



Jim Koewler <jameskoewler@gmail.com>

Seniors and Special Needs News - February 10, 2017

1 message

The Koewler Law Firm <Newsletter@protectingseniorsnews.com>
 Reply-To: The Koewler Law Firm <Newsletter@protectingseniorsnews.com>
 To: protectingseniorsnewsarchive@gmail.com

Fri, Feb 10, 2017 at 9:02 AM

With help, seniors and people with special needs can keep some of their assets in the family rather than lose their entire life savings to the costs of long term care. They can use these protected assets to enhance their quality of life beyond what long term care alone will provide.

Email not displaying correctly?
[View it in your browser.](#)



The Koewler Law Firm
 JAMES L. KOEWLER, JR.



Seniors and Special Needs News

ABLE Accounts for People with Special Needs

ABLE Accounts seem to be here to stay.

ABLE stands for Achieving a Better Life Experience. ABLE Accounts are financial accounts through which someone with special needs can spend money for many things that will enhance the person's quality of life.

In Ohio, where I practice, they are called STABLE accounts. The ST stands for State Treasurer. (A politician can't help but put his/her name on something.) Oddly, Ohio is one of the leaders in the U.S. in making ABLE accounts available. Ohio is the first state to make them available

These accounts are "special" accounts for people who have disabilities. They receive favorable tax treatment and will not (in most instances) impact the person's government income (SSI) and health (Medicaid) benefits. In exchange for the tax treatment and lack of impact on government benefits, these accounts will have a number of limitations, so the politicians' words "enhance the quality of life" and the "better life experience" are bits of puffery.

To be sure, ABLE Accounts will be useful. In fact, there is one particular use of these accounts that is quite a big step forward. Still, despite the highfalutin words of Congress, an ABLE account is not a panacea.

I've discussed ABLE accounts before. The [February 2, 2015](#) installment described the federal legislation that created the ABLE account. The [April 17, 2015](#) installment discussed how an ABLE account can be used to help qualify for SSI (Supplemental Security Income) and for Medicaid.

THE BASICS

The person who owns the ABLE account must be disabled or have been disabled before age 26. There is talk of raising the age, but nothing has happened yet.

The person can have only one ABLE account. Not one per state per person - only one per person, nationwide.

Anyone can contribute to an ABLE account. The total of ALL contributions cannot exceed \$14,000 per year. This number is pegged to the amount of a gift that does not trigger the requirement to file a gift tax return. As the gift tax exclusion goes up with inflation, so will the ABLE account maximum contribution amount. Unlike the gift tax exclusion, however, the ABLE account deposit isn't on a per person basis. The maximum is per account per year, not per donor to the account. For example, if Dad deposits \$14,000 into child's ABLE account in January 2017, no one can give anything more to the account until 2018. Deposits are NOT tax deductible, though.

If an ABLE account holds more than \$100,000, SSI will be shut off until the value falls back below \$100,000. Medicaid will not be shut off, though.

With a maximum contribution of \$14,000 (unless interest rates really jump or the stock market takes off,) it will be seven years before any ABLE account gets to that amount.

Whatever is left in the ABLE account when the person dies will go to pay Medicaid first (up to the amount that Medicaid spent on the person.) If the person relies on Medicaid for health costs, he/she should not allow the ABLE account to accumulate.

Money in a ABLE account can grow tax-free. (It's sort of like a Roth IRA that way. The initial deposit isn't pre-tax money, but the growth of the money in the account is tax-favored.) In fact, if the contents of the ABLE account are spent on disability-related expenses, the growth isn't taxed. If, though, ABLE funds are used to pay some expense that is NOT disability-related, there's a 10% penalty on that expenditure. It's important to take great care when spending ABLE funds.

Ohio's STABLE account can be invested in mutual funds or in a checking account. There are different mutual fund choices to allow for aggressive investors or cautious investors. (Remember that the ABLE account is a Medicaid-payback account, so these mutual fund options are attractive only

to someone who is sure that he/she will NOT rely on Medicaid for care. I suspect that only a few people who are eligible to open ABLE accounts can fairly expect not to use Medicaid.) Because of the likelihood that many or even most people may come to depend on Medicaid during their lifetimes (because of the likelihood of people needing long term care,) I cannot stress how bad an idea it seems to allow an ABLE account to accumulate above one's near-term needs. (Use, if possible, a Wholly Discretionary Trust if trying to allow accumulation of the money.

