



Episode 51: ABLE Accounts - Answers to your questions

Event Date: December 6, 2017

Presenter: Michael Morris - Executive Director of the Burton Blatt Institute (BBI) at Syracuse University, founder and Executive Director of the National Disability Institute (NDI)

Host: Sally Weiss, Director of Knowledge Translation for the Southeast ADA Center

VOICE-OVER ANNOUNCER: Blog Talk Radio. (Music) Welcome to WADA ADA Live! Talk radio. Brought to you by the Southeast ADA Center, your leader for information, training and guidance on the Americans with Disabilities Act. And here's your host.

SALLY WEISS: Hi, everybody, and good afternoon. Welcome to WADA ADA Live!. On behalf of the Southeast ADA Center, the Burton Blatt Institute at Syracuse University and the ADA National Network, I want to welcome you to Episode 51 of ADA Live!

I'm Sally Weiss, director of knowledge translation for the Southeast ADA Center. Our topic today is ABLE accounts, answers to your questions. Before we begin, I'd like to remind our listeners that you can submit your questions about ABLE accounts or any of our other ADA Live! topics at any time on ADALive.org.

Now it's my pleasure to introduce today's speaker, Michael Morris. My long term colleague at various organizations. Michael is Director of the Burton Blatt Institute at Syracuse University and Founder and Executive Director of the National Disability Institute He is also the co founder of the real economic impact Tour and Network.

Since 2005, the real economic impact Tour and Network has assisted more than two million low income individuals with disabilities to access the earned income tax credit and to receive more than \$1.8 billion in tax refunds.

In addition to being one of the key architects of the ABLE Act, in 2016, Michael helped establish the ABLE National Resource Center, a collaborative of 25 national non profit disability organizations. The center's website at www.ablenrc.org is a leading independent source of information about state ABLE programs.

Michael, we go back a long time. I'm delighted to welcome you to our show.

MICHAEL MORRIS: Thank you, Sally, I'm glad to be with you.

SALLY WEISS: Michael, I've heard a lot about ABLE accounts but I don't really know what they are. Can we start off what exactly is an ABLE account?

MICHAEL MORRIS: Sure. Well, let me take you a little bit back into the history. ABLE accounts ABLE is actually an acronym for achieving a better life experience, or ABLE. The actual Act was signed into law in December of 2014 and at the time the law was passed, the name was taken for one of the individuals, a parent from Northern Virginia who helped, sitting around a kitchen table with other parents, to come up with this idea. His name was Stephen Beck, Jr. and the title is Stephen Beck, Jr. experiencing a better life.

What is an ABLE Act? An ABLE Act creates a tax advantage savings and/or investment account that can help qualified individuals with disabilities and their families save for disability related expenses. It creates a new option. The money that goes into the account, when it comes out, comes out tax free. The money can be used for qualified disability expenses. We'll talk more about that later

And I think even more importantly, and really, the challenge millions of individuals with disabilities have faced is to remain eligible for different federal public benefits, you are not allowed to save what are called asset or resource limits.

An ABLE account is disregarded for those means tested, resource tested federal benefits. So we'll talk more about that, I'm sure.

SALLY WEISS: Michael, let's talk more about that right now. Why are ABLE accounts needed? Can you tell me a little bit more what the problem is and how they solve it?

MICHAEL MORRIS: Right. Well, I think as a group of parents who sat down at the kitchen table in Northern Virginia thought about it is that they thought about their sons and daughters who could use other tax vehicles, like a college savings plan or they're sometimes called 529 College Savings Plans but they didn't see the possibility that many of their sons and daughters would be going to four year institutions.

So, they wanted to create some other vehicle recognizing the extra significant costs of living with a disability that happens every day, every week, every month.

So, they thought about that. And then they thought well, in fact, what we need is a way to save money for the future that will enable to cover those costs, but we want to make sure we're not doing anything that will negatively impact eligibility for a wide variety of

public benefits, whether that's income under Social Security, under SSI or SSDI, whether it's healthcare, food, housing assistance, purchase of technology

How can we create a new benefit, a tax related benefit that would make a difference in the lives of millions of people with disabilities? And so of that thinking was born the notion of creating ABLE accounts

SALLY WEISS: Who is eligible to open an account?

