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FACT SHEET

Achieving a Better Life Experience Act of 2009 (ABLE Act) S. 493/H.R. 1205

Background

Many families have been searching for a way to plan for the future of a child with severe disabilities. While they are able to save for the educational needs of their other children through “529” college tuition plans, they find that those plans do not fit the needs of their child with severe disabilities. Since their children may now, or in adulthood, need the long term services and supports of the Medicaid program and the income assistance of the Supplemental Security Income (SSI) program, many have considered using the existing options for supplemental needs planning in the Medicaid program. However, often families have found it to be too expensive to hire an attorney to establish a trust which meets the requirements of the Medicaid and SSI programs. These families recognize that their loved ones may live for many decades beyond the ability of the parents or other family members to assist them through supplementing services they receive through Medicaid. Others want to ensure the financial security of family members who have the level of disability required for Medicaid eligibility, but for now, are managing to function without the use of those benefits. Still others want to ensure that their family member can exercise control over the funds in the account without endangering the Medicaid and SSI benefits on which they may rely.

Achieving a Better Life Experience Act of 2009 (ABLE Act)

The ABLE Act would give individuals with disabilities and/or their families access to savings accounts that would allow individual choice and control while protecting eligibility for Medicaid, SSI, and other important federal benefits for people with disabilities. They could create a disability savings account that would accrue interest tax-free. Withdrawals would not be taxed as long as they are used to pay for qualified expenses. The account could fund a variety of essential expenses for the person with a disability, including educational expenses; medical and dental care; health, prevention, and wellness expenditures; employment training and support; assistive technology; personal supports services; transportation; housing; and other expenses for life necessities.

Savings accounts opened under the ABLE Act would differ from other savings instruments with tax advantages because they provide substantial flexibility:

- The individual with disabilities could hold/control the account, or parents or a guardian could hold it in trust.
- The allowed expenses are designed to be broad enough to accommodate the individual needs of account-holders.
- Most of the allowed expenditures are not limited to adulthood or retirement age, so they can be used whenever they are needed.

- The flexibility in expenses also allows families to save with confidence even though they cannot always predict how independent their child will become.
- A family that has saved money in a traditional account for a child who becomes disabled later in life can roll-over the funds into a disability savings account without penalty.
- The account should be easy and inexpensive to open, like a simple savings account.
- Unlike some savings instruments, such as “529” college accounts, the ABLE Act accounts would be created and regulated on the federal level, so they would operate under the same rules in every state, ensuring that they are portable for individuals and families who move across state lines.
- Individuals and families who find that the current individual or pooled trusts available under the Medicaid program will better address their needs may roll-over the account into the trusts.
- The ABLE accounts can be managed by pooled trusts, if the individual or family so choose.

In a manner similar to the treatment of Medicaid trusts, funds remaining in the accounts at the individual’s death would be used to “pay-back” the state Medicaid program up to the value of services provided to the individual during life.

The ABLE Act would give individuals with disabilities and their families an option for saving for their future financial needs in a way that supports their unique situation and makes it more feasible to live full, productive lives in their communities.

Action Taken by Congress and the Administration

The ABLE Act was introduced in the House (H.R. 1205) by Representatives Crenshaw (R-FL), Meek (D-FL), and Kennedy (D-RI), and McMorris Rodgers (R-WA), and in the Senate (S. 493) by Senators Casey (D-PA), Hatch (R-UT), Dodd (D-CT), Brownback (R-KS), Burr (R-NC), and Kennedy (D-MA). Both bills have a growing bipartisan list of co-sponsors. No hearings have yet been held.

Recommendations

Members of Congress are urged to co-sponsor the ABLE Act and to urge Committee action on the bills.

Relevant Committees

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

For more information, please contact The Arc and United Cerebral Palsy Disability Policy Collaboration (202) 783-2229, Association of University Centers on Disability (301) 588-8252, American Association on Intellectual and Developmental Disabilities (202) 387-1968, National Association of Councils on Developmental Disabilities (202) 506-5813 or the Self Advocates Becoming Empowered (802) 760-8856.