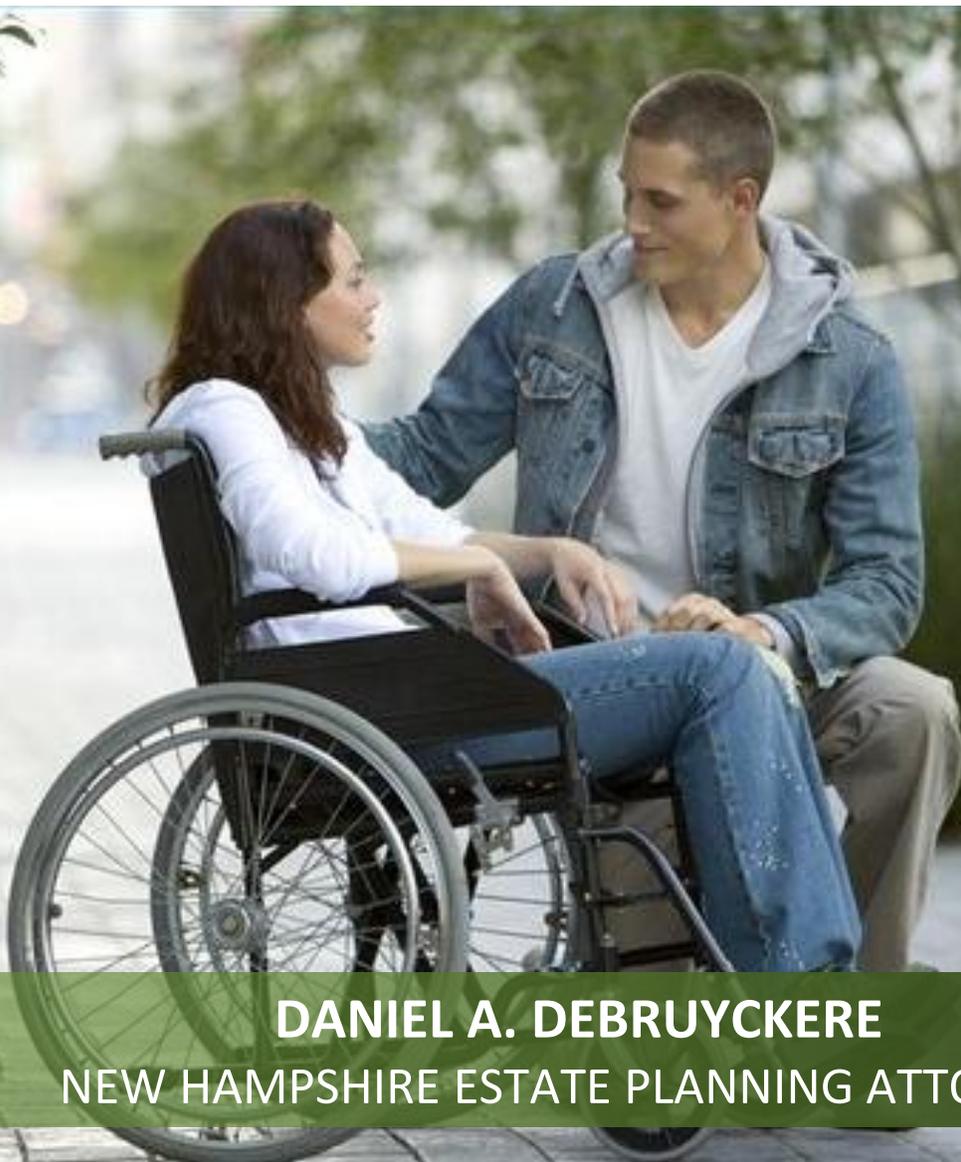


Congress Passes ABLE Act of 2014

“The primary goal with passing this law was to ensure Americans with disabilities had options for tax free savings without jeopardizing any government benefits, such as Medicaid, he or she may receive.”



DANIEL A. DEBRUYCKERE
NEW HAMPSHIRE ESTATE PLANNING ATTORNEY



It took nearly a decade, but President Obama signed into law the Achieving Better Life Experiences Act, or ABLE. It's being touted as the most significant disabilities legislation since the Americans with Disabilities Act was passed in 1990. Further, it could potentially affect more than 58 million families.

The primary goal with passing this law was to ensure Americans with disabilities had options for tax free savings without jeopardizing any government benefits, such as Medicaid, he or she may receive. Florida Representative Ander Crenshaw and North Carolina Senator Richard Burr sponsored the bill. Crenshaw said the law was needed to end what he refers to as "forced impoverishment". He explains that those with disabilities should have the right to to save for their future without worries of jeopardizing their Medicaid, Supplemental Social Security income or other government benefits, just as anyone else would.

