

ABLE Implementation 2016 – Live Captioning Transcript – 2.5.16

Good afternoon everyone this is Michael Norris the Executive Director of the national disability Institute I'm glad so many people have joined us from all across the country. This webinar is dedicated to bringing all of us up to date on implementing ABE act will know this was a piece of legislation worked on for so long that was signed into law in December 2014, 2015 was the year of regulatory developments and states passing their own statutory authority across the country. And 2016 is the year that ABE programs will be opening in some states but because of changes that you would hear about will make people with disabilities who are eligible to open ABE accounts regardless of where you live.

Let me first turn back to Britney to share with you some of the logistics of listening to this webinar.

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Thank you Britney and thank you again for all of you across the country who are joined with us today for this educational webinar. I want to thank our presenters and panelists were going to be a part of the webinar today. Chris Rodriguez Senior Public policy advisor from the national disability Institute. Heather Sachs vice president of advocacy and public policy, national down syndrome Society, Ken Brown team leader, at the Social Security administration, and the team that is focused on SSI income resources and payment determination, Marty Ford Senior executive officer public policy The Arc Stuart Spielman Senior policy advisor and counsel autism speaks, William Thompson Deputy Executive Director Florida prepaid College Board.

The agenda for today is going to begin with leveling the playing field providing some ABE basics understanding the components of the acts and the programs that are in its formative stages and will really

become operational this year, status of federal and state implementation, notice of proposed rulemaking as we have seen it so far in 2015, and POMS which are the guidance that is provided by the Social Security administration. We are then going to take first I will moderate some questions which have been prepared in advance, and ask of our panelist and we will throughout the integrating and question timeframe that as was explained you can type in the chat room box on the right of your screen.

With that, let's dive right in. Let's begin with some basic understanding about ABLE and let me first turn to Chris to provide some of that beginning information.

Thank you I think you are right before we get into the specifics and the characteristics and regulations and we take a look at Will Thompson's visitation we will go over some of the basics so people have the very beginning understanding of what ABLE act is, the act's formal name is the Stephen Beck Junior achieving a better life experience act or ABLE act became law on December 19, 2014, after nearly a decade of advocacy provided by national disability organizations, state agencies, families, folks with disabilities across the country. In its basic sense what this allows is the creation of new options for some individuals with disabilities and their families to save for the future, while protecting their eligibility for means tested federally funded public benefits. Such as but not limited to Medicaid and Social Security. It is important to note since the passage of the ABLE act a lot has changed we are learning new things every day and this presentation is based off of what we know now or presume right now to be true.

What is in ABLE account? They are established in the new section 529 (a) qualified ABLE programs. There are qualified savings accounts that receive preferred federal tax treatment. But they are post-tax dollars that are contributing and they may have some state tax advantages and we will get into those later.

The eligible individuals are enabled to save for disability related expenses and again we will get into exactly what that means later.

Today they are not currently available but we do expect the first programs to be up and running in early to mid-2016 and we're hopeful that by the end of this year we will have at least somewhere between five and seven programs for people with disabilities are qualified to enroll in. It's important to note that assets in and distributions for qualified as ability expenses will be disregarded or given special treatment in determining eligibility for most federally means tested benefits.

What are some of the moment support requirements? -- Important support requirements?

Each eligible individual may only have one ABLE account, this is different from how we see the typical 529 college savings account where individual may have multiple again qualified individuals can only have one single ABLE account. They cannot have multiple ones.

Another aspect that is important is the fact that the designated beneficiary is at all times the account owner, although there will be allowed certain individuals that will be allowed to have signature authority over the account on behalf of the designated beneficiary but that still stands that the beneficiary is the account owner.

Originally these accounts required that they be established in the designated beneficiary state of residence that's how the statute was originally written, in the last couple of months exciting amendment was passed at the end of 2015 that eliminated this requirement, what that means is done no matter where you live in the country as long as you meet the criteria that will describe the little bit to make you an eligible individual to enroll, you can enroll at any program in the country that is up and running.

The total annual contributions may not exceed the federal gift tax contribution which is currently set at \$14,000 they can be expected to be adjusted periodically so all contributors to an ABLE account in any given tax year cannot exceed \$14,000 so if you had to contributors and the each put in \$7000 in a single year you cannot accept any more contributions until the following tax year.

Multiple individuals can make contributions there is no limit to how many people or who they are it could be your family members or your parents, you could be companies doing a match that anybody can contribute to an ABLE account.

It is important to note that the aggregate contributions may not exceed the state limit on 529 accounts this is set by each individual state, we suspect or we believe that limit will be the limit that is in the state in which the ABLE act is being managed this is typically anywhere from \$250,000 although we up to \$500,000.

I will turn to Marty Ford will provide the details about who is eligible to be an ABLE account beneficiary?

Thank you. To be eligible individuals but -- must meet the requirements got the first one is an age requirement and the second one has to do with the severity of the disability and on age, individual must be disabled before the age of 26. That is the requirement in the law as of now and if you are involved in the disability community you may know many people are working to increase that but as it is now, in the law, you must be disabled before the age of 26.

