

**California IHSS Consumer Alliance**  
**February 15, 2017 Statewide Call**

**Notes**

**Roll:** Heidi Aharonian, Theresa Sable, Raven Williams, Carrie Stone Fisher, Cindy (Ca. Life ILC), Michelle Gomez, Cindy Calderon, Elizabeth ....., Roger (IDC Contra Costa), Kristine Loomis, Eva Stafford, Mel Beattle, Bradly(SF), William Reed, Mya Shone, Elaine Paoli, Felica Connelly, Paula Herman, Sarah May, Rick Simonson, Brad Toy, Bonnie Newman, Janet Clark, Rosetta Whitaker, Janie Whiteford, Charlie Bean, Randi Bardeaux, Melisa (Stanislaus), Bradly (SF Provider) and 5 no names given.

**CalABLE Presentation by Carrie Stone Fisher, Deputy Executive Director|CalABLE Board, Office of State Treasurer John Chiang:** Carrie shared a little about herself and the personal connection with the work being done in regards to the “California Achieving a Better Life Experience Act Board (CalABLE).”

Carrie shared the Federal ABLE Act was signed into law under President Obama in 2014. This allows states to create tax-advantaged savings accounts for people with disabilities while protecting eligibility for public benefits such as SSI, SSDI or Medicaid.

These accounts are model after 529 plans (California (CA) [529 College Savings Plans](#)). These are plans that allow savings without being taxable, same as the ABLE accounts. Account moneys are tax-exempt as long as they are spent on “Qualified Disability Expenses”

ABLE accounts will not be counted in means testing for public services many use.

CalABLE -California’s ABLE program is the name of the program, it generally mirrors the federal law and has been kept intentionally broad to allow flexibility and at this time, there is a bill in the State Legislation to allow CalABLE to be a National Plan (Other States allow non-state residents to invest in their ABLE services and California will do the same.). There are a few States that are not open to outside residents.

**CalABLE Vision & Mission\*** – Many states offer their ABLE Services from their Treasurer Department, California is different and has established a board. A Board looks for more public involvement.

**VISION:** To provide greater financial security to Californians living with a disability

**MISSION:** To meet the diverse needs of our customers and their families. We pledge to be customer-driven, accountable, and a trusted partner in providing financial services.

It is key for this to be customer driven and it important to share with as many as possible to share these ABLE accounts do not affect eligibility for programs offered throughout the State when being means tested to qualify.

*\*Currently being vetted with stakeholders before board approval*

**Values of the program:** Adaptability and Flexibility, Trust, Humility, Sustainability, Transparency and Accountability, Collaboration, and Integrity.

As a parent of a child with a disability the values of the program is very important to involve the consumer in decisions. Too often it has been the government making decisions for the disabled, not the disabled making decisions, CalABLE is looking to get the stakeholder involved, as well as ask for their support in getting the word out about the program. Taking feedback from constituents and listening to what they have to say is very important. Our Board is made up of individuals representing a broad range of constituents, heads of several departments.

Question: How long has this program been going on?

Response: It has not begun, we were shooting for Spring now look for it to begin in the Fall.

### **Some ABLE Basics: Funding**

**Before the ABLE Act:** A person with a disability could not save more than \$2,000 without impacting their SSI. Other assets is also considered in this about, including interest on your savings. Having

more than \$2,000 also was used when applying for other services is used when means testing for other programs.

**Now:** Through the ABLE you can save up to \$14,000 per year and up to \$100,000 in total before benefits are impacted. \$14K is the current yearly amount and this amount will go up yearly as the amount is raised by the Feds. If you get above \$100K your benefits could be at risk, even though you could save up to 475K in an ABLE account; again anything over \$100K could affect your SSI.

CalABLE accounts will have safeguards and notifications built in to be sure individuals do not go over their limits as well notify them of over information they may need.

ABLE accounts are asset-protected accounts. Sometimes this is confusing, but these are treated as Assets and when SSI and other programs look at this they will be treated as assets not income.

