# California State Treasurer's Office

## California Achieving a Better Life Experience (ABLE) Act Board

presents

"Implementing California's ABLE Program" Webinar

Wednesday, November 16, 2016

10:00 a.m. – 11:00 a.m.  PDT

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[Webinar commenced at approximately 10:00 a.m. PST]

>> CHRISTINA ELLIOTT: Okay, good morning, everyone. We are really excited to be doing our first webinar with you all today. With that said, please bear with us any glitches.

I'm going to do my best to speak slowly. This is Christina Elliott. I'm the Executive Director of the CalABLE Board. We'll be going through these slides together and feel free to send in questions if you're confused about something I'm saying. We'll try to clarify as we go, but we're going to save questions for the end and try to address them together. Just as a reminder, on the screen you saw, previously, live captioning is available. There's a link there and you can go and click on that and access live captioning. Remember to follow us on Twitter and like us on Facebook. I also wanted to introduce our team. Carrie Fisher Stone is our Deputy Executive Director. Ruth Holton-Hodson is our Senior Policy Advisor and Raji Prasad is our Program Analyst. So let's go to the fourth slide. We'll do some background and get into implementation after that. As many of you probably know, the President signed the federal ABLE Act of 2014 in 2014. It allows states to create tax- advantage savings accounts for people with disabilities while protecting eligibility for public benefits such as SSI, SSDI and Medicaid. By tax-advantaged, we mean that money in the account are safe from federal and state income taxes when used to pay for qualified disability expenses and we'll talk more about that in a bit. ABLE accounts are established in this new section of IRS Code Section 529A.

They are similar in some ways to 529 college savings plans, in that they are savings accounts administered by states and receive this favorable tax treatment. A major benefit of this legislation is that moneys **[up to $100,000]** in ABLE accounts are not counted when determining eligibility for means-tested federal or state benefit programs. ABLE accounts won't affect benefits and we think this is a game-changer. You have been hearing that probably for a couple years now. People with disabilities will be able to now save and invest in a way they have never been able to before. So let's go to Slide 5. California's ABLE Act, so last year, a little -- over a year ago, the California legislature passed the California ABLE Act which created a Board. The Board is made of the State Treasurer John Chiang who chairs the Board, State Controller Betty Yee, Department of Finance Director Michael Cohen, State Council on Developmental Disabilities Chair Dr. April Lopez, Department of Rehabilitation Director

Joe Xavier, Department of Developmental Services Director Nancy Bargmann, State Independent Living Council Chair Linda Schaedle and we have a two-year General Fund Loan of $1.5 million dollars. Of that, $850,000 has been appropriated for our first year of operation to help with our implementation to get us off the ground. We mirrored federal law in many ways. And we have also kept our law intentionally broad. If you are to read our state statute right now you will notice that we are specifically for California residents.

We have some legislative initiatives we want to pursue next legislative session. And one of those is to mirror the federal law in removing the residency clause in our state statute. Okay, so let's go onto Slide 6. We have not been in operation for very long. We began work in mid-July, and one of the things that was made very clear to us here in California –and I'm sure other state programs throughout the nation are experiencing the same thing—that the law makers and policy makers go forth and make policies and laws that impact people with disabilities and never really incorporate those people into the process of creating these policies that impact them, so we have taken that to heart. We are developing this, not for people with disabilities, but with them. And part of that is we are seeking input on our program vision and mission. So on this slide, you will see those statements. Our vision is to provide greater financial security to Californians living with a disability. Our mission is to meet the diverse needs of our customers and their families. We pledge to be customer-driven, accountable and a trusted partner in providing financial services.

Our vision and mission hasn't been approved by our Board. It's been informed by the various stakeholder meetings we've held this Fall, but we are still seeking input. At the end of the presentation, if something doesn't sound right to you, right now we are, in our vision, only calling out Californians.

With our intent to be a national plan, we will probably tweak our vision a bit as well, but we want this to be not informed, but created by our population. Let's move to the next slide. Our values.

Here you will see listed: adaptability and flexibility, humility, transparency and accountability, trust, sustainability, collaboration, and integrity.

We recognize that government has often made decisions on behalf of people with disabilities. Like I mentioned before. And we want our values to replicate our population's values, and so we are seeking feedback on these as well.