In terms of the severity, there are two back ways to meet this test. The first one is to actually have been determined to meet the disability requirements for one of the Social Security programs and be receiving benefits and that could be the supplemental security income program or to be receding on a disability benefits from one of the Social Security programs entitled to back so either receiving SSI or receiving title II disability and if it's and that they the benefit or disabled adult child benefits, that will get you eligibility for an ABLE account. Or the other way to do it is to submit a disability certification, that is essentially showing that you have an impairment or disability that is essentially equivalent to the functional level of impairment of somebody who is meeting the listings level of impairment for the Social Security disability definition and you must submit a disability certification assuring that you hold documentation of your impairment and you have a physician's diagnosis and signature and you meet the functional level of disability criteria that is listed in the ABLE act and what this lists is developed a definition that that equates to that level that I mentioned in so those of the two ways of showing the level of severity.

Then return back to Chris to talk about exactly what made funds from an ABLE account used for?

Will establish the criteria in which it takes to become a qualified beneficiary and now another big question is we put funds into the account what is appropriate for the funds to be used for? So distributions from an ABLE account may be made for qualified disability expenses. These disability expenses are expenses that relate to the designated blindness or disability and are for the benefit of that designated beneficiary in maintaining or improving his or her health, independence, or quality of life. It's important to know the term mollify disability expenses should be broadly construed to permit inclusion of basic living expenses and should not be limited to expenses for items for which there is a medical necessity or expenses which provide no benefits to others in addition to the benefit to the eligible individual.

Qualified disability expenses may include the following, education, housing, transportation, support, assistive technology, health prevention and wellness, financial management and administrative services, legal fees, expenses for monitoring, basic living expenses, funeral and burial expenses, and other expenses

approved by the Secretary of the treasury under regulations consistent with the purpose of the program. It is important to note that distributions for nonqualified expenditures will be subject to tax consequences and may affect eligibility for federally means tested benefits as well as any state funded and fits that are means tested that the individual may be taking advantage of.

Let's turn to the other question how to enable account assets impact eligibility for federal benefits?

Essentially the statute exempts the ABLE account assets from being taken into account in looking at eligibility for federal means tested benefit programs. Across the board. But it specifically addresses a few things regarding the SSI program and the Medicaid program so I will point those out.

Regarding the SSI program, only the first \$100,000 in an ABLE account will be disregarded for purposes of the SSI program. If your benefits go over that hundred thousand dollars you don't lose eligibility for SSI what happens is that your monthly cash payments will be suspended. And your eligibility will be not be terminated will just be suspended. However if your funds go over \$100,000 they can be treated as resources and that will depend on whether you have other funds for instance that take you over the additional \$2000 in individual resources that already exist in the Social Security administration program so that's an issue that may come up I'm not sure if Ken Brown will cover that but it may come up later.

The other points that is important here is housing expenses, were initially in the statute intended to receive the same treatment as all housing cost paid by outside sources. In relation to SSI, however because the program was designed so that the person who is the beneficiary of the account is also the owner of the account, that someone changes the relationship of how these accounts work. The new SSA instructions or POMS goes into detail on how housing expenses will be treated particularly if housing -- the funds are withdrawn to pay for housing expenses in one month that are not actually used to pay for them until the following month. So I'm not sure whether Ken will detail on that but certainly something we can cover later.

The next slide, it gets into some detail on what happens with Medicaid. This is an important distinction, while the SSI program has a limit of \$100,000 for the ABLE account, the Medicaid program does not have that \$100,000 limit in the account, all of the ABLE accounts are limited by the program in the state, in terms of the aggregate limit is the size of any of the college savings plans but the hundred thousand dollar limit does not apply to medicate and Medicaid benefits are not suspended if the ABLE account balance exceeds \$100,000. But there is what's known as a Medicaid pay back and if you are looking for this language is called the transfer to state.

This holds that when it beneficiary dies, and subject to any outstanding qualified disability expenses, a few have paid everything off, any assets that remain in the ABLE account can be used to reimburse a state for Medicaid payments that were paid on behalf of of the beneficiary after the creation of the ABLE account. But the state would have to file a claim for those funds. That's a very important point that it's only after the creation of the ABLE account those benefits can be paid, these are not expenses that would be owed to the state for any services provided to the individual before the account had been established.

For purposes of this section, the state is considered a creditor of the ABLE account not a beneficiary this is different but the creation -- the services provided before the account was established and the fact that the state is treated as a creditor rather than a bestiary of the account are specific statutory provisions put in there because of concerns that were raised dealing with trust and so this is important information. >> Let's turn next to the questions of what are the tax implications. And I will turn to Stuart Spielman with autism speaks.

