**MT ABLE Committee Meeting**

**Minutes**

**Date**: January 8, 2025

**Call to Order**: Chair, Theresa Baldry

**Roll Call**: Self Introductions to include name, role on committee, and what you hope to gain from your participation.

**Attendees**: Theresa Baldry, Kathleen Magone, Michael Woods, Cathy Murphy, Lloyd Sparks

**Guests/Members of the Public**: Deborah Conwell

**Old Business**

Action item: Review and Approve Agenda – Approved with appropriate date change

Action item: Review and Approval of Previous Meeting Notes (November) – Approved as amended

Update on need for new committee members, [**Program Oversight Committee**](https://gov.mt.gov/boards_appointments/BoardsView.aspx?Board_ID=38)-

**53-25-105. Program oversight committee -- membership -- powers and duties.** (1) The department shall establish a program oversight committee under the authority of the department.

(2) The committee must consist of five members as follows:

(a) the director of the department of public health and human services or the director's designee;

(b) the director of the department of administration or the director's designee; and

(c) three members of the general public, one of whom possesses knowledge, skill, and experience in accounting, risk management, or investment management or as an actuary, one of whom has experience working on behalf of disabled individuals, and one of whom has a disability.

John and Cathy’s respective positions expired on 5th of this month – Michael advised of his intent to apply for Cathy’s position, Lloyd also expressed his interest in joining the committee in John’s former role.

We are still actively seeking another member, an individual from the public who is a person with a disability, preferably a veteran since veterans would be part of the new population that will be covered.

No applications have been received as of today. Applications are processed as they are received. Cathy advised she will send the application to Lloyd.

Theresa’s position will expire in September 2025.

Kathleen pointed out that committee members are allowed to stay on the committee for more than one term.

Sharing out of ABLE activities attended; webinars, training viewed or provided

Cathy advised she was able to sit in on part of a presentation by Fifth Third Bank. She noted one recommendation made from them for account holders to use electronic banking in lieu of paper checks to lower risk of fraud.

Thoughts on posting [ABLE CLE course [abletoday.org]](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2Fwww.abletoday.org%2Fcle__%3B!!GaaboA!r4bSzfcUWdDloZdF_NG5ZT7bPivHWXFzc2ZqWZpetpeebqoiwoWTkgifYoTwxPiXa54vNMEwRDklOsbAJq-T%24&data=05%7C02%7Ctheresa.baldry%40mso.umt.edu%7C3b42206df22b4d66673808dcce78c166%7C68407ce503da49ffaf0a724be0d37c9d%7C0%7C0%7C638612265285753204%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=W8etsp8%2Fq4S%2BBcueRn1LdqtZcNptW6bxDZo2OQhdvgs%3D&reserved=0) or [ABLE CLE for the public [youtube.com]](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2Fwww.youtube.com%2Fwatch%3Fv%3D4e5XjRn5dXw__%3B!!GaaboA!r4bSzfcUWdDloZdF_NG5ZT7bPivHWXFzc2ZqWZpetpeebqoiwoWTkgifYoTwxPiXa54vNMEwRDklOrXBUA4t%24&data=05%7C02%7Ctheresa.baldry%40mso.umt.edu%7C3b42206df22b4d66673808dcce78c166%7C68407ce503da49ffaf0a724be0d37c9d%7C0%7C0%7C638612265285767032%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=zMCh1%2BawL0s%2FKGy%2BkpG389IDcIlh%2F%2B8H5vpUsP8uq6E%3D&reserved=0)

Kathleen advised she reviewed the ABLE CLE and thought it was great to educate committee members but feels it would be inappropriate to post to the webpage. Theresa expressed agreement due to not being Montana specific information.

Discussion ABLE program alternatives other than MT ABLE used by Montanans - Follow up from Cathy

No discussion held at this time, other than educational information provided to Deborah.

Deborah advised she has several clients that use other states because they opened their accounts prior to Montana coming online (Ohio, Kentucky, and Alaska). She also advised that a few people have accounts with Fidelity.