- Eligible individuals may only have one ABLE account; so if you have an account in another State, you cannot open another here in California. You can move the account from another State into an account here in California, but you can only have one account.
- Accounts can function both like a savings and checking account, depending on how you want to use the account. This can be for short term or long term needs.
- Account moneys are tax-exempt as long as they are spent on “Qualified Disability Expenses”

### **What is a Qualified Disability Expense (QDE)?**

- Any expense related to the designated beneficiary as a result of living a life with disabilities
- Categories are intentionally broad
- Includes education, housing, transportation, health care expenses and more (There is a much longer list and will get to Charlie on a Fact Sheet)
- If funds spent on a non-QDE, expense is subject to regular taxes, plus a 10% tax penalty –and benefits may be at risk

Being broad it is not for the fun stuff like alcohol, parties, porn and so forth. But you may use it for trips where you need assistance. People are

**Question:** Where does a person apply for an account? Would the account affect low-cost housing?

**Response:** Opening accounts will share later. The housing part, if you are using the money to pay for rent, they will use it as income if you do not spend it within 30 days. With regards to low-income housing, HUD is the biggest stumbling block. Low-Housing people have not got official guidelines for ABLE accounts.

HUD is following their regulations, so pressure needs to be put on HUD to get this changed, it is a Federal law. Our State Treasurer has been in contact with HUD and other members of Congress. As soon as it is corrected a notice will be sent out – at this time those in low-income housing need to be cautious.

**Question:** Have you had a conversation with IHSS?

**Response:** Yes, they were at the table. We have had a lot of cooperation with agencies in the State.

**Question:** Parent Providers: Can others donate to the account? If a child passes away would the account revert back to the government?

**Response:** To your first question, yes, others can donate to someone's ABLE Account. Answer to your second question, No, not necessarily. This program did have the Medi-Cal pay-back wording in it. It stated the State "may" recover monies paid out to cover past Medi-Cal expenditures covered for the individual. Knowing this is not popular there is a bill in the State being sponsored by Senator Dodd that would top money from being collected here in California for Medi-Cal (not Medicaid), [SB 218](#) is below:

SB 218, as introduced, Dodd. The Qualified ABLE Program: tax-advantaged savings accounts.

Existing federal law, the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE Act), encourages and assists individuals and families to save private funds in a tax-advantaged savings account for the purpose of supporting persons with disabilities to maintain their health, independence, and quality of life by excluding from gross income distributions used for qualified

disability expenses by a designated beneficiary of a qualified ABLE program established and maintained by a state, as specified. Existing state law authorizes a designated beneficiary, as defined, to have one ABLE account for these purposes.

This bill would authorize the transfer of all amounts in the designated beneficiary's ABLE account to an ABLE account for another individual specified by either the designated beneficiary or the estate of the designated beneficiary upon the death of the designated beneficiary. The bill would prohibit the state from seeking distribution of any amount remaining in the designated beneficiary's ABLE account for any amount of medical assistance paid under the state's Medicaid plan and would prohibit the state from filing a claim for the payment, as specified.

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#### Bill Text

The people of the State of California do enact as follows:

#### **SECTION 1.**

Section 4885 is added to the Welfare and Institutions Code, to read:

#### **4885.**

(a) Notwithstanding any other state law, all amounts in the designated beneficiary's ABLE account, upon the death of the designated beneficiary, may be transferred to an ABLE account for another eligible individual specified by either the designated beneficiary or the estate of the designated beneficiary.

(b) Following the death of a designated beneficiary, the state shall not seek distribution of any amount remaining in the designated beneficiary's ABLE account for any amount of medical assistance paid for the designated beneficiary after the establishment of the account under the state's Medicaid plan established under Title XIX of the Social Security Act, and the state shall not file a claim for the payment under Section 529A of the Internal Revenue Code.

This bill would allow for the money to be transferred to another beneficiary if the account owner passed, another disabled person. This will play out as the rules become finalized; Federal rules are only a draft right now. Proposed Rules can be found [here](#).

Concern expressed about parent of child putting money into an ABLE account and the child passes. Where would this money go? To the parent? Another disabled person, or where?

Several advocacy groups have commented on concerns mentioned. Until complete clarity is provided the ABLE account it is recommended not to create one.

### **Who is Eligible?**

- Must be disabled before age 26 AND  
This has been an issue, there is Legislation in Congress to up this age to 46, but right now it is 26. There is the case if a person can show a doctor diagnosed an oncoming disability prior to being 26 in being eligible, but need documentation.
- Meets the eligibility criteria for disability benefits like SSI or SSDI -  
**OR-**
- Self-certification: Has been diagnosed by a qualified physician with a physical or mental disability resulting in marked and severe functional limitations that is expected to last no less than 12 months.  
A doctor's note is needed and should be kept on hand in case you get audited. Signing up will most likely be by Computer so keeping documentation will be important.

