**disABILITY LINK - Legislative and Public Policy Quarterly Report – April 2016 – The ABLE Act**

For the first time in public policy, we have a piece of legislation that recognizes the extra and significant costs of living with a disability – in 2014, Congress passed the ABLE Act, the Achieving a Better Life Experience Act – an amendment to Section 529 of the Internal Revenue Service Code of 1986 to create tax-free savings accounts for people with disabilities (it works in a similar way as 529 accounts that allow families to save for college) – eligible people with disabilities can save money in a tax-exempt account and can use those funds for qualified expenses related to a disability, while remaining eligible for federal public benefits like SSI and SSDI.

The partisan nature of current politics can apparently be effectively addressed from time to time with long term cross disability advocacy – the Congressional Act was supported by 381 out of 435 US Representatives, and 78 out of 100 US Senators, that works out to about 85% of the US Congress – the most recent Georgia legislative session unanimously passed HB768, establishing the ABLE program in Georgia (note, at the time of writing, and because of a slight technical difficulty in the Senate, the legislation has not yet been signed by the Governor).

We know that members of the disability community face significant barriers to finding and holding employment and living independently because access to critical safety-net programs can be lost once even a minimal level of savings is established, just $2000 of savings is enough to loose important services – this is a disincentive to work and creates barriers to living in the community - the ABLE Act supports people with disabilities to work, save, and live as independently as possible without losing access to Medicaid, Supplemental Security Income and other means-tested benefits.

The ABLE Act allows people with significant disabilities (receiving SSI or SSDI, or who have a similar significance of disability as per tax law) and who have a disability before the age of 26, to establish such savings accounts - apparently there is already discussion about expanding the age of the eligible person and the amount that can be saved

Other important things to know include:

      Accounts may not exceed the Georgia 529 limit of $235,000 - an individual is limited to a single ABLE account

      Income earned by the accounts and withdrawals for qualified expenses are not taxable

      SSI is suspended for beneficiaries with accounts exceeding $100,000, but Medicaid eligibility remains intact

      Total annual contributions are capped at the annual federal gift tax limit of $14,000 - account contributions are not tax deductible for federal tax purposes

    When the account holder dies, remaining account assets reimburse Medicaid for payments made from the date the account was created

     Withdrawals for nonqualified expenses are taxed plus a 10 % penalty

Qualified expenses include:

• **Assistive Technology / Personal Support**

• **Education** – tuition for preschool through post-secondary education, books, supplies, etc.

• **Employment Support** - to obtain and retain work, job-related training, assistive technology and personal assistance supports

• **Health and Wellness** – premiums for health insurance, mental health, medical, vision and dental expenses, habilitation and rehabilitation services, durable medical equipment, therapy, respite care, long-term services and supports, nutritional management, communication services and devices, adaptive equipment, assistive technology and personal assistance

• **Housing** – regarding a primary residence, including rent, purchase of or an interest in a primary residence, mortgage payments, home improvements and modifications, maintenance and repairs, real property taxes and utility charges

• **Transportation** – use of mass transit, the purchase or modification of vehicles and moving expenses

• **Miscellaneous Expenses** – financial management and administrative services, legal fees, expenses for oversight, monitoring, and funeral and burial expenses

Economic independence is an essential aspect of self-determination and independent living - you can learn much more about the ABLE Act at the National Disability Institute’s Real Economic Impact web site <http://www.realeconomicimpact.org/>.

While the ABLE Act provides an option for more economic independence, it is one that will not impact the lives of people with disabilities who do not have the resources to save - we know that, because of a confluence of factors, many people with disabilities do not have equal access to employment, affordable housing, accessible transportation, etc., and sufficient funds to meet basic needs – in 2014, the US Senate’s Health, Education, Labor and Pensions Committee determined that physical access has improved in the 25 years since the Americans with Disabilities Act (the ADA), however major social and economic barriers remain.

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