

**MT ABLE Committee Meeting
DRAFT Minutes**

Date: March 12th, 2025

Call to Order: Chair, Theresa Baldry

Roll Call: Kathleen Magone, Lloyd Sparks, John Paveo, Michael Woods, Theresa Baldry

Public Comment:

Theresa submitted public comment: *"I disagree with Montana Department of Public Health and Human Services decision to file claims for reimbursement from Montana ABLE accounts upon the death of the account owner. Montana families have voiced their concern of Medicaid clawback being used with Montana ABLE accounts, as one reason for not opening these accounts. Montana has now moved from could happen, to Montana will pursue recovery."*

Kathleen submitted public comment: *"I appreciate you bringing that up, Teresa. It is really shocking and makes people unhappy to learn about this. But when I was running ABLE accounts and Special Needs Trusts, Medicaid did come in and ask for stuff at that point, from the ABLE account of somebody who was deceased. And you can actually see their rationale that they were eligible for Medicaid, and then had all of this money, quote unquote, to use without it being considered. And now that they're gone, just like from a Special Needs Trust first party, it should be eligible for Medicaid clawback."*

Old Business:

Action item: Review and Approve Agenda

Kathleen motioned to approved; John seconded; Agenda approved.

Action item: Review and Approval of Previous Meeting Notes (January)

Kathleen motioned to approved; John seconded; Previous meeting notes approved.

Update on need for new committee members:

Active members*- see Note Kathleen

Kathleen spoke with Lt. Governor Juris and was advised that people who have been appointed to the committee remain on the committee until they formally resign.

Applications submitted?

Lloyd submitted his application on March, 11, 2025.

Michael submitted his application following our last meeting in January.

News on appointments?

Still waiting to hear what moves forward at this time.

Sharing ABLE activities attended: webinars, trainings viewed or provided

Theresa advised there is an ABLÉ Supporter Network Meeting to be held March 13, 2025, at 9:00am MST. Preregistration required. She also advised she did a presentation on ABLÉ accounts for State vocational rehab staff at their request, with over 80 participants in attendance.

Kathleen shared out the latest copy of the March Newsletter from the ABLÉ National Resource Center. She encouraged the committee to look at their website, citing they have a wealth of information in terms of handouts, charts, and past trainings.

Discussion ABLÉ program alternatives other than MT ABLÉ used by Montanans:

Follow up from DPHHS

No additional information at this time.

Discussion of existing contract - when renewed and length of agreement:

Follow up from DPHHS

Michael located a document may contain the informaiton we need and dropped it in the chat for committee members to review.

Updates as to review by committee members of revised MontGuide

Kathleen advised she has reviewed the revised MontGuide (December version) and mailed to Marsha with comment.

Theresa advised she has also reviewed the December draft.

John advised he may have reviewed the draft from December, or perhaps an earlier version, so he will review the December version to be sure.

New Business:

Discussion requests for assistance or concerns Montana ABLÉ accounts: New items?

Cathy Murphy emailed members of the committee this morning just after the meeting started to let members know she received a complaint from a Montana ABLÉ account holder related to customer service from Fifth Third Bank. She became aware of the issue this past Monday and has followed up with an email and phone call.

The account holder stated she had requested a debit card when she set up the account, but after not receiving it, she reached out to Fifth Third Bank and encountered customer service issues. She then reached out to ABLÉ customer service, and reported she received excellent service. She stated that the issue has been resolved and was informed that a debit card is now on the way. The account holder is satisfied with the results of her call with ABLÉ customer service.

It seems that the debit card was declined at account setup. She's brought this to the attention of the alliance in hopes of further discussion with Fifth Third customer service.

Theresa advised we will continue to monitor and document any issues with Fifth Third Bank.

Kathleen encouraged committee members to review Deb Conwell's public comments from our last meeting, where she spoke of many other issues that she is facing when working on behalf of her clients with Fifth Third Bank.

Theresa also presented a follow up for a complaint received in January regarding the struggles of an individual closing an ABLE account of a deceased individual. She received an email from that individual indicating that the account was closed on February 24, and that a check was issued to the State of Montana. Theresa advised that check has already been cashed, meaning that the State of Montana is recovering those funds from the ABLE account under Medicaid clawback.

Though the issue has now been resolved, the individual found the process of closing the deceased person's account very frustrating and tedious to stay on top of the process. She did appreciate the help she received once she got in contact with the right people and hopes that a protocol will be set in place in the future.

Discuss National ABLE Savings Day proclamation & activities for August date

Theresa advised that she sent out and shared what she had from last year but has not received any information for this upcoming year.