An ABLE Account is going to be almost as easy to use as a checking account. It can have a debit card as well. Because expenditures from the ABLE account lose their protection if not made for "disability related expenses," avoid the debit card. The debit card is a mistake waiting to happen.

THE MOST IMPORTANT USE OF AN ABLE ACCOUNT

An ABLE account can be used to pay for housing.

That may not seem important, but it is.

Supplemental Security Income (SSI) is the source of income for a great number of people who are disabled before age 26 (the age by which someone must be disabled to qualified for an ABLE account.) An SSI recipient over age 18 can have his/her payments be reduced if the recipient receives help paying for housing. That reduction can be up to a third of the SSI payment that the person could otherwise receive.

People who are disabled as children tend to live with Mom and Dad for most or all of their lives. Mom and Dad may be well to do, living in an expensive house. The fair market rent to live in an expensive house can easily exceed one third of the maximum SSI payment, \$245. (The maximum SSI payment for 2017 is \$735.) For that matter, the fair market rent to live in an expensive house can easily exceed the entire SSI maximum of \$735. The SSI recipient doesn't have enough SSI income to pay fair market rent, so the SSI payment gets reduced.

Mom and Dad (or anyone else, for that matter) can place enough money into an ABLE account (as long as the total deposits during the year don't exceed \$14,000) to allow the child to pay his/her fair share of the monthly cost of the house. Then, the child/ABLE account beneficiary pays money out of the ABLE account to pay Mom and Dad for housing.

(Having the disabled person pay fair share of housing avoids tax issues while payment of "rent" runs into those tax issues. Receiving reimbursement for the fair share of housing doesn't create income. Receiving rent creates income. That rental income can be offset by the cost of keeping up the

house, but it still creates a great deal of tax recordkeeping. Collecting only the fair share of costs doesn't create an income tax issue as long as documentation of the total cost is checked occasionally and the fair share gets adjusted when someone moves out of the house, such as a sibling moving out for college. Despite the ease of the fair share method, when calculating an SSI reduction, the Social Security Administration uses the fair market value approach.)

There are plenty of other disability-related expense that are eligible to be paid by a Wholly Discretionary. An ABLE account's ability to pay for housing and remove the possible loss of SSI income is, in my mind, the single best use of an ABLE account.

Suggest a Newsletter Topic

I try to write something new (and useful) in my newsletter every week. So, I know that I will sometimes have writer's block. I'd like your help, please.

If you have a topic for my newsletter that you'd kindly suggest, I promise to consider it. (I don't promise to pursue it. I just promise to consider it.) I try to write about issues concerning seniors, health care, long term care, special needs, Veterans Pension (aka Aid and Attendance) benefits, and Veterans Compensation benefits. Please keep your suggestions within or near to those topics.

Please submit your suggestion [here](#). If I use your topic suggestion, I'll put the content in both my blog and newsletter.

Thank you for your help.

Social Media Posts since the last newsletter

02-09-2017 Helping #SpecialNeeds students transition from #Graduation to #Employment <http://ow.ly/9wgq308KvrW>

02-08-2017 How to prevent an #AgingParent from being a #Fraud victim <http://ow.ly/uYqs308sxmQ>

02-07-2017 The #Cost of #HealthCare after #Retirement <http://ow.ly/fBxQ308Ksyj>

02-06-2017 Create a plan for #HomeCare for #AgingParent <http://ow.ly/aAXH308swRd>

02-05-2016 Poorly written #PowerOfAttorney can get in the way when someone needs #LongTermCare <http://ow.ly/wUVK308sDP9>

02-04-2016 #AffordableCareAct (#ObamaCare) prompted people to pursue #PreventiveCare <http://ow.ly/kwzM308sCCN>

02-03-2017 #Ohio #Medicaid financial standards for #LongTermCare for 2017 - an update <http://wp.me/p47F09-pl>

Older social media posts can be found in the [social media post archive](#) on the firm's website, ProtectingSeniors.com.

