

# ABLE Accounts

Presenter: Kat Patterson

# Brief History

- ABLE stands for Achieving a Better Life Experience.
- After years of advocacy, congressional champions came to together in a bipartisan effort and got legislation passed.
- ABLE Act was signed into law December 19, 2014.
- Each state was given the option to adopt the law and put into place their own program. All but 10 states have done that.
- The Montana ABLE Act was signed into law May 5, 2015.



**May 5<sup>th</sup>, 2015**

# Montana ABLÉ Oversight Committee

- Five member committee appointed by the governor.
- The committee is charged with setting up the program for the state.
- This includes putting together the rules for the program and selecting institutions as program managers.
- Meetings are open to the public and information is posted on the DPHHS website.
- The committee is determined to get the program up and running as quickly as possible. We are shooting for late summer early fall.

# What does the committee do?

Made the decision to set up a program instead of contracting with another state.

- What will the program look like?
- What type of accounts / investment options will we offer?
- Finding qualified financial institutions / investment companies that would contract with the state to manage the program.
  - Program Rules
  - Request for Proposals

# The Challenges

- The process takes time and has to go through several levels of approval.
- The federal statute is constantly being amended.
- We can't adopt those changes without passing state legislation.
- The IRS hasn't finalized their regulations and required documentation.
- We are still waiting on additional guidance.

# Opening an account – What to expect

- Need to provide name, address and Social Security Number for both the beneficiary/owner and any contributors.
- Proof of legal guardianship or power of attorney if opening an account for someone other than yourself or your child.
- Signing application/trust agreement with the state including certification of qualification.
- State program fee, minimum deposit and applicable financial institution fees to open account.

# Eligible Individuals

- An individual who is entitled to benefits based on blindness or disability under title II or XVI of the Social Security Act and the condition presented before the individual turned 26.

OR

- An individual who files a disability certification with the Secretary certifying under penalty of perjury that he/she is medically determined to have a physical or mental impairment that is expected to result in death or is expected to last at least 12 months, the condition presented prior to age 26 and a diagnosis signed by a physician is maintained by the individual.

# Qualified Expenses

Any expenses related to the eligible individual's blindness or disability which are made for the benefit of an eligible individual who is the designated beneficiary, including (but not limited to) the following expenses:

- Education
- Housing
- Transportation
- Employment Training and Support
- Legal Fees
- Personal Support Services
- Assistive Technology
- Medical Expenses
- Preventative Care & Wellness
- Financial Management
- Administrative Services
- Funeral & Burial Expenses

# Contribution Limits

- Can only be cash. (No real estate, personal property, etc.)
- Annual Limit – Annual Gift Tax exclusion limit (\$14,000 for 2016)
- Cumulative Limit for Montana is \$396,000.
- Any contributions that would exceed these limits will be rejected or returned to the contributor.
- Up to \$100,000 in the account is excluded from the assets test for SSI, Medicaid and other public benefits.

# Reporting

- Total contributions (5498-QA) and distributions (1099-QA) are reported to the IRS annually.
- It is the responsibility of the account owner to track distributions and report the total not attributed to qualified expenses.
- An individual who contributes to accounts is entitled to reduce the individual's adjusted gross income, by the total amount of the contributions up to \$3,000. The contribution must be made to an account owned by the contributor, the contributor's spouse, or the contributor's child or stepchild if the contributor's child or stepchild is a Montana resident. Montana State only.

# Rollovers, Transfers and Death

- Qualified individuals are only allowed to have one ABLÉ Account; however these accounts can be rolled over into a new account so long as the old account is closed upon completion of the transaction. Certain limits will apply.
- Transfer of funds from beneficiary's account to another's is also allowed so long as the beneficiaries are siblings (by birth or adoption). Limits apply.
- Upon the death of the designated beneficiary, public assistance programs can submit claims for reimbursement from funds remaining in the account once all eligible expenses have been satisfied. Claims can only go back to the date the ABLÉ account was opened.

# How you can help

- Stay informed.
- Check the status of the program regularly.
- Talk to your financial institution about offering accounts and let them know where they can find out more.
- Support legislation aimed to better the program.

# Resources

- For Montana:

<http://dphhs.mt.gov/dsd/developmentaldisabilities/ABLE>

- Nationwide:

<http://www.ablenrc.org/>

- Websites of disability services groups:

NDSS, Autism Speaks, The Arc, Disability Scoop, etc.