Thank you. Let's talk about the federal tax implications, generally, money in an ABLE program is not going to be taxed. The earnings in the program contributions and distributions from the program is used for qualified disability expenses and they are not going to be subject to taxation. The money that goes into an ABLE account is post-tax dollars these are dollars that you've already done your paycheck and money spent and you put money into your ABLE account from the pool of money that you have available. If money from an account is distributed for nonqualified expenses, there is a 10% addition to tax. State taxation -- these are actually in some ways more complex. There are many states that have established ABLE programs, so far we have eight states that have provided some taxes incentives and the states are Iowa, Michigan, Missouri Montana Nebraska Utah and Wisconsin and Utah provides a credit the other states provide deductions and the roles on these are quite different the amounts are different. Who may be entitled to the tax incentives, that is different, as well there's also another interesting issue that was raised by the recent change in the law, that allows people to open up accounts outside their state and that is there maybe a tax incentive available for an investment in the state and it may or may not be available if you open up an ABLE account in another state.

When will ABLE account be available? We're hoping to see and we expect to see some programs go online in the upcoming months the next few months. I think Chris began by saying -- the panelists in our program he talking about the exact number, we're going to see a number of programs go up and online and accounts opened this year and that is really a critical point.

Each state in order to have an ABLE program must pass authorizing legislation and or they have to or they should decide how to treat an account that is open out-of-state is not required that every state has an ABLE program was states are taking some actions but one of the issues is what will be the treatment for tax purposes and for benefits purposes if an individual living in state A opens an account in state B so we're going to see some interesting elements.

Federal implementation, there are number of players on the federal side, prominently the Department of treasury working with the IRS as -- they have released a notice of proposed rulemaking in June and two notices which are a type of informal guidance that the IRS releases. We expect final rules to come out sometime this year But it is important to know that the guidance from the IRS and the treasury has really made the point very clearly that programs can get up and running and to the extent that their differences between the federal scheme and state schemes, the service and the treasury will work with states, one of the questions that comes up is that the state have to wait for the final rules in order to establish a program. The IRS and treasury have said no the Social Security administration is another prominent actor in this drama and they have released guidance on ABLE through the operations manual system and their own NPRM regarding reporting rules.

We expect further guidance from other federal agencies such as Medicare and Medicaid services, Department of Education, HUD.

State implementation. We want to turn from some of these issues around when ABLE programs will open and the tax issues that was just shared, to taking a closer look at where states are. For that let me turn to Heather Sachs with NDSS.

Thank you. Thanks everyone for having me. Since the federal law passed in December 2014 many states have rushed to put an ABLE bills and many of them have passed, as of now there are 35 states including the District of Columbia that have been acted their own versions and should be in the process of setting up their state ABLE programs. In addition most of the state legislators Hessians has started -- sessions has started, actually we have filed ABLE bills or are working on a bald bills so we're anticipating close to 50

states will eventually have some sort of ABLE bill they say some different things and not all of them are bills to set up their own ABLE program.

Were also offering states that already passed cable bills put in amendments to the bills that were passed last legislative session many of these amendments are technical fixes to the bill, some of them have been put in as a response to the elimination of the state residency requirements, there are some lower population states that are giving a second thought to developing their own program. But chances are the law that passes has in place a mandate upon them to do so so they are putting in some amendments to make it an option or exploratory committee or say they are not going to do any program. In addition a couple of states are putting in amendments to sweeten their own ABLE acts that have passed and they can do that through adding deductions to the programs. For a contributions, as has been said we expect there to be anywhere from five -- seven programs offering accounts in 2016, I'm sure everyone is wondering which states will be first? What we are hearing is Ohio and Tennessee are going to roll out sometime in early spring followed closely by Florida Virginia and Nebraska, we will speak about Florida later. The exciting thing is that there are several options available in the near future.

While there would be an amount of consistency between the programs because they need to be qualified programs under the federal law, it is important to note there will be variations from program to program. You may not want to rush or open an account at the first program that you analyze. The programs could have different investment options, they can have different disbursement options some of them may have the ability to use a debit card or a gift card, some might offer state tax advantages such as deductions.

Has more programs come online marketplace will become even more competitive and beneficiaries will have more choice.

I want to touch briefly on the notice of proposed rulemaking that has been discussed before. The first notice came out in June on time, we were very happy that treasury released this and get a 90 day commentary -- 90 day time frame, many advocates from the disability community had some very constructive conversations with treasury and the IRS about certain clarifications they wanted to see in the proposed regulations and about certain ways that we could help them to make ABLE programs better. We were pleased with the way they took our guidance and advice. Then in November in November 2015, the treasury and IRS issued a further notice we requested, many disability organizations as well as financial stakeholders, requested the issue a notice on certain pressing issues which directly related to how the programs will be developed. In November In November 2015 the issued this notice. The notice as well as the one in June dealt with several key issues the first is regarding eligibility and recertification, we talked earlier about how you can become eligible to open an account for the question is how do you prove your eligibility, especially in the case of if you're not a Social Security. To the second mechanism, so what treasury has said is that designated beneficiaries can open an ABLE account by certifying under the penalty of perjury that they meet the qualifications and this could be getting a physician to sign some type of a form, but furthermore the designated beneficiary will retain the form them self and only be prepared to produce it if audited or question.