Let's move onto Slide 8. Some ABLE basics: Before the ABLE Act, -- again as many of you probably know, a person with a disability collecting on public benefit programs wasn't able to save more than $2,000 without their SSI being suspended **[or impacted]**. And any other asset accumulated would have been counted against them as well. For example, if you have a savings account, you earn interest in that account and that impacts not just your SSI but your participation in other programs like low-income housing, for example. But now, you can save up to $14,000 per year and up to $100,000 total before benefits are impacted. We have the last bullet point there: CalABLE accounts will have safeguards and notifications built in for people, to make it impossible to go over any limit, without actively seeking to undo any kind of limit or cap on your account. So, if you hit the $100,000 mark, we would not allow any more contributions and we would be sure to notify you and be in communication with you. I say this because like I mentioned, CalABLE accounts aren't available in California yet. We are building our program and we heard loud and clear and we agree not just from public agency's perspective but from our target population that these safeguards are vital. Let's go onto the next slide, Slide 9. ABLE accounts are asset-protected accounts. Eligible individuals may only have one account. We will get to this in a little while, but other states have started ABLE programs and are enrolling people in providing this wonderful financial tool to people with disabilities as I speak, right now. And we--you are not able to, for example, open an account in Ohio and then when we open, open an account here in California. If you wanted to have a CalABLE account, you would need to transfer your money from Ohio, or Nebraska, or whatever state program you are in, into CalABLE's accounts. The accounts will function, and this is where we really start to diverge from your typical 529 account. The accounts are going to function like a savings and a checking account. And it all depends on how the beneficiary wants to use their account. Account moneys are tax-exempt as I've eluded to in previous slides as long as they are spent on qualified eligibility expenses which we will get into more detail about as well.

Let's move to the next slide. What is a qualified disability expense? A qualified disability expense means any expense related to the designated beneficiary as a result of living a life with disabilities. Includes expenses that benefit the beneficiary's health, independence, and quality of life. And again, the federal and state law is purposely broad in defining what you can spend your money on. Because the original intent of the legislation at the federal and state level was to ensure that people can achieve a better life experience. These expenses may include education, housing, transportation, health care expenses and more. A longer list could be found on our fact sheet, which is linked on our website and NDI's **[National Disability Institute]** website as well. If you withdraw funds to pay for a non-qualified disability expense, the only thing that would happen there is you would just be subject to regular taxes and a 10% tax penalty. If you go above the $100,000, your benefits could be at risk as well. Regarding housing and rent expenses, there is a caveat in the rules that if you hold money for one month to the next for rent, it will count as an asset. Money for rent expenses must be spent in that same calendar month. And, you know, we aren't the only one's developing this. This is a new program. So this is in development, not just at the state level, but at the federal level. So, the states, per federal law, are required to report fund amounts to the Social Security Administration (SSA) each month. And we are starting to learn what that process looks like. And we will be sure to set up some safeguards, notifications, etc. around the pulling of money-- when you pull money out of your account. If we are about to send a report on fund balances to SSA, we don't want to create any negative impact to your benefits. So, we will be sure to let you know, we are sending our report. You pulled out $400. If that goes over into the next month, there could be a penalty incurred **[see SSA website]**.

And that is still in development as well, of course. Let's go to Slide 11. Who is eligible? At this point in time, a person must be disabled before age 26 and meet the eligibility criteria for disability benefits like SSI or SSDI. Or there's a self-certification process. A person who has been diagnosed by a qualified physician with a physical or mental disability, resulting in marked and severe functional limitations that's expected to last no less than 12 months. There's some pending legislation that would expand the age requirement to 46. Last we checked, that has not moved, but there is an effort nationwide to move this cap up. If you have a doctor’s note attesting that the onset of your symptoms occurred prior to age 26. That should still work. The example we use here is, often times women with schizophrenia, for example, are not diagnosed or treated until late in their 40s or maybe late 30s. But there is a lot of data, research, etc. around onset of mental illness. You talk with your qualified physician and get a note, stating that onset occurred before age 26, we believe that would work as well.

There are lists on the SSA website that, you know, if the eligibility is still in question, with respect to a person who has autism, Down Syndrome, etc.