Discussion and Follow Up: Customer Service Feedback

One case is currently under review for 3rd party liability for claw-backs or take-backs when someone passes away.

Cathy also advised we are still looking to update our webpage to ensure the contact information comes directly to our office.

Theresa advised of a complicated case where a sister has been trying to close her deceased brother’s ABLE account for over a year without resolution.

Deborah advised she has a checklist from Montana ABLE called “Deceased Account Owner Procedure” and she advised this may be a good resource to help with this issue. Theresa requested she forward the checklist to the committee.

Theresa advised she created a spreadsheet for committee members to track what concerns we are receiving as a committee.

Updates on Legislative Action

Kathleen advised she has communicated with Lt. Governor Juras regarding errors in the ARMs. She let her know the committee has looked at them but that there are no comments at this time. Kathleen advised Lt. Governor Juras and others are involved in cleaning up the references internally on the statutes and codes that are not correct. She also advised everyone in the Governor’s office is very busy right now due to the legislative session currently taking place.

**New Business**

Discussion of Calendar and Activities for 2025.

Theresa created a draft calendar of items needing discussion at each bimonthly meeting to be a work plan for the committee. Committee members expressed their support for using the calendar.

The committee agreed to post the calendar as long as it does not breach anyone’s privacy and is made ADA compliant before posting. Ryan (note taker) advised she will review the document for compliance prior to posting to the [Montana ABLE site](https://dphhs.mt.gov/bhdd/DisabilityServices/developmentaldisabilities/ABLE).

Kathleen advised we should include a note stating the document is a draft and subject to change as needed.

Discussion internal running list/chart of requests for assistance with ABLE account issues.

Suggestion of committee member's name, the person's initials and town, along with the issue and status/resolution date.

Theresa shared her Account Concern Report that she created to track concerns from Montana ABLE account holders, including who contacted us, their primary concerns, and method of contact.

Kathleen advised we should be sure to protect privacy and use the person’s initials. Theresa agreed and expressed someone should have the full information. The committee agreed the person with the full information should be someone from DPHHS, likely the person who will fill Cathy’s role on the committee.

**Public Comment**

Deborah Conwell, regarding concerns with Fifth Third Bank and MT ABLE: “So I put together some information related to things that have come up with some of my families that I worked with through Montana ABLE and Fifth Third Bank. One thing I wanted to bring to your attention is that if a POA document is completed where the client obviously needs help, and I am the acting agent, or a family member is the acting agent, the checkbook that comes from Fifth Third Bank is coming in my name and not the client's name. And there's nowhere on that checkbook that has the client's information. I know I have to double check the routing number, the account number, make sure everything on the checkbooks that come to me are correct and I match those up with my client's accounts, but that's a little concerning that there's no additional information because I act as an agent for multiple clients at this time. Fifth Third Bank has made some significant mistakes with regard to I will submit a request for a checkbook for one of my clients and provide all of the information, and they've actually sent the wrong checkbook for the wrong account, if that makes sense. So, I feel like there needs to be something in place [to avoid that issue]. I just want you to be aware that's a potential issue with regard to the way the checkbooks and the debit cards are coming. And it doesn't have the client's information anywhere. So, it could say, you know, Deb Conwell for Jane Doe, or Deb Conwell, you know, agent for Jane Doe kind of how things are listed when somebody is a representative payee.”

Kathleen (follow up): “Just as a follow up question. You're bringing up two issues there. One, that it shouldn't be your name for the account, it should be your name as agent for somebody's account. The second issue about the wrong checkbook coming in. And this, I assume, is the very first one, so you have nothing with which to compare it. I mean, all of us get our checks in the mail and look to make sure that we're starting with the next check in order and look at the account and routing number, but when you don't have one initially that this is your first one, you don't know if it's right or not.”

Deborah: “Correct. And when you're setting up the accounts initially through Montana ABLE and you log in and you help the person set up their username and password, your Montana ABLE account number is obviously different than Fifth Third Bank because Montana ABLE, you get the account set up, Montana ABLE contacts Fifth Third Bank. But until you get that initial checkbook, you don't have the account information from Fifth Third Bank. And I've tried to call them as the acting agent and then things are getting missed.