So this is very significant in that it goes directly to privacy concerns as well this is a form you will receive from your physician will certify it when you open the ABLE account that you have a payment form and you keep these forms in your own records.

In addition the notice talk about transfers and rollovers and I believe my colleague will talk about this a little later, the notice clarifies that there could be no 529 -- 529 (a) rollovers on a regular 529 account to an ABLE account but it talks about the potential of being able to transfer from one beneficiary you can transfer it to another family member who is also a qualified beneficiary. Similarly if you were to move

from one state to another, you now have the option of transferring your account, rolling it over, from which state program to the next program or you don't have to do that treasury was clear you could choose to keep it in the first state of residence and it's a moot point now that the residency requirement has been eliminated but you have the ability to roll over on ABLE account to another so contributions I think has been said that has to be \$14,000 per year by any amount of contributor the sky divisions have to be in cash, you cannot put real estate or something into an ABLE account, in the distributing category, it says categorization of the distributions are not required. That means the ABLE program does not need to make a determination as to whether or not you're going to be using it for a qualified disability expense. Again, this is incumbent upon the beneficiary to make sure you understand the rules and to keep good records, and you'll be certifying you're going to use it in an appropriate way.

The ABLE program will not be checking up on you you're not going to need to get preauthorization to get those funds.

These funds need to be used for qualified disability expenses. There is a whole list in the federal law which includes many things such as education, housing, transportation, job training, funeral expenses, legal expenses, etc. in addition they can be used for daily expenses of living as one of the former speakers has said. Which is interpreted very broadly by treasury and the IRS. We are pleased the interpretation is there. The important thing is that you as a qualified individual is going to have to keep your own records you'll have to keep your receipts, categorize their own disability expenses, and be prepared to produce those if audited. You're not going to need preauthorization or have to submit that to the program. >> I think I already covered the eligibility and recertification. We talked about how if the only onset of your disability, the onset of symptoms, if it occurs before age 26 and your Social Security primary recipient automatically qualified for an ABLE account that the disability occurs before the age of 26 and you're not currently receiving Social Security you can obtain this disability certification as we said, this will be a form filled out by your doctor which you keep and you certify under penalty of perjury that you have obtained. The ABLE act calls for periodic recertification requirements and that is up in the air in terms of what states will require in a very disability, so there will be some type of recertification necessary but it will be very much the same way, this is something between you and your doctor that you're prepared to produce if audited.

Thank you Heather. What I want to quickly take us to this representative from the Social Security Administration can Brown and to give us some of the insights and perspective on where we are with ABLE from the perspective of SSA, Ken >>

Ken we cannot hear you.

You might be on mute

Temporary technology challenges. We hope we can fix any moment. In the interim --

Can you hear me?

Yes. >> We are grateful for the opportunity to talk to you about the Social Security administrations implementation of the ABLE act, you've heard a couple of presenters talking about are POMS instruction program operations annual system, these are the instructions we provide to the all the field offices for evaluating the ABLE accounts under the supplemental security income program, those instructions are available to the public, if you go to the Social Security website under program instructions and the reference, you can find instructions when everything -- on everything I am talking about

Some of the things the objectives had already been covered, so if we could move on to the next slide.

What you're most interested in hearing about this how the supplemental income will treat contributions, to the ABLE account, the balances, and money paid out or distributions.

For SSI purposes we will exclude from income all contributions to an ABLE account for designated beneficiaries, that includes any rollovers that are made from a family members ABLE account, that doesn't mean that contributions from third parties would be excluded from their income, or that contributions from the eligible individual themselves may not have an impact on eligibility, then ABLE account in a fishery is working and they had a payroll deduction coming out of their paycheck going into the account that amount would still count as income. But if a third party makes the contribution to the account that would not be counted as income to the beneficiary. For accounts established they are going to accrue interest or earn dividends or appreciate in value and any of that account earnings will not be counted as income or resources for the account beneficiary.

The statute also provides that will exclude open to and including \$100,000 of the balance of the funds in the ABLE account from the resources of the beneficiary. Any amount over \$100,000 will be considered in determining the individual's resource eligibility in the SSI program the normal resource limit is \$2000 for an individual. So if an individual's balance in an account exceeds \$102,000, they would not be eligible for SSI cash payments but would going to a timeframe of suspense were Medicaid would be continue.

As far as account distributions, because the SSI recipient would be the beneficiary and the owner of the account, we don't count distributions from an ABLE account as income. It's the same as if you had a checking account and make an ATM withdraw from your checking account we don't count that as income either. So under the normal program rules, if you already own the money and you move money around, it's not income for SSI purposes.

There are certain situations where will consider distributions to be a resource counting against the \$2000 resource limit for the individual.

What we have to distinguish between here is whether it's a qualified disability expense not for housing for qualified expense, for housing or an unqualified disability expense. If an individual has an unqualified disability expense, if those amounts are retained beyond the month that the received from the ABLE account they will count as a resource. If an individual has a qualified disability expense for housing, any amount retained those retained beyond the month the receipt will count towards the resource unit. But if individual has a qualified disability expense that is not for housing, the individual can retain those amounts indefinitely and they will not count toward the resource limit. As long as the individual is eligible for an ABLE account, the distribution amount is not spent, and the individual can identify those funds, what is considered to be a qualified disability expense for housing?