The lists are on the ssa.gov site: the Compassionate Allowances List, Blue Book Adult Listings, and Blue Book Childhood listings as well. Another note here is that the California ABLE Program will not be requiring you to upload your physician's note. This is something the beneficiary would need to keep on record, in case they are audited. Okay, so Slide 12. We are at the end of our calendar year and ABLE accounts are available right now throughout the nation. And many more are opening up, probably within the coming weeks. Right now, you could open an account in Ohio, Tennessee, Nebraska, and now Michigan is the most recent state to open ABLE accounts. Florida also has ABLE accounts available, but this program is for in-state residents only. And you can compare programs. So, like we mentioned, you could only have one ABLE account, but you can shop, if you will, for the ABLE account that is best for you, your child, your family member, etc at the www.ablenrc.org/state_compare website and we encourage you to do that. When we launch, and we will obviously hope that people sign up with us, but we want to ensure the program you pick is best for you.

One second. The other thing I want to mention here is that we are working a lot with our state benefit agencies. California is really unique. We have a robust public benefit system for people with disabilities. We have regional center networks.

We have school districts that do a lot of work in this space. And we are taking our time opening accounts because we want to make sure that every single entity that provides public benefit is aware of what ABLE is, and what it is not.

Let's go to Slide 13. Some CalABLE features and benefits we are considering -- and many of these are available in other ABLE accounts throughout the nation. Some features may include the ability to contribute automatically through routine transfers from a bank account. The ability to invite friends and family members to contribute to your account.

Deposits online or by check. And based on our large population here in California, we really think that we will be able to provide very low fees.

And sometimes this is a difficult conversation to have because while this -- often times is viewed as a public benefit, it is a financial tool. And so, it isn't a free service. There will be fees associated with our plan, just like they are with many other plans throughout the nation. But, again, we are really hoping that will be competitive when it comes to the fee structure.

We also think the fact that we are not an appropriated government agency is a strength for us. Often times when the budget at the state level in California is tight, you know, programs can be cut. And here, we will be self-sustaining on our program fees, which means, we are safe from, you know, the cherry picking that often takes place during the budget process here in California. And the last bullet there: diverse, yet simple investments. For decades people with disabilities have not been able to invest their money and still receive benefits. So, this is a new space for a lot of our target population. So, during the enrollment process, what we have learned from other states is that people are getting to the investment page, and that's most often where they close the screen and stop. And it's not because their states are confusing; it's just -- it's unfamiliar to many people.

And so we're not in any position to say ours will be less confusing, but we are aware that it needs to be simple and it needs to be safe **[as possible].** So, we will **[strive to]** have an FDIC-insured option and maybe 3 to4 others and this program will be fluid. As we mature and develop over time, people want more options -- this is not-- nothing is set in stone. So, we will start with simple options. FDIC-insured all the way up through high-risk. It really depends how the beneficiary wants to use this account. The intent is for long-term savings. So a high-risk option is good for that type of financial plan.

If you are planning on using this account at higher transaction level, meaning you want to pay your monthly rent, you want to purchase groceries -- things, which means you will be taking money out of the account often throughout the month, you probably want the FDIC-insured or low-risk option. You won't see a lot of growth, but you also won't experience the steep highs or deep lows of the market. Because this money will be invested in the market, much like the 529 scholar share, college savings plan. So let's go to Slide 14. We are looking at our current statute. We are cognizant of the changes at the federal level that may be coming down the pipe. And we are trying to be proactive in our legislative initiatives for the coming year. We will operate as a national plan. We don't anticipate any opposition to us, aligning ourselves with federal statute there. So that will be something we pursue in January and February. We also want to offer a tax credit or incentive to account contributors here in California. The last bullet there is a trickier one.