**Question:** If you have a doctor's note, does it need to say the onset of the disability happened before age 26?

**Response:** Yes, it does. This makes it difficult for older individuals, reason they are trying to change it from 26 years to 46 years.

### **Where can I open an ABLE Account?**

- Individuals may open ABLE accounts outside of their state of residency
  - Ohio (STABLE)
  - Tennessee (ABLE TN)
  - Nebraska (ENABLE)
  - Michigan (MiABLE)
  - Alaska (Alaska ABLE Plan)
  - Oregon (Oregon ABLE Savings Plan)
  - Rhode Island (RI's ABLE)
  - Virginia (ABLEnow)
- Exceptions (for in-state residents only):

- Florida (ABLE United)
- Kentucky (STABLE Kentucky)
- Compare programs: [http://ablenrc.org/state\\_compare](http://ablenrc.org/state_compare)

People have started to open accounts across the nation. It is important to look into the advantages and disadvantages of opening an account elsewhere. The [Able National Resource Center](#) (link above) provides good information. You can compare those that are open right now.

**Question:** Are there changes made is there an option to get out if not happy? Would there be penalties?

**Response:** Opting out at any time is okay. As for knowing if there are penalties for opting out, do not know and recommend you look at [Able National Resource Center](#) for that information.

**Question:** If you open an account, you are opening it through a bank or what?

**Response:** We will not be managing the money. Just placed a RFQ for someone to manage the accounts and do the administration of the program with Treasurer's name on it. In other states most of this is done on-line and it was heard there needs to be more face to face by stakeholders. California is looking into this.

**Question:** In 2008 backs failed, what is the safeguards for this?

**Response:** Consumer protection is a big deal and very important. Meetings have been held with Consumer protection agencies. Those responding to the RFB will have to meet strict rules. These accounts will be much like savings accounts, depending on your needs and how you look to invest. It all depends on how you invest and use your accounts for short-term or long-term needs. Investment management will be available or limited banking like savings.

### **CalABLE Features and Benefits**

- Program is in its development phase. Just put out RFB to get this going.
- May include:
  - Ability to contribute automatically through routine transfers from a bank account

- Ability to invite friends and family members to contribute directly to your account (“e-gifting”)
- Deposit online or by check
- Low fees
- Diverse yet simple investment options. A couple strategies to invest in, High, Moderate and Low Risks.

### **Potential CalABLE Legislative Priorities**

- Allow CalABLE to operate as a national plan. This has been set to the State Legislatures
- Offer a tax credit/incentive to account contributors. Not popular here in California, but something going to pursue.
- Remove Medi-Cal asset recovery for account holders. Need much support for this bill, get template letter from State Treasurer.

### **CalABLE Implementation Timeline**

Fall 2016

- Write state regulations
- Develop internal infrastructure
- Organize advisory councils
- Engage with stakeholders

Winter 2016/17

- Finalize state regulations
- Hire consultant to help develop program

Spring/Summer 2017

- Finalize program design and retain a service provider
- Continue outreach
- Prepare for going LIVE!

Fall 2017

- CalABLE accounts go LIVE! 13

Question: What is the cost involved:

Response: This is not known yet. It will depend on those who take the contract. A good source to see what the fees may be is to look at other states at the [Able National Resource Center](#) site.

Question: For those investing in just savings, would there be any interests?

Response: Yes, they would get interest depending on the type of account.

**Outreach: We Need Your Help!**

- We want the collaboration of our constituents
- Robust outreach strategy that seeks to leverage existing state and local networks of both public and private advocacy and service provider groups
- Can your group help host a meeting?
- Webinar available on YouTube with captions –please help share:

<https://www.youtube.com/watch?v=zvngfJICjb0>

**Question:** Very informational presentation. How will this impact IHSS?

**Response:** IHSS was informed and asked to let us know what needs there are for IHSS.

**Question:** Are you a private agency?

**Response:** No, we are a public agency. The Treasurer is the chair of the Board.

There is concern able IHSS in-takers understand ABLE Accounts do not count as income for IHSS. Advisory Committee Members need to educate their counties.

Thank you, Carrie!

CICA Announcements:

CICA will be holding a conference May 24 in Sacramento. This is to be followed by Legislation Education Day May 25<sup>th</sup>. The 25<sup>th</sup> will be in collaboration with CARA, their Senior Lobby Day.

We are looking for short stories on the importance and value of IHSS to you. These brief states will be put in a Storybook to be handed out to Legislatures on Legislation Education Day May 25<sup>th</sup>. There is a short form to complete [here](#).