Things such as mortgage payments, property taxes, rents, heating, fuel, gas, electric, water, sewage and garbage removal charges, those are the same things for those of you who are familiar with the SSI program, those of the same those same things we consider to be income support and maintenance expense for housing. >> Those other things that we do not count related to ABLE accounts. What will we count?

If an individual able account exceeds \$100,000 we will count that amount over \$100,000 as a resource to the individual. At that point the individuals cash benefits will be suspended, but they will continue to be eligible for Medicaid. If they spent down the amount, and it goes below the resource limit, they can become eligible for cash benefits again. Under the normal program rules, if an individual is suspended for cash benefits, after 12 months they are eligibility -- it terminates and they have to reapply, we have a

special rule for the ABLE accounts in that are eligibility will not terminate because of excess resources in an ABLE account.

If an individual is in suspension status because they have excess resources in their ABLE account, and then you become eligible -- in eligible for any other reason, for example, there are no longer disabled, they have excess income in a month, or there are other resources other than what's in the account, go over the limit, then the Medicaid would terminate or the Medicaid would and in that month. -- You have to look at the reason the person is suspended. If there suspended because of resources that are in excess, the Medicaid will continue, but if they are in eligible for any other reason they are not automatically eligible for Medicaid.

What happens in the situation where individual has contributions for qualified disability expense and they later spend it for an unqualified expense? They change their mind or something else comes up.

In the month that they spend the qualified disability expense distribution, for another purpose, we will count the distribution as a resource in that month. In the month of January if you take an expense -- a distribution that you intend to use for qualified disability expense, and you retain that -- your distribution isn't needed currently, say in April, you use that money for a nonqualified purpose, then in the month of April will count that distribution as a resource for \$2000 resource limit. >> In December 2015 we published in advance notice in the Federal Register, one of the other provisions of the ABLE act, is each state ABLE program is required to send a monthly report to the Social Security administration indicating account balances and distributions made by the state ABLE program. We published a Federal Register notice detailing the information that we expected to receive as a result of the data exchange, most of the comments were favorable. We received a few suggestions on tweaking the exchange and four some systems development. If you could go to the next slide --

These are the items of information that we expect to receive on a monthly basis from the state ABLE programs. This is for the purpose of helping us to keep track of individuals who have ABLE accounts and make sure they continue to be eligible for SSI. The name, Social Security number, date of birth, the name of a person with signature authority, the account number, the date that the ABLE account was opened, and then closed if it has been, what the monthly balance of the account is, the date of any distributions in the reporting timeframe, the distribution amount and the ABLE state account program name.

As indicated before the state ABLE programs will not be making determinations on whether the distribution is qualified, nonqualified, or qualify for housing. The Social Security administration will be relying upon statements from SSI and fisheries as to the intent of the distribution that they take.

If we later have evidence that change, we have policies to deal with that as I indicated earlier.

For 2016, we have -- working on developing a data exchange agreement and during 2016 we will work with the state in entering into data exchange agreements with them. Whether a program starts opening an account does not depend on whether they have the data exchange agreement with us. That's not holding things up as soon as we have the agreement in place and the system functionality is in place, we will start receiving the data from the states but that will not prohibit them from opening up an account for eligible individuals.

We are in the process of developing frequently asked questions. About SSI policy and ABLE accounts. We are working to put up on ABLE webpage on the site that will include information about SSI programs and able accounts will have the frequently asked questions, and will have some helpful links to individuals who have questions outside of the SSI policy. >> The next steps in implementation, where establishing a

computer matching agreement which will be the same for all states that have an ABLÉ account, we're working on internal systems development, so if an individual has an ABLÉ account they can track the information, we are meeting on a regular basis with our other federal partnering agencies and sharing implementation strategies and getting updates on the status of the implementation, and were working on the state ABLÉ programs on data exchange components.

This concludes the information that we have.

Thank you Ken that is a complete picture that you gave us. Much appreciated. I want to quickly turn to Will Thompson who is leading efforts in Florida on the development of Florida ABLÉ programs can you give some perspective on what is being worked on in Florida?

Thank you very much. Thank you for covering all the materials and we agree and we are implementing as expressed by the formal panelist of what is involved with ABLÉ so to make my comment not redundant, I want to talk about how a qualified program looks at the requirements and provides a good product to its customers.

First looking at understanding customers, we sold three areas where individual with a disability they come to us for an ABLÉ account they may be seeking a long-term planning account you heard a lot of analogies to a 401(k), a 529 college savings program, an account that serves a purpose for saving funds tax-free, for future use.

We also see the benefits for individuals who are either already on SSI or who would like to get on SSI but due to the absence have not been able to qualify, finally for the families that already have a special needs trust in place, and ABLÉ account may be a good cost-effective way to provide additional funds at an easier access to access those fun and a wider variety of expenses to use them for.