Pennsylvania has done a lot of really great work here with eliminating the Medicaid clawback upon a beneficiary's death and we have the same intent here. We can't work in silos though. We have a Public Agency Advisory Council, which is made up of 15 or so state public agencies that provide public benefits to our population. Of those agencies, the Medi-Cal, Medicaid staff are on our council and are looking at their governing statutes and regulations to make sure that we are all on the same page. So eliminating this might not be as easy as the other two, but it is our intent to do that. And for those of you that may not know this exists, right now in federal statute, upon a beneficiary's death, the states may file claim on any money spent via Medicaid or Medi-Cal from the time that the person opened their ABLE account to the time of death. So it isn't retroactive prior to their ABLE account opening, but we have seen slow uptake for ABLE accounts and we're hearing that part of that is the Medicaid clawback provision. And we hope to do some good work here in California for that. So our time line: Slide 15. We have spent the fall really looking at what our regulations will look like. We looked at what other states are doing. It's been a really wonderful collaboration among states, you know, with information sharing. We have developed really great relationships with other plans. We are also a brand-new state agency, which means some of the things you might take for granted when you get a new job are not here. We needed to order computers, write policies and procedures. We didn't have a desk. So, a lot of that internal infrastructure work has been going on as well. Like I alluded to previously, we've organized advisory councils and we have been engaged with our stakeholders.

If you go on our website, you will see we have implementation plans, Phase I, and Phase II. Our goal was to have 1 to 2 Northern California stakeholder convenings and 1 to 2 Southern California stakeholder convenings. We've held dozens. We have exceeded our goals, with respect to engagement with our population as well as engagement with our sister agencies that, you know, will be ensuring people do not lose their benefits, if they have an ABLE account. Not just if they have a CalABLE account. It's important that where ever your ABLE account is, you still receive all of your benefits that are offered to you here in California. And we are working really hard to ensure that happens.

In the winter of this year, we are finalizing our state regs **[regulations].** And we are going to be bringing on our 529-A consultant around December 5th. The firm is AKF Consulting. Many other states are using this firm and they are well experienced, with not only implementing ABLE programs throughout the country, but they have also been involved with the 529 space for decades.

So we are really excited to start working with our consultant. In the spring, we will finalize our program design and bring on our -- go through the RFP process for a vendor of the accounts. And prepare to go live summer of next year, 2017. As we form our state regs, which will be informed from all of the stakeholder meeting we have been having, we will still be working with our stakeholders to make sure they reflect processes that make sense for the population. And we still want to continue to partner with our stakeholders as we design our program.

The stakeholder piece is really important, especially in the spring for education and outreach.

We have, as you noticed, we have a staff of three or four and the largest state in the country. So that's not a lot of resources to reach all of the people and agencies and counties in an efficient manner. So we are asking that, you know, if you are an agency, or if you are part of a parent group, or a state-wide organization, if you can pool together your clients, your membership, the people in your circles, we are hoping to speak to crowds of 50 or more to make it impactful and efficient, but we want to come out and work with you on education and outreach. And we are happy to provide materials, if we can't be there—presentations, fact sheets. So feel free, and please do reach out to us, if you want to host an event.

So let's go to Slide 16. We're almost near the end of the presentation and we'll start getting to questions. I jumped ahead a little but it's really critical to our success, the outreach. We really do need your help. We want to collaborate with our constituents and future participants. And we do have a robust outreach strategy. It leverages local networks, like I said, public and private service provider groups.

You see we talked about our webinar here, but you are already on. So the last bullet point there: ABLE Ambassador Program. Something we have talked about in various circles and we have received mixed reviews, actually. Part of our launch, we hope to have parent groups, agencies participate and be trained by us to go out and help us with getting people signed up. And when we talk to parents about that, they do get a little bit nervous because it’s not simply and public benefit program. It's tied to finances and we are not financial advisors and obviously, many parents aren't financial advisors.

Some of the detailed questions about how do we really want to use our accounts are not questions or advice we can give. And so, we are hoping to develop the ABLE Ambassador program still, but maybe make it more clear about where liability would lie and where it wouldn't. Slide 17.

So we have a survey right now. It's available in English and in Spanish. The links are live there. We also have Facebook and Twitter pages. But with respect to our survey, we have had it open for a couple months now. And we have over 600, almost 700 responses. Based on our target population, we have exceeded any statistically significant number we would need to garner any good data, so we could close it and be well-informed. But we are going to keep it open through December because this is going to be another key component in how we design our request for proposal for our service provider. Design features.

There will be demographic data we garner from this, but it's really going to inform what kind of features you would like California ABLE program to look like. And as I mentioned again, if you feel so inclined, follow us on Twitter and like our Facebook page. The last slide, Slide 18 is contact information. Our address, phone number, website and email address.