APPROVED EXPENDITURES

The money can be used to go to college or even to retire if they choose and more importantly, they can now save for any expenditures associated with their disability. Any contributor - such as a family member, a friend, or the disabled person - can establish an ABLE account for an eligible beneficiary. The account



must be established in the state where the beneficiary resides. That state's laws will apply.

The passage of this law means an opportunity for tax-free savings accounts that will support the health and independence of those who before now did not have that

option – without jeopardizing the important means-tested government benefits.

It does have its limitations, including an automatic offset in a person's SSI benefits if the account balance rises above \$100,000. Further, there can only be one account per person. For most though, this isn't a problem.

ELIGIBILITY

Not everyone is eligible, however. An eligible individual is defined as one who becomes disabled before he reaches the age of age 26 and who also receives Social Security Disability Insurance (SSDI) or SSI or who files a disability certification under IRS rules that have yet to be written. Many wrongfully assume this will affect only young people; however, many seniors and elderly consumers will

qualify too, provided they meet the guidelines. Ideally, this law will go into effect in the coming months, though the logistics are still being defined. The law also extends several other tax relief provisions that would have otherwise expired in 2015.

Some states also have to set up their own compliance laws and guidelines. The ABLE Act is quite similar to the traditional 529 education Savings Plans that help families save for college. The total contributions each year may not exceed the federal gift tax limit, which is currently \$14,000 and total contributions are capped at the limit established by each state for its 529 college accounts.

Remember, too, that contributions are not tax-deductible, but income earned by such accounts will not be taxed. Assets in an ABLE account may be rolled over without penalty into another ABLE account for either the qualified beneficiary or any of the beneficiary's qualifying family members. The caveat: it must be done while the beneficiary is living since any remaining money in the account at the beneficiary's death must first be used to repay any Medicaid expenses incurred.

COVERED DISABILITY EXPENDITURES



Many are wondering the specific expenses that will be covered as part of this law. Expenses made for the benefit of a disabled individual for education, housing needs, transportation needs, employment training and support along with assistive

technology and personal support services are acceptable expenses. Further, broader expenses include those for health, prevention, and wellness, money management and administrative services, applicable legal fees, expenses used for general oversight and monitoring, funeral and burial expenses and any other expenses approved under regulations.

Many are wondering about the possibility of an ABLE account affecting their Supplemental Security Income (SSI) benefits. This happens only if the account surpasses \$100,000 and it would only suspend benefits, not terminate them, until the account drops to less than the \$100,000 threshold.

Finally, and as mentioned, each state will define its own program, even though it's a federal law. States can put into play their own ABLE regulations, just as they do with the college savings programs.

The key takeaway is that there now exists a way for those with disabilities to better prepare for their future without compromising the benefits they already receive. Like the college accounts, others can contribute to the ABLE accounts and the passage of the law also provides, for the first time in many years, options. To learn more about the ABLE Act, Medicaid and Social Security and to see if you qualify for any of these programs, we invite you to contact our offices today. We're monitoring the law's progression through the proper channels and are happy to help you and your loved ones prepare for a better and stronger future for those family members with disabilities.

About the Author



Daniel A. DeBruyckere

Attorney DeBruyckere approaches each challenge not just with solid expertise, but also with a passion for helping others plan well for the future. As a husband with three children and two grandchildren, it's his own family experience that provides the motivation to ensure all of his clients are well protected. Besides his extensive background in the issues he specializes in, Dan's clients find that he genuinely cares about them, and that he pays attention to the details that matter to each person and their families.

EXPERIENCE

Attorney Daniel A. DeBruyckere has been practicing law in New Hampshire and Massachusetts since 1998, and has helped hundreds of clients with their estate planning and elder care issues. He is very well respected in the area of estate planning, probate, trust administration, elder law issues, and business planning.

Admitted in Massachusetts and New Hampshire, Attorney DeBruyckere is a former adjunct faculty member of the Massachusetts School of Law and is a member and past president of the Greater Salem Bar Association. He is also a member of the Essex County Bar Association, Massachusetts Bar Association, New Hampshire Bar Association, as well as a member of the National Association of Elder Law Attorneys.

EDUCATION

Attorney DeBruyckere is a graduate of Southern New Hampshire University, summa cum laude, and Massachusetts School of Law, cum laude. He served as editor of the Massachusetts School of Law's Law Review and was a regional finalist in the American Trial Lawyers' Association Trial Advocacy Competition.

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