“Another issue, things are getting missed between Montana ABLE and Fifth Third Bank where things aren't getting passed from Montana ABLE to Fifth Third Bank as far as who's allowed to call in. So that's very concerning as far as protected information and making sure accounts are correct.”

Kathleen (follow up): “And I would assume making all these calls is very time consuming for you.”

Deborah: “Yes. And very overwhelming for the clients because this is supposed to be something that's supposed to be helping them and not causing them more headaches. Not all individuals with disabilities, but a lot of individuals with disabilities you know, have… financial budgets that they have to consider and there's this assumption out there that everyone has an iPhone or everyone has ability to have the internet and everybody can do their banking online and stuff, and so that's concerning when you call in and you're sitting on hold for a very long time, and then they're wanting us to do things online and the clients don't always have access.”

Theresa (follow up): “This is Theresa. I have a clarifying question. In the beginning of the issue, you mentioned it being a power of attorney situation. But then at the end, you mentioned it being a representative payee. So those are two different vehicles?”

Debra: “Right. So, what I was saying is that I would like to see it set up more the way it's set up as a representative payee. So, when a representative payee account is set up through a bank, you know, Social Security will send out their letter. They say this person is going to be the representative payee and then it's set up at the bank as the RP for the individual. You know what I mean? It's not that way with Montana ABLE and Fifth Third Bank.

“I've had an issue that has never been resolved and has been going on for four years. So back to what you had brought up earlier, Theresa, about closing of accounts, that's a significant issue for families. So, I'm glad that you are talking about that. And I got one resolved with the family, but the other one has still never been resolved. So, I think it's really important, to just continue that discussion with how folks navigate the death of a client and what those next steps are.

“We talked about the shared information between ABLE and Fifth Third Bank. That's not always like flowing back and forth as easily as maybe it could. There's been issues paying for burial costs. I always give out the Social Security POMS to all of my families to show here's everything that is an approved expense. It's very clear there that burial is one of those. But after somebody passes away, there's an immediate freezing of the account. And burial expenses are not able to be paid because the ABLE funds are frozen

Kathleen (follow up): “And Deb, my understanding is when you run into that you've sometimes used the special needs trust if there is one to pay for the burial expenses and then tried to reimburse the special needs trust from the ABLE account, if that ever comes in. Is that right?”

Deborah: “Actually, the family of the client that I was working with who passed away paid for the burial themselves and then we sent all of the receipts into Montana ABLE and Fifth Third Bank to prove that those needed to be reimbursed to the family because that should have been paid out of ABLE. Prior to anything going to the third-party liability unit. And I tried to connect all of that. The They just simply said they froze the account, even though dad was the representative, they just said until everything went through probate, they would not release any funds.”

Kathleen (follow up): “And that's a big hardship because I in my experience that could be anywhere from $2,000 to $10,000, that often the families don't have, that the mortuaries are requiring that you pay up front or they're not going to do anything, and people are already in a swivet, understandably, because of the death of somebody and then they have to come up with this money on their own and may never see it again.”

Deborah: “And unfortunately for the family, they had just done some funding of the ABLE account when their child passed. You know, obviously, they had no idea, it was just a terrible accident. But yes, they were never able to access those funds. So, they did everything they were supposed to do by contacting folks and explaining that the person had passed. But I kind of feel like maybe they need to wait a couple of days, right? And not jump the gun and make sure that those things can be paid. But that's not what the policy states. It states that if somebody passes away, you have to notify Montana ABLE immediately. So that's been difficult.

“Well, the other thing that happened is we did get one of the ABLE accounts closed, but there ended up being less than a dollar in interest that wasn't closed out. And so, the poor mom who had lost her child kept getting statements from Fifth Third Bank for, you know, 39 cents, ongoing, and I tried and tried and tried and said, just keep the money, just close this account. This mom is grieving, like, please stop. I just cannot get them to stop. So again, there’s been some of that too, where we think we have the account completely closed and then all of a sudden there's like less than a dollar and it's like we have to figure out how to help our families with that process.

