

ABLE Roundtable Notes
September 10, 2015

- **Congressman Ander Crenshaw:** Saving for college can be different than saving for a disability, but recognized the expertise and input from Florida, Virginia, and Pennsylvania.
- **Catherine Hughes:** Hearing on 10/14; Comments closed 9/21. Discussed the comments received from CSPN and others and highlighted the three concerns. She concluded it was unusual to issue guidance before final regulations come out, but understands the request to do so.
 - Provided the following comments on the CSPN concerns in her opening remarks:
 - Eligibility certification: who stores this information; seems like everyone is coalescing around solution
 - TIN requirement. Hughes said the top goal of beneficiaries is not to lose access to public benefits. She indicated that efforts should be made to try and eliminate those traps at the state level. If there is an excess contribution received, she wants to make sure the DB does not lose access to benefits. If there is an excess contribution, it needs to be returned to the contributor and not DB to avoid those penalties for DB. She explained that she believes the TIN is needed for these purposes, but looks forward to other solutions or proposals.
- **Sara Weir:** 31 states have enacted ABLE legislation, which is terrific.
- **Congressman Ander Crenshaw:** Noted that he has met with Will Thompson; and emphasized the strength of their 529 program.
- **Will Thompson:** Statute and proposed regulations are workable; nothing is beyond repair. Our comments are from an administrative viewpoint; and that they are not looking to get in the way of enactment.
 - Collection of TINs for contributors: we can do that but it will be more expansion administratively. So maybe a solution where we don't have to collect TIN in every case.
 - Tracking withdrawals: We can do it, but if we don't have to, administrative costs will be lower.
 - Streamline eligibility certification: Why require individuals already on SSI, SSDI, etc. to submit this.
 - All aspects: We can do it, but it could result in higher administrative costs.
- **Catherine Hughes:** If DBs are given options, a lot of states will count that as a distribution. She highlighted this as a potential problem.
- **Kathleen McGrath:** Kathleen noted that not all states have the same sophistication, so said that the goal of CSPN is to identify a standard that can be met by all states to get their programs running. She said that some states can do more and want to do more, but the goal to have all states be able to launch a successful program.
- **Mary Morris:** The eligibility certification is the most pressing for VA; noting the administrative challenges of collecting this documentation. She noted that 96% of accounts in VA are opened online, and that figuring out how to fax, receive, and scan, lengthy medical diagnoses that can be 50 pages in length is a huge burden. Mary also cited potential HIPAA concerns with the handling of sensitive medical information.

- **Kathleen McGrath:** In the 529 college savings world, it is expected that accounts are self-funded; and states do not want to allocate revenue to it. The greater the assets, the smaller the fees for individuals in that program. To reduce the score, she understands that decisions were made to limit the assets. As states are moving forward, it is clear that there is an expectation that these ABLE accounts will be self-funded too. She concluded this will be a challenge because there are key differences between 529 and 529A accounts and the cost of running the program will have to be borne by the beneficiaries.
- **Will Thompson:** Regarding the HIPAA concerns, Will noted that they have retained a law firm that is writing an opinion that just because we are receiving this information does not make us a healthcare provider or insurer subject to HIPAA. On the issue of whether or not these accounts would be self-sustaining, Will noted that they need \$1.5 to \$2 billion assets under management for 529s to self-sustain. He encouraged people to think differently about ABLE accounts. He highlighted that there may be other benefits from opening accounts, and it might not be under the assets side. They have heard potential account owners discuss indirect benefits, and said that some would be willing to pay \$60 in account fees because it could make them eligible for \$8,000 in benefits per year. He said it is important to understand why people open these accounts – not just for assets – and that there is an aspiration to be SSI eligible.
- **Chris Rodriguez:**
 - Who will be using these accounts?
 - Why and how will they use them?
 - ABLE survey – 10-12 questions – over 1000 responses. Getting great information. Surprises:
 - 50% said they plan to leave funds in account for at least 5 years before touching them.
 - 75% believe 2-3 contributors on average per account – primarily from family, but also some respondents cite friends and employers.
 - 7 in 10 individuals said they would consider moving non-disability related funds to an institution willing to open an ABLE account. He said this was a product of the loyalty that families of disabled individuals feel in their communities.
- **Catherine Hughes:** Asked about debit and credit features through an investment account, and whether checking and investment would be combined together.
- **Will Thompson:** Envisioned a checking account within a single ABLE account. Cited a potential challenge with respect to investment direction and other regulations.
- **Marry Morris:** Agreed on the potential for multiple investment options within a single account – noted they have been trying to clarify that when it is set up it might look like multiple accounts, but states treat it like a single account and the contribution limits would be applied.
- **Allison Feighan (Disability Opportunity Fund):** The reason CDFIs came into this discussion is to ensure education and outreach and address fears that opening an account will put benefits at risk. And helping underserved populations that do not have a 529 account or maybe even do not have a checking account.