So with that, I will look to Carrie. Do we have any questions?

>> CARRIE FISHER STONE: Yeah, we have quite a number of questions. Thanks for everyone's interest. I’ve been answering some questions along the way. We

probably won't get to everyone's questions today. I will pull out some of the more popular questions, but rest assured that we will go ahead and respond to individuals directly post-webinar to get back to them with their specific questions. Let's see, Christina, a question we had was: Is the $100,000 cap based on cumulative contributions to the account or the balance in the account?

>> CHRISTINA ELLIOTT: It is cumulative. So you will earn interest on the money that is contributed, whether it be by you, or your family or friends.

And the cap is on the cumulative contributions.

One thing that has come up at other meetings, questions around, if $100,000 is all anyone could ever put in an account. And that's not it. It's a total. So you can spend it down and then save back up.

>> CARRIE FISHER STONE: Okay. Another question. How will this ABLE account differ from or integrate with a special needs trust?

>> CHRISTINA ELLIOTT: Yes. The most popular question.

We are not financial advisors.

And we are learning a lot about special needs trusts and the various types that are available. And we believe that this will be something that people can use to complement the special needs trust. But when it comes to how you want to use your special needs trust, and your ABLE account, we would recommend you speak with a financial advisor with respect to how much money you maybe should be putting in your ABLE account, based on how you want to use it versus the protections around a special needs trust. You could obviously have more money in your special needs trust than in your ABLE account.

>> CARRIE FISHER STONE: Great. Another question. Can you please explain the Medicaid clawback a little bit more for people who may not know what that is?

>> CHRISTINA ELLIOTT: Sure. I will preface this with I'm not an expert on it. We will be sure to, if interested, send you some statutes and provide more resources in writing. But the federal law, which I don't have in front of me right now, allows for a State

to make a determination as to whether or not that State wishes to file claim to any money that the beneficiary received from Medicaid from the time they opened their ABLE account, until the time of death. So if you are collecting Medi-Cal here in California and you open an ABLE account, and you have your ABLE account open for 15 years and then you pass away. If you have $50,000 left in your ABLE account, even after. Because you can spend your ABLE money—your family can use it for funeral and burial expenses. But even after that, let's say there's $50,000 to $60,000 left in your account. Let's say Medi-Cal has spent $40,000 on you, over the course of those 15 years. They could file a claim and recoup that $40,000 that they spent over the course of those 15 years.

Another example, I think that's it. If I didn't answer it clearly, send us an email. And we can put some statutes down in place and also show you what Pennsylvania has done. They have worked with their Medicaid office there to work on legislation to basically make the statement that Pennsylvania will not do that. And that's what we want to do here in California because it's up to the State to do that or not.

>> CARRIE FISHER STONE: Okay, how will HUD housing authorities in California treat ABLE account funds and disbursements?

Are we speaking with them?

>> CHRISTINA ELLIOTT: We are. An interesting fun fact: the Treasurer’s office, which is a little bit complicated to explain the set-up, but it’s basically a dozen or so, boards, commissions and authorities that provide the financing for California. And one of those commissions provides a 9% tax credit to developers of low-income housing. And according to HUD rules, as they stand today, any interest earned on assets -- so not the asset, but the interest earned on assets is considered income when applying for low-income housing.

And we believe that's in direct contrast with our statute that states no federal or state **[means-tested]** benefits may be impacted by ABLE assets **[of up to $100,000].**

So right now, California's Treasurer along with the dozen or so other treasurers throughout the country are working on a letter to HUD Secretary Castro, urging HUD to clarify and confirm that these assets are protected. So it's actually a point of confusion for folks that implement federal HUD rules here in California. I say they don't impact it, but I don't implement those rules, and so, it's a hard conversation to have. But we just want to assure everyone that we are actively engaging with our federal oversight agencies on this and are planning to push this very hard.

>> CARRIE FISHER STONE: Okay, we had someone speak to the concern around fees.

The issue of imposing fees and how much -- imposing fees on the ABLE account. Can we speak a little to the need for some of those fees?