MICHAEL MORRIS: Okay. Now, that is a very important factor. It's not open to anyone with a disability. There really are two ways of being eligible to be able to open an ABLE account. The first requirement is that the age of onset of disability has to be before age 26.

The second requirement is about severity of disability that's tied very much to the disability eligibility definitions under SSI, Supplemental Security Income, or SSDI, Social Security Disability Insurance. So that's title 56 or Title II of the Social Security Act. So if your age of onset of your disability was before age 26 and you are receiving SSI and/or SSDI, you would be automatically eligible to open an ABLE account.

However, there is a second method of being eligible. You do not need to be receiving Social Security benefits. And you may be eligible by submitting a disability certification from a licensed physician in your state that assures the documentation and the diagnosis by the physician confirming you're an individual with significant or severity of disability that meets the definition under Title II or title 16 of the Social Security Act, with one major exception. That exception is you do not need to prove an inability to work, and that's a very significant, significant difference.

So, you could be proving significance of disability, you could be working full time, not eligible for Social Security benefits because of your income from work, but you could still be eligible to open an ABLE account with a disability certification from a licensed physician.

SALLY WEISS: Michael, that's amazing. Having a son with a significant disability and jumping through hoop after hoop after hoop on eligibility, this seems almost streamlined.

We've already said that the ABLE account will not affect the federal benefits somebody receives, and you listed all of them. Could you just list them again?

MICHAEL MORRIS: Well, I need to clarify that statement as well Because it's not going to impact what is called means tested or resource tested federal benefits. The short list of those benefits includes SSI, which has for an individual an asset limit of just \$2,000.

It's also not going to impact eligibility for Medicaid and the asset limits in terms of eligibility for Medicaid varies by state, which can set that limit.

It also, two other areas where there are means or resource tested federal benefits relate to SNAP or food assistance and the other would relate to different types of housing assistance. So those are the big four.

But I should also share with you that there is impact from an ABLE account as the money grows inside an ABLE account So, if you are on SSI, only the first \$100,000 in an ABLE account assets would be disregarded.

The SSI payments an individual might be receiving if they were eligible for SSI, their monthly cash benefits, it would not be terminated, but it would be suspended as long as the account balance exceeds \$100,000 Now, the funds above 100,000 would be treated as a resource and could affect your eligibility for SSI. Now, even though your SSI eligibility is being suspended because you're over 100,000, your Medicaid benefits would not be suspended, and so that's, now, clearly a positive feature

I should mention one other factor in terms of influence on benefits. If for some reason down the road an ABLE account beneficiary was to die, any assets remaining in the ABLE account when the beneficiary dies, subject to any outstanding qualified disability expenses, can be used to reimburse the state for Medicaid payments made on behalf of that beneficiary after the creation of the ABLE account

The state would have to file a claim for those funds. The state of Pennsylvania has passed their state law which makes it clear that they will not seek the Medicaid payback, and there are several other states in the process of moving in that direction. But that is, of course, something to be aware of.

SALLY WEISS: Well, as someone who had to be very, very careful that her son's monies did not exceed \$2,000, I would much prefer to jump through the hoops to keep the expenditures under \$100,000. I'm not sure that's ever going to happen, but I'm willing to try it.

Can you talk about what the funds may be used for, Michael?

MICHAEL MORRIS: Yes, I'll be glad to. There is a term in the law that the funds being distributed from an ABLE account can be used to pay for qualified disability expenses. And qualified disability expenses is really very broadly defined.

It covers almost anything that you could think about that might relate to improving the health and wellness and independence of an individual with a disability

It will cover extra costs related to education, housing, transportation, costs related to employment training and support, assistive technology, personal support services, unreimbursed costs an individual might have related to health or prevention and wellness, financial management and could even include benefits planning, legal fees, funeral and burial expenses, and even basic, basic living expenses.

