

LEGISLATIVE MONITOR

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A Report on State and Federal Legislation
Affecting Persons with Disabilities
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ABLE Act Bill – Introduced for 112th Congress

Bipartisan legislation to allow for tax advantaged savings accounts for individuals with disabilities was introduced in the House by Rep. Ander Crenshaw (R-FL), Rep. Chris Van Hollen (D-MD), Rep. Cathy McMorris Rodgers (R-WA), along with 26 additional House co-sponsors, and in the Senate by Sen. Robert P. Casey, Jr. (D-PA) and Sen. Richard Burr (R-NC).

The Achieving a Better Life Experience Act of 2011 (ABLE Act; S. 1872; H.R. 3423) would create ABLE savings accounts that allow people with disabilities to save for certain expenses, like education, housing, and transportation. ABLE accounts would be disregarded when determining eligibility for Medicaid, Supplemental Security Income (SSI) programs, and other means-tested programs. The ABLE Act was unveiled at a press conference on the grounds of the U.S. Capitol that featured The Arc's CEO, Peter V. Berns, along with representatives of the National Down Syndrome Society, Autism Speaks, and other national disability organizations.

Crenshaw, Congressional Leaders, Disability Advocacy Groups Outline ABLE Act

In a statement released on November 15, 2011, Congressman Ander Crenshaw (R-FL) stated:

"Our tax code currently provides advantages to help Americans save for college and retirement, yet people with disabilities do not enjoy those same financial planning tools. These individuals and their families face enormous financial struggles that most of us cannot imagine," said Crenshaw, a member of the House Appropriation Committee. "The ABLE Act helps ease those strains by making tax-free savings accounts available to cover qualified expenses such as education, housing, and transportation. No longer would individuals with disabilities have to stand aside and watch others use IRS-sanctioned tools to lay the groundwork for a brighter future. They would be able to do so as well, and that's an accomplishment we all can be proud of."

The average cost of raising a child with a significant medical disability is more than \$1 million over the course of the child's lifetime. Continuing education, transportation, housing and medical care make up some of the predictable costs on that staggering bill. ABLE accounts would relieve some of that burden by

allowing parents with disabled children or family members of disabled individuals to invest through a tax-deferred 529 account that could be drawn from for these future expenses. No longer would parents have to stand aside and watch as others use IRS-sanctioned tools to lay the groundwork for a brighter future. They would be able to do so for their children as well.

The ABLE Act amends Section 529 of the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities through tax-free savings accounts.

The cost to reform the U.S. Tax Code to offer ABLE accounts would be minimal, but the positive impact for individuals with disabilities, their families and others who are struggling to cope with an uncertain future would be sizable.

"We must move beyond the policies of the past that force individuals with disabilities to live in poverty. The ABLE Act allows individuals with disabilities to save, work, and earn just like any other American. As citizens of this great and prosperous country, we must speak up for those who cannot speak for themselves. Helping disabled Americans "achieve a better life experience" is a step forward toward equality with every other American – and it's a step worth taking. Thank you Mr. Speaker."

Purpose:

- To encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independent, and quality of life.
- In creating ABLE Accounts, the legislative intent is to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurances, the Medicaid program, the supplemental security income program, the beneficiary's employment, and other sources.

Created under Existing 529 Codes for Qualified Tuition Programs:

- Creates a new subsection (f) ABLE Account within Section 529 of the Internal Revenue Code

- ABLÉ in the 112th Congress has been re-drafted to follow all the requirements and regulations of a traditional 529 qualified tuition program.

- Easy to open and available in any state
- Same annual contributions apply (After \$13,000 gift tax rules apply)
- Same tax-free treatment of account applies (Income earned grows tax-free, withdrawals for qualified disability expenses are tax-free)
- Same reporting requirements apply as to a traditional 529
- A beneficiary may have either an ABLÉ account or a traditional 529 qualified tuition program. (Multiple ABLÉ accounts or multiple 529 plans still allowed)
- Rollovers allowed from an ABLÉ account to traditional 529 if beneficiary is no longer deemed disabled. (All other 529 rollovers apply to ABLÉ accounts)
- Rollovers allowed to other family member's ABLÉ account or their traditional 529

Qualified Disability Expenses:

- Education- including tuition for preschool thru post-secondary education, books, supplies, and educational materials related to such education, tutors, and special education services.
- Housing- Expenses for a primary residence, including rent, purchase of a primary residence or an interest in a primary residence, mortgage payments, home improvements and modifications, maintenance and repairs, real property taxes, and utility charges.
- Transportation- Expenses for transportation, including the use of mass transit, the purchase or modification of vehicles, and moving expenses.
- Employment Support- Expenses related to obtaining and maintaining employment, including job-related training, assistive technology, and personal assistance supports.
- Health Prevention and Wellness- Expenses for health and wellness, including premiums for health insurance, mental health, medical, vision, and dental expenses, habilitation and rehabilitation services, durable medical equipment, therapy, respite care, long term services and supports, nutritional management, communication services and devices, adaptive equipment, assistive technology, and personal assistance.
- Other Approved Expenses- Any other expenses which are approved by the Secretary under regulations and consistent with the purposes of this section.

- Assistive Technology and Personal Support- Expenses for assistive technology and personal support with respect to any item described in clauses (i) through (vi).
- Miscellaneous Expenses- Financial management and administrative services, legal fees, expenses for oversight, monitoring, or funeral and burial expenses.