>> CHRISTINA ELLIOTT: Yeah. So this is a question that comes up often. So the fees -- the way that the California legislature structured the California ABLE act here, is it is structured like your 529 college savings plan, which means the Board is the authority that has oversight, fiduciary responsibility of the fund, but is allowed to contract with a vendor, a financial services provider in so much that the investments and daily management of the assets is contracted out and the administration of the program is done in house. So we were not given an appropriation from the legislature. We have a General Fund loan and we have to pay that back. And the way that we would pay that back, and the way that we would administer the accounts is through fees.

And so, I don't have a really good working knowledge of the fee structures of all of the other plans. And they change, actually, quite often because as more plans enter this space, fees drop. But I will just throw out generic examples.

So for example, in California, you may be able to, as a California resident open an account here in California for $45 a year. Or we might structure it on a basis points fee. So a monthly basis points fee on the money you have in your account. Maybe the option that people would like best is a $5 per month fee. That's what we are learning in our survey: what is a fee structure that our population is comfortable with? But it will not be free.

>> CARRIE FISHER STONE: Okay. Got a lot of questions, so bear with me one moment. Scroll back. Okay, will there be an account debit card option and support for tracking and documenting record of disbursements.

>> CHRISTINA ELLIOTT: That's something that's come up at a lot of meetings as well. We see this as -- and what we are hoping to do with our design -- is to allow our participants to pick and choose the features that they want. We are cognizant of the fact the debit card is something that's popular across the nation right now. Many meetings we are at, people want it. But we are also aware that there are people in our population that can't hold a debit card. And maybe put other benefit cards around their neck in a pocket. And it feels vulnerable to them. So we are hoping that the debit card would be an option. And maybe there would be a little bit of an additional cost to get the debit card. But if you can't use a debit card, you don't pay for the debit card you can't use. We had a really great meeting where someone, you know, made comment around the fact she was not able to use a debit card. She physically could not hold one and she talked about maybe an option for printable vouchers. Something that could be printed out and taped to her wheelchair. We are looking at innovative new ideas to make this financial tool accessible to every single person that will use this account and their family.

So we want to be flexible. We want to be able to provide all of the features that people need and not force anyone to have a debit card, if they don't want it. But we do anticipate we will offer that as an option.

>> CARRIE FISHER STONE: Okay. Who is going to be responsible for auditing the disability expenses and how they are used to determine if they are a non-qualified disability expense?

>> CHRISTINA ELLIOTT: I apologize for not speaking to this in my presentation. The beneficiary -- it's the responsibility of the beneficiary to keep record or receipts or track purchases. The IRS could audit -- has an audit function that could take place. The

ABLE programs across the nation, including California would not be collecting any of those receipts, would not be requiring submittal of any kind of documentation around qualified disability expenses. The onus is on the beneficiary. With that said though, back to the debit card, having the debit card function, we anticipate that because those debits are electronic, that would be a way to monitor your purchases that you could print out directly from your account. But we wouldn't be monitoring or auditing you on that.

>> CARRIE FISHER STONE: All right, Christina, we have a question with regard to the recent election. And whether there's any concern with the ABLE program changing?

>> CHRISTINA ELLIOTT: Fantastic question. And it's not the first time we have heard it in the past week or so. You know, there is a lot of anxiety around what's going to happen. And I can only say that when you go and look at the votes for the ABLE act in 2014, you can look and see who voted for it, this was by far a non-partisan issue. You know, people with disabilities are not all Democrats, or all Republicans.

It's an across-the-board experience and we experience that here in California as well. If you look at the votes for our implementing legislation last year. Republicans and Democrats pretty much unanimously supported the passage of this here in California. So we are saying that we do not anticipate this will be impacted by our new president-elect. And we don't anticipate that this would be on any target list. Or rise on any priority list for dismantling. We are very confident in that.

>> CARRIE FISHER STONE: Okay. Can you provide an example of a non-qualified disability expense?

>> CHRISTINA ELLIOTT: You know, that's really hard to do, actually. Because, one thing that we sometimes would use was vacation, right? We didn't think you could go on vacation and pay for it with your ABLE account, but then we talked through it, and maybe you wouldn't be able to pay for your entire family to go on vacation but you could pay for yourself. I really think that the intent of this law, making this a better life experience for the person with a disability, it's intentionally broad purposefully.