So, it is quite a list. And I think what's important about it in the proposed rules that were drafted by the Department of Treasury with the IRS, they broadly construe what's included under basic living expenses. And it's clear that these are not expenses exclusively for anything that is a medical necessity, which is the way Medicaid works.

It's not about medical necessity, it's about quality of life.

It also makes it clear that if there are benefits from, let's say the purchase of it could be an iPad or it could be a means of transportation, that it is okay that there is benefit to other individuals, as long as it is in addition to the eligible individual.

So, there is not this exclusivity of use clause that works with some other federal funding and support. So, this, again, creates opportunities for an individual with a disability with their circle of support, parents, siblings, others, to think about setting financial goals; really thinking about what do we want to save for for the future.

Now, what's interesting about an ABLE account is it could be money, contributions, that go into the account that are used for more immediate needs; could be transportation to a place of work or transportation to a doctor's appointment.

But it also could be used for long term savings goals Maybe an individual who's the beneficiary of an ABLE account wants to save up for a means of transportation or to have their own place to live. Those aren't going to happen overnight, but those are going to go long term and it's going to enable an individual to think about really an extraordinarily different quality of life than they might otherwise have thought. That money will continue to grow.

Each state has set a total limit on how much money can grow in an account and those vary from state to state

But they typically are hundreds of thousands of dollars, which is something that is not going to happen overnight. When you really allow someone to dream about a different quality of life and have a strategy, a method, to really begin with others to make contributions to their ABLE account.

SALLY WEISS: Thank you, Michael. It comes to mind now a question: Is there a limit to how many times someone can take money from an ABLE account? You did say it could be used for day to day expenses.

MICHAEL MORRIS: Right. So I think one point I have not yet made is that there are multiple state programs that have been created. The federal law passed, but it didn't automatically mandate that each state create an ABLE program.

In 2015, many advocates, families, disability related organizations worked very hard to convince their State Legislature to follow the guidance from the federal law and mandate the opening, the establishing, of a state ABLE program.

Over 40 states passed such laws. And now what we have across the country is 28 states that have opened, established, ABLE programs. And it's a moving target in terms of, I would expect by the end of the year we'll have more than 30 states that have opened programs.

In the first year after the law was passed, in 2014, an amendment was made so that people who are eligible to open ABLE accounts are not limited to just their own state. In some states, there is not an ABLE program.

But the new law said that regardless of where you live, if you meet eligibility criteria and the state ABLE program is open to taking accounts from eligible individuals from other states across the country, you then have a series of choices.

And so we have a situation now with soon to be 30 state programs, individuals have to really look carefully at their ABLE program in their state, if they have one, and we'll talk a little bit more about what are some of the things to look at and how to make an informed decision.

But let me go back to your question: Is there a limit on how many times you can take money from an ABLE account?

Most states have set no limit, but that is one of the questions you would want to check carefully before you open a state ABLE program, because it is a minority of programs, but there are some that may set limits on how often you can take money out of an account, as well as what they charge for each time you take a distribution

SALLY WEISS: Thank you, Michael. That's a little bit complex.

I would like to take a break for our a word from our sponsor, which in this case is the National Disability Institute and then we'll come back and talk more about the different state programs and things we need to consider.

ADA Live! listening audience, if you have a question about ABLE accounts, you can submit them at any time at our online forum at ADALive.org. And now a word from our sponsor.

VOICE-OVER ANNOUNCER: The National Disability Institute was founded in 2005 by a small group of parents, family members and individuals with disabilities to build a better economic future for people with disabilities and their families. Joining with leading thinkers and practitioners in the disability and asset building community, their vision was to create an environment where people with disabilities have the same opportunities to achieve financial stability and independence as people without disabilities. Through the power of collaboration with federal agencies, major corporations, financial institutions and nonprofit organizations, NDI has brought new attention to the possibilities of economic empowerment that has changed thinking and behavior at an individual and systems level. NDI's public education, pioneering projects and demonstrations, public policy research and development, and customized training and technical assistance activities have made NDI a recognized leader nationwide. NDI continues to change thinking and behavior at an individual and systems level so that individuals across the spectrum of disabilities can work, save, and advance their financial capability and economic stability. To learn more about NDI's innovative projects to advance the economic empowerment, financial capability and financial inclusion of people with disabilities, please go to www.realeconomicimpact.org

SALLY WEISS: Welcome back We're talking to Michael Morris, director of the Burton Blatt Institute at Syracuse University and the founder and Executive Director of the National Disability Institute. We've been talking about what an ABLE account is and how it can be used.