The Koewler Law Firm News

2-21-2017 Jim Koewler will discuss how families can get help from Medicaid and/or the Veterans Administration to help pay for long term care as part of a series of seminars on long term care issues by Visiting Angels of Canton, Senior Mortgage Advisors, and The Koewler Law Firm at the offices of Visiting Angels in Canton, Ohio.

2-23-2017 Jim Koewler will discuss what must be done at the time someone retires to prepare for the future at a meeting of the Portage County (Ohio) Senior Services Network at the Family and Community Services Building, Ravenna, Ohio.

3-21-2017 Jim Koewler will present a Continuing Education Program at the annual Social Worker Luncheon hosted by the Summit Senior Sales, Administration and Marketing Association Social Worker Luncheon. The luncheon will take place at the Natatorium in Cuyahoga Falls, Ohio, 11:30 a.m. Continuing Education credit will be available for social workers, counselors, and nurses. The topic has not yet been finalized.

3-21-2017 Jim Koewler will discuss how families can get help from Medicaid and/or the Veterans Administration to help pay for long term care as part of a series of seminars on long term care issues by Visiting Angels of Canton, Senior Mortgage Advisors, and The Koewler Law Firm at the offices of Visiting Angels in Canton, Ohio.

5-2-2017 Jim Koewler will discuss legal representation that can help people who need long term care and people who have special needs at a meeting of the Aging Services Network East at Euclid Hospital in Euclid, Ohio.

5-16-2017 Jim Koewler will discuss Ohio's rules on Qualified Income Trusts (aka Miller Trusts) for people who need Medicaid to pay for long term care at a meeting of the University Hospitals Bedford Medical Center Senior Network at Light of Hearts Villa in Bedford, Ohio.

5-26-2017 Jim Koewler will discuss Ohio's 2016 changes to its Medicaid eligibility rules at a meeting of Eldercare Professionals of Ohio at Chippewa Place in Brecksville, Ohio.

6-19-2017 Jim Koewler will speak at a two-day Continuing Legal Education seminar in Akron, Ohio sponsored by the National Business Institute entitled "Elder Law and Medicaid Planning: Everything you Need to Know." Jim will make three presentations on the first day of the seminar covering Medicaid Benefits and Eligibility Rules, Preserving Family Assets when Qualifying for Medicaid, and Medicaid Application Procedure and Tactics.

6-21-2017 Jim Koewler will speak at a two-day Continuing Legal Education seminar in Cleveland, Ohio sponsored by the National Business Institute entitled "Elder Law and Medicaid Planning: Everything you Need to Know" (repeating the program from Akron.) Jim will make three presentations on the first day of the seminar covering Medicaid Benefits and Eligibility Rules, Preserving Family Assets when Qualifying for Medicaid, and Medicaid Application Procedure and Tactics.

11-21-2017 Jim Koewler will discuss changes in federal and state laws and rules affecting people who need long term care at a meeting of the University Hospitals Bedford Medical Center Senior Network at the Solon Senior Center in Solon, Ohio as part of the Network's Legislative Affairs Committee.

Older items of firm news can be found in the [news archive](#) on the firm's website, ProtectingSeniors.com.

Jim's available presentations

- Changes in Ohio Medicaid Eligibility Rules for 2016 (Continuing Education credit available for social workers, counselors, nurses, and Certified Case Managers)
- ABLE accounts for people with Special Needs: Their Use and Misuse
- Ethical Issues in Case Management and Discharge Planning (Continuing Education credit and Ethics credit available for social workers, counselors, and nurses)
- Veterans Benefits that Help with Long Term Care (Continuing Education credit available for social workers, counselors, nurses, and Certified Case Managers)
- Overcoming Seniors' Resistance to Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)

