NATIONAL DISABILITY INSTITUTE'S

Washington Insider

National Disability Institute's Washington Insider is a monthly newsletter highlighting key federal policy news that impacts the financial futures and economic empowerment of all people with disabilities. The Washington Insider tracks legislative and policy initiatives gaining momentum on Capitol Hill, specifically in the areas of taxation, asset building and economic development.

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Congress Passes “Tax Cuts and Jobs Act”

Despite concerted efforts by the disability community, Congress passed and enacted the “Tax Cuts and Jobs Act” in late December. As cited in previous *Washington Insider* articles, there were provisions included in several variations of the proposed legislation that would have negatively affected people with disabilities and their families, such as the elimination of the medical expenses deduction and deductions to help people with disabilities obtain employment. Luckily, most of these provisions were taken out of the legislation during the conference committee when the Senate and the House (which passed different versions of the tax bill) were required to reconcile differences between the two pieces of legislation.

The new law is expected to cost approximately $1.4 trillion over the course of the next 10 years. NDI believes that such a drastic loss of revenue will result in tremendous pressure on Congress to make severe cuts to programs that assist individuals with disabilities and their families, most notably the Medicaid program.

Putting the supports and services provided to individuals with disabilities in such a vulnerable position, in order to provide tax cuts that disproportionately benefit the wealthy, is unacceptable. However, it is now a reality. NDI will be working with our coalition partners to monitor Congress as it contemplates "entitlement reform." We will work to educate Congress about the essential supports and services provided by programs like Medicaid and the devastation that will come to millions if these programs are harmed in any way.

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2018 Changes to the ABLE Act

The following is a brief summary of changes to the ABLE Act that are expected to be implemented in 2018.

Annual Contribution Limit: The annual contribution limit is periodically adjusted for inflation. As a result, for the 2018 tax year, **the annual contribution is set at $15,000** (previously $14,000).

Saver's Tax Credit: ABLE account owners who choose to contribute into their own ABLE account, as opposed to just collecting funds by outside contributors like friends and family, may now be eligible to take advantage of the Retirement Savings Contributions Tax Credit (otherwise known as the Saver's Credit).

• There are additional requirements that must be met in order to qualify for the Saver's Credit.
• This is a non-refundable credit.

ABLE Financial Planning Act: Provided that the beneficiary is the same individual on both accounts (or a family member of the 529 College Savings account beneficiary, as defined in the law), it is now allowable to transfer the funds in a 529 college savings account to an ABLE account, without incurring any tax or penalty.

• The funds rolled over from the 529 college savings account to an ABLE account are subject to the annual contribution limit, which means they are capped at $15,000 for any given tax year (if no other contributions into the account have been made during that tax year).

ABLE to Work Act: ABLE account owners who have employment may be eligible to contribute above the $15,000 annual contribution limit (possibly up to an additional $12,060 depending on the gross income of the account owner). Any contributions above the $15,000 annual limit would have to be made specifically by the account owner into their ABLE account.

• Questions remain about aspects of the provision relating to these increased contributions and may require guidance from the U.S. Department of the Treasury.

The ABLE National Resource Center (ANRC) will be closely monitoring these changes to ensure that they are implemented in a manner that provides maximum benefit to individuals with disabilities and their families. We encourage you to visit the ANRC website (www.ablenrc.org) for further information and updates related to these changes.

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Department of Justice Withdraws Key ADA Guidance

On December 21, 2017, the Department of Justice rescinded its "Statement on Application of the Integration Mandate of Title II of the Americans with Disabilities Act (ADA) and Olmstead v. L.C. to State and Local Governments' Employment Service Systems for Individuals with Disabilities," as well as nine other ADA technical assistance documents.

The Statement, which was issued in 2016, described the obligations of states to administer their employment services for people with disabilities in the most integrated setting appropriate. Evidence-based supported employment services help people with disabilities secure and maintain competitive, integrated employment. They are critical to achieving the ADA's goals of independent living and economic self-sufficiency.

While the Department acknowledges that the withdrawal "does not change the legal responsibilities of State and local governments under title II of the ADA, as reflected in the ADA, its implementing regulations, and other binding legal requirements and judicial precedent, including the U.S. Supreme Court's Olmstead decision," it is still concerning that various public entities and service providers may view this as an indication that they can be more relaxed with their obligations to comply with the integration mandate of the ADA.

In a first step to address this issue, NDI, through our chairmanship of the CPSD Public Policy Workgroup, has assisted in constructing a letter to the Department expressing our concerns. We will continue to monitor this issue and seek ways to educate and inform the Department about the importance of the ADA's integration mandate.

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CMS Releases Guidance Allowing States to Impose Work Requirements for Medicaid Eligibility

On January 12, the Centers for Medicare and Medicaid Services (CMS) released guidance which allows and encourages states to incorporate work requirements as a condition to maintain eligibility for supports and services provided through the Medicaid program. As an organization that represents individual with disabilities, many of which have complex healthcare needs, NDI is extremely concerned with any policies that could prohibit individuals from accessing critical supports and services.

While the guidance does state that these requirements should only be directed at "non-elderly, non-pregnant, adult Medicaid beneficiaries who are eligible for Medicaid on a basis other than disability," we know (through findings related to similar criteria imposed on other programs, such as SNAP) that individuals with disabilities are negatively affected despite this rhetoric and supposed "safeguards" to protect them.

The supports and services provided by Medicaid are far too important to individuals with disabilities and their families to be put in such a vulnerable position. NDI, along with other disability-related organizations, will be working to express our strong opposition to having these work requirements associated with eligibility to the Medicaid program.

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December Employment Numbers

Disability employment statistics for December 2017 show that the unemployment rate among people with disabilities was 8.4 percent. This shows a 0.6 percent decrease from November 2016. The latest employment statistics also find that only 20.9 percent of people with disabilities are actively in the labor force, as compared to 67.9 percent of people with no disability. Data on people with disabilities covers those between the ages of 16 to 64 who do not live in institutions.

U.S. Disability Employment Profile				
Statistic	With Disability		Without Disability	
	Dec. 2016	**Dec. 2017**	**Dec. 2016**	**Dec. 2017**
Percent of Population in the Labor Force	20.1	20.9	68.1	67.9
Employment-Population Ratio	18.3	19.1	65.1	65.4
Unemployment Rate	9.0	8.4	4.3	3.7

As reported by the U.S. Department of Labor's Bureau of Labor Statistics, Table A-6

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