Michael, you started to explain about the mechanics of setting up an ABLE account. Can you go over that a little bit more? My question is, where can I open an account? And does it have to be in my state?

MICHAEL MORRIS: Right. Thanks, Sally, excellent question.

First is there, as I mentioned before the break, there are some almost 30 states that now have opened ABLE programs The majority of those states, and they're in all parts of the country, are very much open to residents who are ABLE eligible of other states

So, there are a few that are limited just to in state residents. And interestingly, in the Southeast, Georgia, Florida, and Kentucky, three of the eight states in the Southeast ADA region, have limited the eligibility to just in state residents.

Others like Alabama and Tennessee are two examples, and North Carolina, are examples of states in the region and very soon to open South Carolina I believe also will be open to individuals from across the country.

You know, to learn more about the ABLE programs in each state, I would recommend you visiting the ABLE National Resource Center website, www.ablenrc.org.

When you go to that website, you're going to find an interactive map. You can click you can put your cursor on the state of interest and you can then be taken directly to the website, the respective state's ABLE program.

Lots of people would love to know that they can walk into their local bank and they could open an ABLE account. That is not how it works

You can open an ABLE account by visiting online the URL for the state ABLE program. Some states will mail you and do have paper applications. All states will help you with a live person to help you walk through what you will need to open an account

States vary in how much money it takes to open an account. There are some states that the amount was less than \$20 to open an account and other states have a higher amount. But you will not need a massive amount of paperwork to be filled out

A lot of what you're doing is providing assurances, checking boxes in terms of your eligibility to open an account, and also information that would enable you to submit that first contribution in terms of an ABLE account.

Similarly, when you withdraw funds, there is an opportunity to, again, certify that the funds are being used for a qualified disability expense, but the responsibility is yours in case you, by some chance, are the subject of a random audit from the IRS who will expect you to have records of exactly what you did spend funds from an ABLE account on and in that way, meet the requirements of the Act.

Many of the state ABLE programs have created opportunities for automatic deposits from a checking or savings account You know, you set the amount of funds.

Some states offer a pre paid card or debit card if your intent is to use the account for more transactional needs, day to day or monthly needs rather than looking at this as a savings account where you've set a financial goal and you're looking at something that's going to take quite a number of years for you to achieve the funding level that you need.

Each state also has different choices, as do what you're contributing where you're going to contribute your funds. Some states have as few as three or four savings and investment options, other states have more than ten.

They will help you walk through the process in terms of trying to understand what your needs are and also looking at are you looking for low risk and modest return as a result, or are you interested in something that would be high risk?

A low risk is many states have a federally insured depository institution that would offer you a very conservative return, but absolutely no opportunity to lose any of the money that you put in, the principal. And others are for a mix of securities, bonds and stocks, that could have obviously a much higher growth rate, but you could lose not only the money that might grow over time if there is a downturn in the market, but you could lose some of your principal.

So, those are important considerations. But, again, each state has, and very important to read, a disclosure statement so that you understand and walk through that document to understand exactly what the choice of investments are, what's the fee structure, and get more comfortable with making an informed choice in selecting between different state ABLE programs.

SALLY WEISS: Michael, we're running tight on time, but I have three questions. One's a quick one: Are there restrictions on who can contribute to someone's ABLE account?

MICHAEL MORRIS: Great question. And the wonderful answer I can give you is no. So, the person with a disability who is the beneficiary, absolutely. Family, friends, but it's open to anyone.