“There have been issues with people getting charged incorrectly for their checkbooks. It's very clear on the Montana ABLE website, when you go through that process of applying, that if you want a checkbook initially that you mark it six dollars. I was reviewing an ABLE statement and Fifth Third Bank, it wasn't charging correctly. Again, I was on the phone for quite a bit of time trying to address this; it took more time for me to call them to say, hey, you guys are making mistakes. And it ends up costing more for the families than the mistake, that it's the point that it should not be happening.

“I think there have been issues where I have multiple accounts for clients. This is something that has not been resolved with Fifth Third Bank. I set up an online account for one of my clients. I have access to it. She does not. And when I log in, every single other bank account comes up under her name for which I am listed as the agent. That is not okay. So, there's some technical issues there I'm still trying to work through with them. It should be, if I help a client set up their username and password through their Montana ABLE account, that's just their account. And then when we move over to Fifth Third Bank, and I help them with setting up their Fifth Third Bank account so we're matching everything up. There should never be a situation where one client's login shows other people's information.”

Kathleen (follow up): “And part of that issue, Deb, is that sometimes your client is sitting alongside you and looking at the screen?”

Deborah: “Absolutely, because the way I have my office set up is I have the clients come in, and even if I'm the acting agent, I want them included all the time. Some things I’ll help them with without them being here, but I feel like teaching is part of this process as well. I want my clients to feel like they're part of things, and if I'm logging in and something else is coming up, yes, it's an issue.

“I had a mom call me recently. I had helped her with an ABLE account, she set up a monthly ongoing payment through her debit card to pay for her son's prescriptions. She called and said, hey, there's a fraud alert, they put a hold on our account. So, I explained to her how to call into the fraud department. This happens every single month for her. So, she's very frustrated because that's an approved expense that she should be able to pay for her child's medicine on a monthly basis and this fraud alert comes up. I have had that happen numerous times where I'll get a letter, I have things connected to the Fifth Third Bank account for clients, whether that's an ongoing phone bill or internet or rent payment, and they'll say, oh, well, this didn't look quite right. And I understand they're just trying to do their jobs, but they put a hold on the account and it's obviously a charge that has been happening on a regular basis. So, I think that's an internal issue with Fifth Third Bank. There's been a lot of fraud alerts for a lot of my clients.

“I've been in touch with the third-party liability unit. It would be nice to have a very specific contact there that helps with these things for families, so they understand that process of the Medicaid payback. I don't know if that's a possibility. I'll send you the checklist I received regarding closing out an ABLE account. That's everything I have so far. I want to also say, there's lots of positives, right? I don't want to say this is not a good thing for clients because it's been wonderful. There's been a lot of positives related to having access to Montana ABLE accounts and stuff, but there are some pretty glaring errors happening on the side of Fifth Third Bank and that’s something we need to keep paying attention to.”

Review of MCA 53-25-105 and 53-25-112, and discussion committee's statutory responsibility.

MCA 53-25-105 was reviewed by the committee and discussion occurred noting that this code grants the authority to exist as a committee and outlines what the committee’s duties and responsibilities are.

Theresa noted that the code states for the committee to meet at least annually, however, the committee adjusted meeting times to monthly, then bimonthly, due to the amount of work for the committee to accomplish.

MCA 53-25-112 was reviewed by the committee and discussion occurred noting we need to find out exactly when the contract with Fifth Third will be renewed and for how long. It is believed DPHHS would have the contract.

Michael was tasked with finding out when the contract was last reviewed, when it will be coming open, are there items that need to be reviewed for consideration, and when the contract expires so we can prepare for our responsibilities prior to the expiration date.

**Additional Discussion**

Theresa advised she will send the draft MontGuide to Michael and Lloyd.

**Next Meeting Date and Agenda Items:** Standing bimonthly meetings on the 2nd Wednesday @ 10am, March 13th, 2025.