We saw that as assisting customers. Then we're looking at what kind of questions customers may have and we see based on the personal circumstances, individuals they have several questions, the ownership does -- the beneficiary and its there are fun. However with individual disability has a care giver or parent or guardian are questions about accessing the funds, and what rights and abilities certain individuals have to withdraw the funds to make sure the funds left as long as possible.

With a qualified expenses we also have questions about since they are qualified, and their other ones that do not qualify what other examples of expenses that do not qualify? And some of the research we have seen questions about the categories, there's a category for education, is that any type or is it a certain type? It is meant to be construed broadly but we see some questions coming up very initially of his their detail, any catch? So that would be the question. We have questions about entertainment, if we were going to go to Disney World, would that qualify? What if somebody goes with them? That was a question we had coming up a lot with entertainment.

There are other personal circumstances, other programs that an individual has an impact with ABLÉ or other savings vehicles that they utilize and how it interacts so there are several questions and we see this as a learning and growing process with individuals seeking information from a variety of resources. So we are reaching out and partnering with advocacy organizations and other state agencies and programs, to try to collaborate for frugally asked questions about provide some information and reaching out to lawyers and planners and also resources because this is a new program and we understand there are several questions and several questions we cannot answer however were trying to partner with those that can help provide guidance and help get the clarity that people seek.

With respect to opening an account with a programs are open and available, we anticipate three main areas that you want to consider, first is who is going to be administering the account, this could be the individual with the disability but it could be a parent or guardian who is utilizing the funds, for a minor. You need to consider who is going to be in charge and withdraw the funds, the person does not own the funds necessarily because the individual at the -- there acting on their behalf so when you go to sign up you want to consider who do you want to have the authority. And for those that are making decisions about estate planning, for their child, you will want to consider who will have access later down the road.

Second is the beneficiary eligibility. You will anticipate to be able to sell certified as indicated earlier so you can look at the age 26 does that apply for the disability? Does the individual -- could they based on those standards receive SSI based on disability?

That will be something that the person completing the application have to certified under penalties of perjury so that is something you want to know in advance if you qualify or not.

And looking at the investment options would be another piece to anticipate in completing the application. We do not anticipate the applications to take long they should be able to be completed under 15 minutes however you want to be able to know the information before hand so you can complete the application or ask any questions you have in advance.

With respect to maintaining the it can't -- the account, we offer online access with all my functionality to allow you to easily maintain the account. We anticipate the notifications about certain transactions about the account. With respect to Florida's program were working to incorporate everything your heard today, to be able to launch by July 1, and we provide some contact information with our email address and website, for some additional information. I want to be some time for Q&A. We can answer any questions you have.

Thank you. That gives us -- take a from the federal level and the big picture down to what one state is thinking about and planning for, that gives us perspective as well.

Many questions have poured into the checkbox. We have also as well questions that were preprepared so let me go ahead and jump in.

On question that came up, I will ask you, some people wrote that we know our state is moving slowly in putting together the elements to open an ABLE program, what it by state doesn't open it cannot program I understand I could look at Florida or Ohio Virginia other states that are opening we know this year, but I be losing out on anything that might my state doesn't move forward and I know that may put you in an awkward position but I want to ask you a someone who is putting together a state program what is worth what?

Is an excellent question, that is an issue that many individuals will face. It sounds like less than 20% of the states has a program in 2016. So the question would be if I need to put away or want to put away up to \$14,000 in 2016, I need to act and my state does not have an ABLE account is there somewhere else that I can look to put the contributions and, to the extent the states to accept nationwide, there should be options to open up in another state an account so you can put the \$14,000 in there. In the future, if your state were to open an account or offer certain tax incentives for their states ABLE account or maybe a deal with another state, you can always look at performing a roll over while there are limitations on the timing, there's no tax consequence, the 12 month time frame, Congress has anticipated that families may want to move funds, so there could be an excellent opportunity to open up an ABLE account with a state that's available to you and you can always watch and look for your state and check for the tax deductions

and look to be able to roll over in the future if that's appropriate hopefully the states have rolled out that you've identified and provided an excellent option for you and you can be happy and stay with them but you are able to perform a rollover to another state at a later time.

Thank you. I think Stewart 12 answer that. Again what's implicit in this question that came in this a person could look at other states but what might they be losing out on that their state might have done

There are two aspects of this, one is the incentives and some states are providing tax incentives to the residents, some states provide incentives to the residents and two people who invest in accounts out of the state, but most incentives are probably localized to in-state programs. There's also an issue, this is important for any state whether it is establishing its own program or not, is to make sure that the benefits the individual receives in the state are protected, there may be a question if an individual in-state A opens up an ABLE program in state B and that individual in-state A is receiving some sort of state-based benefits there would be some uncertainty perhaps regarding that individuals continuing eligibility for benefits.