How to Qualify for an ABLÉ Account:

- Any individual who is receiving, deemed to be, or treated as receiving supplemental security income benefits or disability benefits under Title II of the Social Security Act.

OR

- Any individual who has a medically determined physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 month or is blind, and provides a copy of their diagnosis signed by a physician.
- No one who qualifies for an ABLÉ account is able to use that eligibility to secure supplemental security income benefits or Medicaid.

Federal Treatment of ABLÉ Account under Supplemental Security Income Program:

- When the assets in an ABLÉ account reach \$100,000, if the beneficiary is receiving Supplemental Security Income (SSI) benefits, any monthly SSI benefits will be placed in suspension
- If the assets in the ABLÉ account drop back below \$100,000, the SSI benefit suspension ceases and any SSI benefit resumes
- The beneficiary will not have to reapply for SSI benefits once the account drops back below the \$100,000 threshold

No Impact on Medicaid Eligibility:

- Under no circumstance will anyone with an ABLÉ account who is currently receiving Medicaid benefits lose their benefits – even if their SSI benefits are suspended
- The beneficiary will never lose their eligibility for Medicaid based on the assets held in their ABLÉ account

Medicaid Payback Provision:

- In the event the qualified beneficiary dies (or ceases to be an individual with a disability) with remaining assets in an ABLÉ account:

Continued on page 3, 2nd column

**Presidential Proclamation -- International Day of
Persons with Disabilities
BY THE PRESIDENT OF THE UNITED STATES OF
AMERICA
A PROCLAMATION**

On International Day of Persons with Disabilities, we recommit to ensuring people living with disabilities enjoy full equality and unhindered participation in all facets of our national life. We recognize the myriad contributions that persons with disabilities make at home and abroad, and we remember that disability rights are universal rights to be recognized and promoted around the world.

For decades, America has been a global leader in advancing the rights of people with disabilities. From the Americans with Disabilities Act of 1990 to the Twenty-First Century Communications and Video Accessibility Act, which I signed last year, we have striven to bring the American dream and comprehensive opportunities in education, health care, and employment within reach for every individual. These actions --made possible only through the tireless and ongoing efforts of the disability community -- affirm our commitment to an equitable and just society where every American can play a part in securing a prosperous future for our Nation.

To fulfill this promise not only in America, but around the world, my Administration is putting disability rights at the heart of our Nation's foreign policy. With leadership from the Department of State and the United States Agency for International Development, we are collaborating across governments and in close consultation with the global disability community to expand access to education, health care, HIV/AIDS prevention and treatment, and other development programs. In 2009, we signed the Convention on the Rights of Persons with Disabilities, which seeks to ensure persons with disabilities enjoy the same rights and opportunities as all people. If ratified, the Convention would provide a platform to encourage other countries to join and implement the Convention, laying a foundation for enhanced benefits and greater protections for the millions of Americans with disabilities who spend time abroad.

We know from the historic struggle for disability rights in the United States that disability inclusion is an ongoing effort, and many challenges remain in securing fundamental human rights for all persons with disabilities around the world. On International Day of Persons with Disabilities, we press forward, renewing our dedication to embrace diversity, end discrimination, remove barriers, and uphold the rights, dignity, and equal opportunity of all people.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim December 3, 2011, as International Day of Persons with Disabilities. I call on all Americans to observe this day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of December, in the year of our Lord two thousand eleven, and of the Independence of the United States of America the two hundred and thirty-sixth.

BARACK OBAMA

Sources: Capitol Insider, December 5, 2011
White House Press Release, December 2, 2011

Federal Updates

Budget/Deficit Reduction - Super Committee could not reach agreement on a deficit reduction plan

The Joint Select Committee on Deficit Reduction announced that it could not reach agreement on a plan to cut the deficit by at least \$1.2 trillion over 10 years and authorization for its work expired on November 23. As required by the Budget Control Act, \$1.2 trillion in automatic, across the board spending cuts (known as sequestration) are now scheduled to take effect from Fiscal Years 2013 to 2021. Congress can develop other deficit reduction strategies to avoid the automatic cuts, however, it will have to follow the regular legislative process and will not have the advantage of the special legislative procedures authorized under the Budget Control Act for the recommendations of the Joint Select Committee.

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- The assets in the ABLE Account are first distributed to any State Medicaid plan that provided medical assistance to the designated beneficiary.
- The amount of any such Medicaid payback is calculated based on amounts paid by Medicaid after the creation of the ABLE Account.

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CHANGE SERVICE REQUESTED

Health and Human Services' CHIP Program Launches Medicaid.gov

Dylan Scott | December 5, 2011

The Center for Medicaid and Children Health Insurance Program (CHIP) Services launched a new website last week.

The website features guidance on federal policies, statistical breakdowns of Medicaid and CHIP programs, a State Resource Center and information about the implementation of the Affordable Care Act.

In a letter introducing the website, Cindy Mann, director of the Center for Medicaid and CHIP Services, asked for feedback on how to improve its functionality and content. "We are a work in progress," Mann said. "We wanted to make the key elements available as quickly as possible and we have plans for ongoing improvements."

The new website is located at <http://www.medicaid.gov/>.

This article was printed from:
<http://www.governing.com/news/technology/Medicaidgov-Launches.html>

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