- **Stuart Speilman:** Also highlighted the importance of consumer education. He said it will be important to examine modeling and data available on fees and other costs and that this will be an ongoing process. He predicted that many families will not do a \$2000-\$3000 contribution right away.
- **Chris McGee:** Raised the issue of an example that was given in Chicago, where someone uses funds in their ABLE account to purchase an expensive electric wheelchair. Many participants and staff agreed that this was a particularly important issue that needs to be addressed.
- **Catherine Hughes:** Treasury has looked into this issue, and believes it is an SSA/Medicaid issue that should be explored with those parties.
- **Natasha Hickman [Office of Senator Richard Burr (R-NC)]:** Speaking for the sponsors, she said she believed there was no intent in disqualifying people based on what they are purchasing?
- **Bill Parsons [Office of Rep. Chris Van Hollen (D-MD)]:** It is very important to allow savings to occur without fear of impacting means-testing determinations.
- **Natasha Hickman:** Raised the issue of who keeps track of withdrawal. Noted it was the intent of the sponsors to decide that keeping track of receipts is a taxpayer/beneficiary burden – not the burden of 529 plans.
 - Revisited HIPAA concerns raised earlier in the discussion: As 529 plans remember, they always thought self-certification would be a Treasury responsibility. People that qualify because of SSI, SSDI, etc. The self-certification/“Doctors note” beneficiaries.
- **Catherine Hughes:** The problem is that the statute does not allow Treasury and SSA to communicate to make determinations.
- **Chris Rodriguez:** We support doctor making this determination. Indicated their preference that we prevent states or Treasury from having to hold this medically sensitive information.
- **Will Thompson:** Concerned for all parties if self-certification were to go directly to Treasury, because then states would have to go to Treasury and communicate each time. Preferred solution would be for initial documentation to open and have self-certification to go to 529 plan without paper – good for states and all involved. Treasury needs expertise in the case of an audit but not for ordinary self-certification.
- **Sara Weir:** Self-certification is a good solution. We deal with treasury calling families every year to ask if their son/daughter still has Down Syndrome.
- **Stuart Speilman:** In the autism community, many diagnoses occur later on in life. The child may already have a 529. Treasury believes they do not have the authority to allow a rollover from a 529 to a 529A. He cited this as an impediment to savings.
- **Catherine Hughes:** We did not think that would be a qualified higher education expense under Sec. 529. Cited the contribution limits loophole that would occur.
- **Natasha Hickman:** Originally had rollover, but then once contribution limits were included it was clear that people could dump money from multiple 529s into an ABLE account.
- **Mary Morris:** Discussed the short-term goal of getting accounts up and running. In long term, cited great opportunity for interplay between 529s and 529A.
- **Sara Weir:** Asset issue – wheelchair example – money went out of account and in name of beneficiary. Do we need a legislative fix?

- **Kathleen McGrath:** Asked if there could be an administrative fix from SSA?
- **Catherine Hughes:** That's an SSA issue. Said she would connect the to SSA.
- **Congressman Ander Crenshaw:** From Members of Congress, said that they would like to be supportive on issues by writing letters indicating the intent of the sponsors and legislation. He cited this as a better approach than trying to do additional legislation if possible.
- **Chris Rodriguez:** ABLE National Resource Center Website launched in coming week.
- **Bill Parsons:** Action item: Asked Hughes to dialogue with SSA and figure out who we can dialogue with on disbursement issue.