There's another issue in some ways I think the comments bring up but each state has a particular and unique expertise. Each understands its own citizens, with a special knowledge of dealing with the twins those constituents over the years and I think that is very poor because one want to do is make sure that people get the best information and some of the answers maybe local interest so that is important in going forward, will an individual in a state be able to address the questions he were she has about his or her circumstances so that's the way I would answer the question about in-state versus out-of-state.

Chris would like to add also.

I want to expand that a little bit I know we had a question, there are states that are looking at and stepping back as a result of the elimination of the residency requirement, we're not going to bill the program but to say how does affect us moving forward. I know the concerns that Alaska has our concerns of other states who may be saying our population is not that great, we are afraid we will not get to a capacity where we can offer a reasonably priced benefit to our beneficiaries, what would you say to the states that are curious about what are the benefits that might be lost to the residents if they decide not to move forward in building their own program despite the fact the residents would be able to go elsewhere?

It's never been the case that a state has to establish an ABLE program even before the launching the federal government did not require states to establish an ABLE program but what we saw in 2015 is the majority of states went forward to authorize programs I think that reflects in part, the idea that a state program is the most sensitive way of addressing the needs of state residents. It is true there was a home state limitation until the end of 2015, but I think my experience, is each state has a special understanding of the circumstances of the residents of so I would be concerned that states that the side to be less active here, may not be able to address all the questions that families have, we looked ABL as providing a new tool to families and I would hope that states engage in this enterprise to give people with disabilities and their families the most tools available.

The only thing I would add is even when a state doesn't open an ABL program I hope that the different publications and agencies will see a part of their responsibility to put funding aside to train their staff and support coordinators under Medicaid, transition education staff, to understand that this is an option just as Stewart explained, that needs to be considered by individuals and families.

I want to add that we should talk about the information available to different people, we are talking in some ways as if information is generally available though we know that some people may have more

difficulty getting information, not everyone even in 2016 has access to a computer or smartphone. How do people get information when the circumstances are such that they live in less accessible environments? How do we get information to people who have lesser needs? How do we bridge line which barriers? All these things are important and in the state's decision of what to do with ABLE.

That leads to another question that came in will there be federal resources to support state implementation? That's a question I will throw it back to Ken you do not represent the entire government but from an SSA standpoint you have millions of beneficiaries who are eligible to open ABLE accounts that SSA have any projection in the future about resources they may put into some of the issues that were just raised about different types of education and outreach that reach different levels, which barriers, communication barriers, is this something SSA is a compliment any those contemplating? Back first Department of treasury and the Internal Revenue Service was tasked with the primary implementation of the ABLE act and have primary responsibility for it from the perspective of the government, at SSA we are currently incorporating some ABLE information into the public information materials. We've already got a couple in draft and will work on some additional things.

I mentioned we're going to put up an ABLE webpage, and primarily I think we will be relying on the state programs and the advocacy community to set -- send the information because they have a lot closer relationships with a lot of the eligible individuals for ABLE accounts.

Thank you. It's a question I know we continue to discuss across the federal government, it's a shared responsibility public and private, treasury and IRS has believed that we continue to push. At all levels of government. This is a massive undertaking as a panelist have shared around education and outreach that can be meaningful to help people make informed decisions. >> This is not like a 401(k), where you can take pretax dollars and put into an ABLE account, that is correct. Correct meaning, this as Stewart share, this is post tax dollars. It has to come into you as income, and then you have choices to be made as whether and how often and how much money you personally or to get other people to help you to put a contribution into the account.

I want to answer that one.

We had another question which will come up a lot, once the account is open, will my ABLE funds have to be accessed before I may Medicaid waiver recipient before waivers funding public funding is going to be used to support me? Since the waiver funding is a funder of last resort.

We do not represent the federal government it is just our view.

Our answer is we think the answer to that is no because the intent of the law was to ensure the ABLE funds were protected and people were eligible for the means test the program. Regardless of the money in the ABLE account but that is clearly a question that must be addressed by the centers for Medicare and Medicaid services and needs to be clarified between CMS and state Medicaid agencies and we have already asked the question of CMS and requested the clarification be made.

We think the answer is you should not have to access your funds before services are available but were pursuing the clarification.

Again, this relates to funds coming out of your ABLE account and what is the qualified disability expense.

Funds will be used to purchase technology. If the technology -- it's like an iPad the beneficiary is going to use it other members of the family may use it also is that a problem?

This is an example of the proposed rule concerning this copy example concerns a smartphone. And smart phones have multiple uses and many people with disabilities use devices like smart phones. To help them deal with day-to-day issues.

The service and treasury has understood that these devices are an important part of how people negotiate the world and they made it clear these devices can be used as part of the qualified disability expense is to be sure.

This is a question --

One thing I did not mention, if you take the qualified distribution from your ABLE account and you use that to purchase something that you need related to your disability, there is no specific exclusion in the ABLE act that would exclude those items for example you take a distribution to purchase a specially equipped vehicle. There is no specific exclusion for the SSI program for that vehicle however under the normal program rules, we cannot come up with any examples of things that you purchased related to your disability that would not be excluded for the SSI program.

For example under the vehicle exclusion, under the household personal effects exclusion, if you needed a wheelchair or something like that, that would be excluded under the normal program rules.

