Expanding ABLE: Three Bills to Improve the ABLE Program

By Taylor Woodard MPAff & MSSW, Program Associate, The Arc

The Stephen Beck, Jr. Achieving a Better Life Experience (ABLE) Act authorizes tax-advantaged savings accounts for some people with disabilities and their families. Modeled after the existing qualified tuition (529) accounts, these accounts allow for more individual choice and control over spending, while protecting eligibility for Medicaid, Supplemental Security Income (SSI) and other federal benefits. Funds in these accounts may be used for a variety of purposes, including education, housing, transportation, employment training and support, assistive technology, personal support services, health care expenses, financial management and administrative services, and other expenses which improve health, independence, and/or quality of life. In short. an ABLE account offers an additional tool for people with disabilities to use in managing their finances.

Shortly after its enactment, state legislators moved quickly to establish ABLE programs for their constituencies. A number of federal agencies also acted within their areas of responsibility to issue proposed regulation and/or policies to implement the law. The Department of Treasury and the Internal Revenue Service (IRS) released proposed regulations and interim guidance that are expected to help avoid administrative burdens and minimize program costs, while creating a more accessible program. Also, in December 2015, the ABLE law was amended to repeal the state residency requirement, thus permitting states, at their option, to offer national, rather than state-resident only, programs.

Harnessing the momentum surrounding the ABLE Act at both the state and federal levels, people with disabilities and their advocates pressed for further changes, which would expand access to the ABLE Act and enhance the benefits. The six bipartisan lead sponsors of the original ABLE Act (Senators Bob Casey, D-PA, and Richard Burr, R-NC, and Representatives Ander Crenshaw, R-FL, Chris Van Hollen, D-MD, Cathy McMorris Rodgers, R-WA, and Pete Sessions, R-TX) responded by introducing three new pieces of legislation in both the Senate and House on March 17, 2016. Collectively, this package of bills seeks to expand the pool of eligible ABLE participants, increase flexibility of ABLE accounts and encourage employment. Let's take a closer look at what each could offer.

First is the ABLE Age Adjustment Act (HR 4813/S 2704). Under the current law, only those who acquired their disability before 26 years of age qualify for an ABLE account. However, many people become disabled after age 25. HR 4813/S 2704 would take a major step toward full inclusion of people with disabilities by **including people whose disabilities occur prior to age 46**, affording many more people the opportunity to benefit from an ABLE account. While supporting all three bills, several disability organizations, including the Consortium for Citizens with Disabilities (CCD) Financial Security Task Force, have prioritized this piece of legislation, because the current law excludes a large number of individuals.

Next, the ABLE Financial Planning Act (HR 4794/S 2703) would afford families greater flexibility as they plan for the future by allowing them to **rollover funds from a college saving account (529 account) to an ABLE account (529A)**, and vice versa, without incurring a tax penalty. If passed, HR 4794/S 2703 would be particularly helpful for parents who open a 529 account prior to or when their child is born, only to later learn that their youngster has a disability. Under current law, these households would incur a tax penalty if they withdraw funds from their 529 account for anything other than college expenses. This bill would eliminate those tax concerns and allow them to freely transfer the funds into a 529A account for their child with a qualifying disability. However, these withdrawals would still be subject to the annual contribution limit.

The final piece is for employed participants. The ABLE to Work Act (HR 4795/S 2702) would allow working individuals and their families to **save additional funds in their ABLE account** beyond the annual contribution limit. Under current law, beneficiaries can only save up to the annual threshold (set at $14,000 in 2016). Advocates argue this cap does little to encourage employment. Under HR 4795/S 2702, beneficiaries could, depending on their earnings, annually deposit in their account an amount up to the Federal Poverty Level (currently at $11,770) in addition to the existing $14,000 annual cap, thereby potentially increasing allowable yearly contributions to $25,770. If enacted, ABLE beneficiaries could also qualify for the Saver's Credit, a federal tax credit available to low- and middle-income individuals when they make contributions to a retirement account. In order to take advantage of this amendment, an employee must not be enrolled in an employer-sponsored retirement plan. Additionally, they would still be subject to the current limitations on earnings that affect eligibility.

Shortly after their introduction in mid-March, the Senate ABLE bills were referred to the Committee on Finance, while the companion House bills went to the Committee on Ways and Means. In September, the Senate Committee on Finance approved the ABLE to Work Act, which would allow people with disabilities who are employed to save additional money each year in their accounts, and the ABLE Financial Planning Act, which would let money saved for an individual with a disability in a 529 college savings plan be rolled over into an ABLE account. However, the bill to raise the eligibility age to 46 was not advanced.

The Arc promotes and protects the human rights of people with intellectual and developmental disabilities and actively supports their full inclusion and participation in the community throughout their lifetimes. The Special Needs Alliance is collaborating with The Arc to provide educational resources, build public awareness, and advocate for policies on behalf of people with intellectual/developmental disabilities and their families.
