibility) will not be terminated. *Funds above \$100,000 will be treated as resources.*
 - Housing expenses will receive same treatment as all housing costs paid by outside sources (SSI benefits subject to reduction of [up to] 1/3 federal SSI payment, as applicable).

How do ABLE account assets impact eligibility for Medicaid benefits?

- ABLÉ assets are disregarded in determining Medicaid eligibility.
 - Medicaid benefits are NOT suspended if account balance exceeds \$100,000.
 - Medicaid Payback: Any assets remaining in account when a beneficiary dies, subject to outstanding qualified disability expenses, will be used to reimburse a state for Medicaid payments made on behalf of beneficiary after creation of ABLÉ account.
 - For purposes of this section, the state is considered a creditor of the ABLÉ account, not a beneficiary.

Tax Implications

- Contributions to an ABLE account are made with after-tax dollars.
- *Federal taxation:* In general, ABLE programs are exempt from taxation. Distributions for qualified disability expenses are exempt from taxation. With certain exceptions, other distributions are taxable and subject to additional 10% tax.
- *State taxation:* State tax consequences will vary. Some states provide tax incentives for contributions to 529 accounts and may provide similar incentives for contributions to ABLE accounts.

What are some advantages of ABLÉ accounts?

- Easy to set up and administer
- Designated beneficiary is the owner
- More individual choice and control over spending
- Allows SSI beneficiaries to have more assets to use for disability related needs
- Preferred tax treatment of distributions
- Another tool to use in a broader planning context

What are some considerations to be aware of about ABLE accounts?

- Age limitation disqualifies many people.
- ABLE accounts may not work for many eligible people
- Contribution limits – both annual and aggregate.
- Limitation on distributions to disability-related expenses.
- Because designated beneficiary is owner of account, all contributions become subject to Medicaid payback (these are/become 1st party funds).
- Unlike a trust, ABLE accounts cannot own a house (but can be used to pay expenses).
- Designated beneficiaries may need ongoing advice and assistance on expenditures and rules.

Additional Considerations

- Too early to know how ABLE program will be implemented by IRS and SSA.
 - IRS regulations still in proposed stage.
- ABLE accounts may work for some, not others.
- Some may benefit from using ABLE accounts along with a trust.
- Some designated beneficiaries of ABLE accounts will need ongoing advice and assistance on expenditures and rules.
- Education will be key.

State Legislation

- Federal regulations not final
- Advocates' suggested minimum state requirements:
 - Authorization of 529A ABLE program (or authority to contract)
 - Consistent with federal law, including definitions
 - Designation of state agency
 - Exemption of state means-tested programs
 - Exemption of ABLE accounts from state taxes
- Many states moving ahead – IRS assurance of transition period

State Legislation Enacted (as of June 22)

- *Alabama*
- *Arkansas*
- *Colorado*
- *Connecticut*
- *Delaware*
- *Florida*
- *Kansas*
- *Louisiana*
- *Maryland*
- *Massachusetts*
- *Minnesota*
- *Montana*
- *Nebraska*
- *Nevada*
- *North Dakota*
- *Tennessee*
- *Texas*
- *Utah*
- *Vermont*
- *Virginia*
- *Washington*
- *West Virginia*

California ABLE Bills

- Bills still pending in California legislature
 - AB 449 was scheduled for hearing in Senate Governance and Finance Committee - June 24
 - SB 324 scheduled for review in Assembly Revenue and Taxation Committee – July 13
- More Committee action and Floor votes needed before signing by Governor
- California legislature scheduled for adjournment September 11, 2015

Pending Federal Regulations and Consumer Concerns

- Definitions, including eligible individual and proof of disability
- Allowable expenditures
- Administrative issues
 - Reporting of new accounts and contributions
 - Ability to cure mistakes and avoid ineligibility for SSI/Medicaid
 - Taxpayer (designated beneficiary) responsibilities
- And more...

Poll:

Do you now have a better understanding
of the ABLE Act?



Ask Us a Question



Please type your questions
(Top-left corner of your MeetingBurner screen)

Thank you for attending and interacting!!

You have access to webinar slides, handouts and video recording.



www.slideshare.net



www.youtube.com

Don't leave yet!! Please take 3 minutes to answer a survey about your experience with this webinar.



Webinar Evaluation Survey



USC UNIVERSITY CENTER
FOR EXCELLENCE IN
DEVELOPMENTAL DISABILITIES