Kathleen advised she is not sure how far in advance of August we need to provide those to the Governor's office but encouraged committee members to look through what Theresa sent out and see which of those things we would like to use, if any. She also noted there are materials available at the NRC website.

Discussion of Medicaid Clawback and current practice of DPHHS

No information to provide at this time, will push to next meeting.

We would like to obtain information on the following:

- In the past, the State pursued clawbacks for accounts that were over \$100,000. However, they now have moved to pursuing recovery for accounts, regardless of balance. Was this a change in internal policies, and if so, why the change?
- Prior to 2025, how many and how often was this practice used?
- How many current accounts are being impacted?

Theresa advised that, in the past, Catherine Murphy has provided updates to the committee with the number of accounts that exist in Montana, how many have been opened, how many have closed, and average balance. Theresa asked that

information also be provided showing how many are being pursued for recovery. It was suggested we have a report on that at every other meeting (May, September). Michael advised he would coordinate with Cathy Murphy to obtain this information and present it to the committee as an agenda item when appropriate.

Kathleen presented another concern brought up in Deb Conwell's public comment at our last meeting that accounts are being locked down as of an individual's death, so there cannot be any requests by individuals for the account funds to pay for funeral, cremation, or burial expenses, unless individuals pay for these things in advance. Theresa seconded this concern and stressed the importance for people to be aware/informed of this information, as well as the change in practice of clawbacks from the State.

The committee discussed briefly some other challenges to families posed by locking an individual's account, including having to report immediately when someone passes away vs. spending money from the person's account after they have passed away without yet notifying someone that the person has passed, as well as the priority federal taxes take even over the clawbacks, and the lack of probate for accounts/estates under \$100,000.

Updates on Legislative Action:

HB 671- Kathleen

Kathleen advised HB 671 was carried by a representative from Great Falls and essentially makes one very small change to a statute to include a reference to the Federal IRS section. This was a statutory reference that should have been included when we adopted the ABLE Act from the National Forum, and it cost nothing. She and Teresa talked with the representative prior to her introducing the bill on February 28th. It was passed in the House Taxation Committee on that date 20 to 1. It then went to the house on March 5th and it passed 97 to 3, and the 3 were people who weren't in attendance to go forward with that bill. And finally, on March 7th, it passed the 3rd reading, 99 in favor.

Kathleen advised they were able to explain that the change will allow somebody who is diagnosed with a disability prior to age 46, starting next January 1st to have an able account and the benefit that that would be to many, many people, including veterans. we didn't have many questions. It now will go on the transmittal date.

Review and Comment on MCA 53-25-101 through 104

- 101: Title of the Montana Code Annotated
 - No comments
- 102: Purpose of ABLE accounts

- Theresa asked if the IRS Codes that are now cited correct. Kathleen advised she yes.
- Kathleen commented that this refers to section 529 and explained that most people think of this as like a college savings plan. She mentioned the ABLE account is just like 529, and actually is a 529, where if parents/grandparents start early in the child's life, but then something happens to result in a disability later, those funds can be transferred from the college savings account over to the ABLE account without the penalty.
- 103: Definitions
 - Kathleen advised this is the section that we inserted the reference to the IRS Code, she believes #13. Everything else is the same, just with subsequent numbering.
- 104: Program Administration and Rulemaking
 - Kathleen asked how many people from the State actually work with the ABLE program. Michael advised it was a bit rare to come up when he worked with Senior & Long-Term Care. Theresa confirmed she had interactions with Vocational Rehab in regard to ABLE accounts and has done a presentation for them at their request in February with more than 80 participants attending.

Next Meeting Date and Agenda Items: Standing bimonthly meetings on the 2nd Wednesday @ 10am, May 14th, 2025.

Kathleen discussed potential agenda items, including the election of a chair and vice chair, review MCA 109-111, any legislative action related to ABLE accounts, the MontGuide Marcia has been working on, and the ABLE accounts report from Michael.

Michael suggested we also discuss recruitment for the open slot on the committee, potentially from independent living centers or various Montana youth transition committees. John suggested reaching out to someone who presents at the My Life Forums, stating that Jennifer Hermanson (Executive Director) would be a great point of contact. John has an upcoming meeting with Jennifer and will run some things by her, including the possibility of recruitment for a committee member and also a presentation piece. Kathleen suggested Marcia Goetting for the presentation as she has great materials to share.

*Lt. Governor Juras explained to Kathleen that even though a committee member's term may have technically expired, the member remains on the committee until resignation.