

Achieving a Better Life Experience (ABLE) Act

FACT SHEET



2014 DISABILITY POLICY SEMINAR
— APRIL 7-9, 2014 —

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Background

Many families save for the educational needs of their children through “Section 529” college tuition plans. However, these plans often do not fit the needs of their children with severe disabilities who will need long term services and supports of the Medicaid program and the income assistance of the Supplemental Security Income (SSI) program. The Achieving a Better Life Experience (ABLE) Act (S.313 / H.R.647) would give individuals with disabilities and their families access to accounts that would allow individual choice and control while protecting eligibility for Medicaid, SSI, and other important federal benefits for people with disabilities.

Representative Crenshaw (R-FL) and Senator Casey (D-PA) introduced the ABLE Act to encourage and assist individuals and families in saving funds for the purpose of supporting people with disabilities to maintain health, independence, and a better 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.

As of March 24, the House bill has 346 co-sponsors and the Senate has 68 co-sponsors. No other bill has as much bipartisan support in both the House and Senate as the ABLE Act.

Key Elements

A Form of 529 Account: The ABLE Act creates a new subsection (f) ABLE Account within Section 529 of the Internal Revenue Code. ABLE accounts follow all the requirements and regulations of a traditional 529 qualified tuition program. They are intended to be easy to open and available in any state. Like other 529 accounts, residents of one state may establish accounts in another state.

The same rules that govern other 529 accounts will govern ABLE accounts, including limits on the size of the account; rules for tax treatment of annual contributions, earnings, and withdrawals; and reporting requirements. Rollovers would be allowed from an ABLE account to a traditional 529 if the beneficiary is no longer deemed disabled. Also, rollovers would be allowed to another family member’s ABLE account or their traditional 529. Rollovers would also be allowed to a trust which qualifies under Medicaid rules.

Qualified Disability Expenses Include: Among other things, the ABLE accounts could cover:

- **Education** - 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 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.
- **Assistive Technology and Personal Support** - Expenses for assistive technology and personal support with respect to any of the above.
- **Miscellaneous Expenses** - Financial management and administrative services, legal fees, expenses for oversight, monitoring, and funeral and burial expenses.

Eligibility: Any individual who is receiving SSI or disability benefits under Title II of the Social Security Act would be eligible to use an ABLÉ Account, as well as individuals who would otherwise meet the Social Security definition but who are not currently eligible for benefits.

Federal Treatment of ABLÉ Account under Supplemental Security Income Program & Medicaid:

- **Supplemental Security Income (SSI):** If the assets in an ABLÉ account reach \$100,000 and the beneficiary is receiving SSI benefits, monthly SSI benefits will be placed in suspension. If the assets in the ABLÉ account drop back below \$100,000, the SSI cash benefits resume. No re-application is necessary. This is not a limit on the account; it is a trigger for stopping/starting SSI cash benefits.
- **Medicaid Eligibility:** A beneficiary will not lose eligibility for Medicaid based on the assets held in the ABLÉ account, even during the time that SSI benefits are suspended (as described above for an account with over \$100,000).
- **Medicaid Payback Provision:** When the qualified beneficiary dies (or if he/she is no longer disabled), any remaining assets in the ABLÉ Account are used to “payback” any state Medicaid plan up to the value of Medicaid services provided to the beneficiary. The payback is calculated based on amounts paid by Medicaid after the creation of the ABLÉ Account.

Recommendations

Members of Congress are urged to press the House and Senate leadership for passage of the ABLÉ Act bills as soon as possible in this Congress.

Relevant Committees

Senate Finance Committee
 House Ways and Means Committee
 House Energy and Commerce Committee

For more information, please contact The Arc at (202) 783-2229, United Cerebral Palsy at (202)776-0406, Association of University Centers on Disabilities at (301) 588-8252, American Association on Intellectual and Developmental Disabilities at (202) 387-1968, National Association of Councils on Developmental Disabilities at (202) 506-5813, or Self-Advocates Becoming Empowered at SABEnation@gmail.com