- Preventing Senior Fraud (Continuing Education credit available for social workers, counselors, and nurses)
- My Care Ohio and Medicare/Medicaid “Dual Eligibles” (Continuing Education credit available for social workers, counselors, and nurses)
- Navigating Medicaid, Medicare, and the Affordable Care Act (Continuing Education credit available for social workers, counselors, and nurses)
- What people "Know" about Long Term Care that is Wrong (Continuing Education credit available for social workers, counselors, and nurses)
- Government Benefits that can help Pay for Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Legal Issues for People with Dementia (Continuing Education credit available for social workers, counselors, and nurses)
- Advance Directives – Powers of Attorney, Living Wills, etc. (Continuing Education credit available for social workers, counselors, and nurses)
- Buying Long Term Care Insurance Wisely (Continuing Education credit available for social workers, counselors, and nurses)
- Planning Ahead to Protect against Long Term Care Costs (Continuing Education credit available for social workers, counselors, and nurses)
- Organizing for Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Pre-planning your Final Arrangements (Continuing Education credit available for social workers, counselors, and nurses)
- Elder Law: A Primer (Continuing Legal Education credit available)
- Protecting your Money when you need Long Term Care and Essential Estate Planning Considerations (with free living wills for up to 20 audience members)
- Health Insurance for Families: The Affordable Care Act ("ObamaCare,") Medicaid, and Medicare
- Myths about Long Term Care Costs
- How to help your Parents Manage their Affairs
- Legal Lessons for Life

Upcoming Meetings

02-10-2017 Eldercare Professionals of Ohio, Danbury Senior Living, Broadview Heights, Ohio, 9:00 a.m.

02-15-2017 Professional Association Specializing in Seniors ("PASS"), The Weils of Bainbridge, Chagrin Falls, Ohio, 8:30 a.m.

02-20-2017 Medina County Senior Services Network's Education Committee, Yours Truly, Medina, Ohio, 11:30 a.m.

02-23-2017 Portage Senior Services Network, Family and Community Services Building, Ravenna, Ohio, 8:30 a.m.

02-23-2017 The Association of Specialists in Aging, Mentor Senior Center, Mentor, Ohio, 8:30 a.m.

02-24-2017 Eldercare Professionals of Ohio, Northfield Village, Northfield, Ohio, 9:00 a.m.

02-28-2017 Summit County Senior Services Network, Anthony Kucko Kertesz Funeral Home, Akron, Ohio, 8:00 a.m.

02-28-2017 Professional Networking Group, Montefiore, Beachwood, Ohio, 8:30 a.m.

02-28-2017 Wayne Holmes Senior Service Coalition, Wayne County Care Center, Wooster, Ohio, 8:30 a.m.

03-01-2017 Stark Senior Services Network, Meyer's Lake Ballroom, Canton, Ohio, 9:00 a.m.

03-01-2017 Richfield Chamber of Commerce luncheon, The Taverne of Richfield, Richfield, Ohio, 11:45 a.m.

03-01-2017 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.

03-07-2017 Aging Services Network East, Euclid Hospital's Waltz Auditorium, Euclid, Ohio, 8:30 a.m.

03-07-2017 Montrose SeniorCare Networking Group, Btookdale Montrose, Akron, Ohio 8:30 a.m.

03-07-2017 Stow ElderCare Networking Group, Corner Cup Coffee House, Stow, Ohio, 9:00 a.m.

03-08-2017 Medina County Senior Services Network, Medina County Board of Developmental Disabilities, Medina, Ohio, 8:00 a.m.

03-09-2017 Lorain County Senior Services Network, Rose Senior Living, Avon, Ohio, 8:30 a.m.

Newsletter Archive

Past issues of this newsletter can be found in the [newsletter archive](#) on the firm's website, ProtectingSeniors.com.

Contact Jim Koewler

If you'd like to contact Jim, this newsletter has a dedicated [contact page](#) on the firm's blog site, ProtectingSeniorsNews.com.

© 2017 The Koewler Law Firm. All rights reserved.

[follow on Twitter](#) | [friend on Facebook](#) | [forward to a friend](#)

Copyright © 2017 The Koewler Law Firm, All rights reserved.
You are receiving this email because you subscribed through our website or
asked to be on our mailing list.

Our mailing address is:
The Koewler Law Firm
P.O. Box 443
Richfield, OH 44286



[Add us to your address book](#)

[unsubscribe from this list](#) | [update subscription preferences](#)