You're allowed only one account, but and you have twice a year you can change what your savings or investment options are.

SALLY WEISS: My second question: How many accounts have been opened since the law was enacted in 2014?

MICHAEL MORRIS: Yes, so the first state to open accounts was in June/summer of last year in Ohio. To date, we don't have an exact number, but we estimate as more states open, the number is somewhere about between about 12 14,000 accounts open so far.

SALLY WEISS: That's excellent. We've covered a lot of territory here. My last question, and this is where you can give your commercial again, where can I go to learn more about ABLE programs and savings and investment choices?

MICHAEL MORRIS: Right. Thank you, Sally. I would urge people to visit ABLE National Resource Center, www.ablenrc.org. On that site, you can put three state programs in with a series of questions that will then be answered side by side so you can make some comparison.

I think it's very, very important to use this site to visit different state ABLE programs. And I know no one likes to read a long document, but it's really important to read the disclosure statement which are required for each state ABLE program. We have them

linked from the ABLE NRC website You'll also find them on the sites of each of the state ABLE programs.

I mean, what you really want to be thinking about is if your own state has a program, look there first, because some states also have a state income tax benefit, if the state has a state income tax, for putting money into an ABLE account, in addition to the tax advantage when the money comes out. So that's one factor to consider

You want to have an understanding of fees and you want to have an understanding of any limits on frequency of moving money out of an account. So, you know, there are a variety of questions. There are some states that require a certain minimum amount of contribution before you can distribute money. So each state has some different rules that you want to pay attention to.

We do believe that there are over five million people eligible to open ABLE accounts, so we've got a long way to go. We're in the early days. And I think what really can be exciting is learn about the success stories from people with disabilities; from parents who open accounts for young children and look to long term savings goals; for working age adults that this extra savings may make a difference in terms of where a person lives or means of transportation or a purchase of technology that no private insurance or government program is covering.

I think those stories are going to really accelerate people's interest and understanding and motivate people to think about why not an ABLE account? An ABLE account is not instead of a special needs trust. There are different reasons that you can do things with an ABLE account. The account beneficiary is the account owner, unless that person has a guardian or there is a power of attorney. So that's very different than special needs trust.

There is some coverage related to housing and maintenance that you cannot do with a special needs trust, and I would urge people to talk with a qualified professional financial advisor to understand how an ABLE account should be part of their strategy long term to support the needs of a member of the family with a disability.

SALLY WEISS: Michael, thank you very much. We will have this information and other resources posted on ADALive.org within the next two weeks so that you don't have to look at your scribbled notes, but can find the information that Michael shared.

We've been talking today with Michael Morris about ABLE accounts. This episode and all our previous ADA episodes are archived on our website at ADALive.org. I want to thank our audience for listening today. We do appreciate your support for our ADA Live! broadcasts. And remember, you can submit your questions about ABLE accounts or any of our other topics by going to ADALive.org.

Please join us again on January 3, 2018 for our rebroadcast of our very popular episode on the history of disability, lessons from the past. This rebroadcast is a lead in to a four-part webinar series on the history of disability rights with Dr. Larry Logue Please join us in January and February as Dr. Logue takes us on a fascinating journey exploring the policies, legislations, movements, and personalities that have left their mark on the Civil Rights Movement. Learn more about the webinar series and register at ADASoutheast.org.

And if you have questions about ADA, you can contact your local regional center at 1 800 949 4232 and remember all calls are free and confidential.

VOICE-OVER ANNOUNCER: Thank you for listening to ADA Live! Talk radio. Brought to you by the Southeast ADA Center. Remember to join us the first Wednesday of each month for another ADA topic, and you can call 1-800-949-4232 for answers to your ADA.

REMOTE CART PROVIDED BY:
ALTERNATIVE COMMUNICATION SERVICES, LLC
P.O. BOX 278
LOMBARD, IL 60148

Remote CART, Communication Access Realtime Translation, is provided in order to facilitate communication accessibility and may not be an exact record of the proceedings.