



MEMORANDUM

To: Members of the Plans Management Board
From: The ABLE Task Force
Sent: October 17, 2016
Subject: **Preliminary Task Force Recommendations**

I. Introduction

On July 18, 2016, the Plans Management Board (PMB) convened the ABLE Task Force (Task Force) to conduct a thorough review of the various design options for Delaware's ABLE offering. The PMB requested the ABLE Task Force to report findings at the PMB's October meeting. This report provides members of the PMB with the Task Force's preliminary findings and recommendations for development of ABLE in Delaware.

II. Task Force Findings

The Task Force's significant findings can be summarized as follows:

- The ABLE marketplace is maturing at a very quick pace, but is still in the "early innings."
- States are not taking a uniform approach to ABLE and many paths remain open for Delaware to responsibly consider.
- Data and estimation models to forecast the number of Delawareans who are likely to open ABLE accounts is weak, but 5% of the population is almost certainly a ceiling.
- Awareness of the benefits of ABLE among Delaware's eligible communities remains fairly low as measured by inbound inquiries but could expand quickly.

ABLE Market Continues to Evolve

The Task Force found that the ABLE marketplace, while not yet mature, has been developing rapidly over the past few months and that this pace of development is likely to continue in the short run. Since June, four states have launched ABLE plans, and at least four other plan offerings are expected to launch during the fourth quarter of 2016 or the first quarter of 2017.¹ The quickening tempo of plan development is being driven in large part by increased vendor interest from both the 529 and HSA industries and the elimination of substantially all regulatory ambiguity from the Social Security Administration and the IRS. That said, about half of the states have yet to make a definitive determination as to how to implement ABLE and a handful have yet to pass ABLE legislation. Total ABLE accounts nationwide are fewer than 2,000.

¹ Ohio, Tennessee, Nebraska, and Florida have active plans. Virginia, Michigan, Oregon and an eleven-state consortium led by Illinois are all expected to have active plans by or during the first quarter of 2017. In addition, California has launched a RFP and Texas indicated that it will do so this fall, suggesting another wave of programs with national reach prior to next summer.

Many Implementation Paths/Models Remain Viable

While plan launches are quickening, the Task Force also found that not all states are launching their own ABLE plans. In fact, some states are opting out of ABLE altogether or taking a fairly modest “facilitation” approach (i.e., promoting ABLE to their disability communities but not offering a plan). Of the five implementation paths initially identified for the Task Force to study, each is still being considered by one or more states: (i) having your own program, (ii) joining a consortium, (iii) contracting with another state, (iv) not having a program but actively promoting ABLE to residents, and (v) taking no action at all. Though a preponderance of states are likely to end up offering a plan either directly or via the consortium, the Task Force cannot report that a consensus path has emerged among states regarding ABLE implementation. As a consequence, Delaware can (and should) still consider all options viable.

Population Size, Eligibility/Participation Rates Still Unclear

The Task Force collected a significant amount of survey information from other states and national organizations regarding the potential size of the ABLE market, but could not produce a credible estimate as to the number of Delawareans likely to open ABLE accounts due to small sample sizes and limited detail in the data. While there is a fair degree of confidence that as much as 5% of the Delaware population (47,000 people) may be eligible for ABLE, forecasts of participation rates range from low single digits to as much as “100%”. The same ambiguity exists at the national level and among neighboring states. The Task Force did conclude, however, that there is no indication that Delaware’s disabled population would be fundamentally different from the U.S. population as a whole. As more data is collected from ABLE participants, better modeling of Delaware’s ABLE population should be possible.

Awareness of ABLE Appears to be Low but Growing

Despite the federal law nearing its two-year anniversary, the Task Force found no hard evidence that Delaware’s disability community is aggressively seeking out information on ABLE accounts. Delaware’s Office of the State Treasurer (OST) has had only two inquiries regarding ABLE. Moreover, as of mid-September, there were fewer than 2,000 ABLE accounts opened among the four states with ABLE programs. However, members of the Task Force actively involved in disability communities expressed a view that the launch of ABLE programs by other states will generate interest that could travel rapidly through Delaware’s tight-knit organizations. In other words, a little smoke might quickly turn into a blaze.

III. Task Force Recommendations

Recommending the optimal ABLE implementation path for disabled Delawareans in a reasonable period of time is the paramount goal of the Task Force. This requires balancing the delay of any ABLE offering in Delaware – to the detriment of potential participants – against the benefits gained in program design – to the advantage of future participants – by allowing the market to mature and selecting the implementation option best suited to Delaware’s ABLE population. The Task Force members believe that this balance can be achieved best by having the PMB defer a determination of an ABLE implementation path for an additional 4-6 months.²

² Recall that Delawareans who are ABLE-eligible can elect to participate in any of the four active plans currently offered as well as any other plans that become available prior to Delaware reaching a determination on its program implementation. Given the current

The Task Force therefore recommends the following:

Recommendation 1: Continue Studying the Evolving ABLE Marketplace

The Task Force recommends that OST continue to gather data regarding ABLE programs and the general state of the ABLE market between now and next March. This data collection should follow the same format and method used by OST over the past 18 months with summary memoranda prepared and addressed to the members of the Task Force at year-end and again in early March.

Recommendation 2: Study Delaware ABLE Population, Conduct Outreach and Build Contacts

Given the lack of pertinent information regarding Delaware's disabled population, the Task Force recommends that OST seek out more data that can provide a better forecast of the State's potential ABLE-eligible base and prospective participation rates. In addition, the Task Force recommends that OST continue communicating with leaders in the disability community to gather data on their members as well as any distribution lists by which to conduct surveys and/or distribute communications. In particular, the Task Force recommends that OST prepare for and present at the January LIFE Conference in Dover to directly communicate with members of the State's disability community.

Recommendation 3: Reconvene the Task Force in March to make a Final Recommendation

The Task Force recommends that the PMB reconvene the members of the Task Force in early March to review the additional information collected by OST between now and then and make a final recommendation on an ABLE implementation path for Delaware. The recommendation would be submitted to the PMB prior to its April meeting. So long as the PMB is able to make a determination based on such recommendation, the OST would be positioned to make any required budget request to support that decision during the General Assembly's budget mark-up period in May.

low levels of awareness of ABLE by most disabled Delawareans and the availability of other state plans for Delawareans who have an urgent need for an ABLE account, the Task Force sees limited downside to delaying a recommendation by six months. Conversely, the benefits to gathering additional data on plan features, other state implementation options and Delaware's ABLE-eligible base could lead to significant benefits in Delaware's design of its ABLE implementation.