That's helpful. It's pointed out by one of the people, is it true the disability definition for ABLE is actually the childhood SSI standard which is in fact less stringent than the adult standard and --

Actually the language that is used for the disability certification, they use the language of Mark and severe functional limitations which did come from the childhood statutory definition for child with disabilities. But it was used instead of the substantial gainful activity part of the definition so it substituted for the work criteria in the definition. It came out of the childhood definition it does not refer to childhood because it does not use an age they refuse to it refers to any age so it substitutes for the work requirement and the limitations but I want to challenge the part of the question so it is a less stringent standard than the adult standard because I cannot get into it recent but it is not a less stringent standard this is all at the listing level and you could do in entire webinar that would take a whole day. The basic answer is yes it can have a child with standard but it applies to adults.

I want to take this on, on open a statement and account but then I moved on to another state, do I have to open a new account in my new state?

You do not. You have the option keeping the old account, opening a new account, or seeking a third potential possibility, keep in mind you can only have one check account at a time.

With the physicians -- i'm not on Social Security I'm looking at the alternative test for being eligible for ABLE will physicians know what form to use as a certification of disability as to the level that was talk about, is there going to be a specific form? That the triumvirate -- treasury IRS question. >> Some of us has urged the IRS creates a form that will be used nationwide so we don't have 50 different forms for this, it's possible the states will have its own form but it's not a form that exist now, the physicians would already have available, it will be able specific. We just are not sure yet where it will come from. >>

For eligibility with a diagnosis from a physician, were relying on self test station so we have not seen any specific form that the IRS is going to dictate so we will provide them information say you want to be

able to have sufficient information to the IRS asked a question that you can support it. But if the IRS has a thing they want to see for an individual, we hope it will create a form we will not anticipate creating a form since we are not going to be collecting the information. So we do not have someone assuming this is an IRS form. They need to be able to substantiate if the IRS asks. >> I want to come from yes you can have a special needs trust and an ABLE account we believe you could fund an ABLE account from a special needs trust, but that would be subject to the \$14,000 limits of contributions, along with that there was a question about nonprofit guests, can we get money from other sources, yes, you can receive contributions from a variety of sources. But your limited to \$14,000 per year so whether that's coming from a trust or from yourself, as a \$14,000 limits, Medicaid repayment, that is not limited to just one state. If you were to open in one state, and live in another, or move, all the state Medicaid programs that provided Medicaid benefits could still seek Medicaid repayment.

What tax forms? We are required to file form 5498 QA every year we have to tell the IRS here is the individual here is the social, here are the contributions and the account balance, the basis of eligibility that they told us, so the IRS can validate additionally whenever there's a withdrawal or distribution for that year we will have to file a 1099 QA with the IRS and that's what says here's how much was withdrawn, here's how much is due to earnings and contributions, so the IRS has the information, that is the basis for you to determine if your expense is qualified or not to determine what your attacks on the earnings or not, both forms whenever we send them we supply a copy to the administrator who may be the individual with a disability, thank you. >> Can you give us any sense of any -- will it be an initial fee to open the account and a sense of the parameters of other aspects of these related to distributions or any other part of opening and maintaining an ABLE account I recognize not to put on the spot that these will be some of the differences. From one state to another in terms of ABLE programs but to the degree you can share any insight at the moment we appreciate it.

That is something that our program is looking at obviously we want to provide the most cost-effective solution for all participants that we can, the varying factors of what is offered for example there is a prepaid that a card, there are costs to creating those cards to disperse them and maintaining them, and ultimately if they are lost or replaced and the new chip technology, those cards are about twice as expensive as the other ones. So there are a lot of issues that state programs are looking at in determining what cost that they may have two charge for an ABLE account and we are assessing and I believe most other states are still assessing that's one of the last things that a state wants to cover because you don't want to grow the number and have to modify it but were very conscious of how important it is to offer as low-cost product as we possibly can to ensure that all participants enjoys the benefits that come with an account regardless of the reason. I wish I had more specifics. As soon as we have them we will share them with you. We anticipate individuals will be looking to the national resource Center and other sources to do a comparison to ensure they receive the best value when they sign up for an account.

Thank you. I want to thank the presenters. For being able to share the information and it is a work in progress, we hope in the months to come as soon as several states open up the account programs will see if we can have them on a panel to talk about the differences, the value added of their programs, and we will have you back and we hope to invite Ohio Virginia and other states to be on with us. We want to inform people nationwide, the most important thing about ABLE is continue to look for information from trusted sources. Autism speaks. The Arc. NDSS. If you have a long history with them ask them. Ask them for help. We will have a website opening up next month at the ABLE resource Center. It will be available for anyone in the country. We will make these comparisons objectively. We can simply offer objective independent information on what the choices are and continue to support you with information from CMS, treasury, IRS, SSA and other agencies as we learn about them as well as the states. Thank you. Thank you for being with us. We shared a lot of information. Have a great afternoon.

Bike. -- Goodbye. >> [Event concluded]