Some things that we can guarantee probably would get you into some hot water with the IRS would be purchasing liquor, going to your local casino and throwing down $50k, you know, on a slot machine, gambling. I'm pretty sure you wouldn't be able to use it for that type of stuff.

>> CARRIE FISHER STONE: Okay. Has the investment manager been chosen as of yet?

>> CHRISTINA ELLIOTT: No. So the consultant we are bringing on-board December 5th will help us design the program and that scope of work and expectation will be laid out in our request for proposal for our vendor. We plan to put the RFP out for the vendor in late winter, early spring. We anticipate a lot of interest. We have already had a handful of companies approach us with their ABLE solutions.

And really awesome fee structures that we are really excited about. There's a lot of options still on the table. I mean, we may get our proposals back at the end of the spring next year, and see that the best option is to join the consortium.

There's a group of states that formed a consortium.

Each state has autonomy, but it is one contract for one service provider. That might be the best bet for Californians. We might decide to join up with Ohio or Oregon. So there's a lot of decisions to be made by the Board in the Spring, but we want to see what the financial service industry can do for us as California, the largest state, with the largest population. And then from there, we will make an equitable decision, the Board will make an equitable decision as to the direction it will go. And it will largely also be based on the feedback we hear from the stakeholders, such as yourself.

>> CARRIE FISHER STONE: Okay. Can a person use the money in the ABLE account to purchase a home? And if so, will the home be subject to the State after the person dies?

>> CHRISTINA ELLIOTT: So, yes. That is a qualified disability expense, a down payment on a home or the purchase of a home. This is an area where we are still learning the laws that surround that type of purchase, just in outside of ABLE accounts,

if someone had a special needs trust, for example, real assets, liquid assets, and real property.

From what we understand and we could be wrong, and we will send out information once we learn more about this and get more definitive answers, but it's our understanding, if you purchase a home with your ABLE money and then pass away, you can -- as per usual, in a will, designate that home to a family member, or whomever you please. That would not be something that is lost, or that the state would take back from the family **[solely because ABLE account funds were used to purchase the home].**

>> CARRIE FISHER STONE: Okay. Why is there a 26-year-old disability cap, it seems exclusionary to those with later onset disabilities?

>> CHRISTINA ELLIOTT: Yeah. That's a politics thing. At the federal level, also at the state level in many states, there's a process every legislative proposal goes through. For the federal level, the congressional budget office, the CBO basically costs out each legislative initiative. And so since these are tax-preferred accounts that means that you don't pay taxes on the assets you accumulate in your ABLE account **[if funds in the account are spent on qualified disability expenses]**. And to the federal government, that means a loss of tax revenue, so capping it at 26, meant the loss of tax revenue was minimized. Without the cap, you look at the population of eligible people throughout the nation, which is without the cap, anyone with a disability. And the loss of tax revenue, they put a price tag of billions and billions of dollars. When you put a price tag of billions and billions of dollars on a piece of legislation, it doesn't pass, unfortunately. So capping it at 26 was a way to get the ABLE Act to the President's desk. There is an effort to raise the cap and we hope that happens in the course of the next year.

>> CARRIE FISHER STONE: We have another question with regard to the clawback and legislative priority, the priority around that. Do we intend in the coming 2017 legislative session to draft legislation and introduce a bill to address this issue?

>> CHRISTINA ELLIOTT: When I said we weren't working in silos on this, that meant we have less control over when this gets introduced. It's our intent to draft and have it go through the 2017 legislative session, but we need to make sure we are working with the Medicaid/Medi-Cal staff here in California. Their legislative team is having conversations with our legislative team. We need to have all of our ducks in a row for that, because that's a big lift. There's a lot of politics that would play. Back to the question about how the new President administration is going to impact us, some of his proposals with respect to health care, could impact, directly impact Medicaid, so there could be potentially a loss of revenues for the Medicaid programs, which means they would be less inclined to give up the option to clawback money from ABLE because they have seen a loss in revenues.

And maybe this is seen as way to make up for those issues, regardless if it's right or wrong. I'm not saying they ever said that, but I'm trying to paint a picture of the difficulty with the Medicaid clawback. It's not going to be easy technical clean-up language either. The intent is there but we are already mid-November., so we will continue to update everyone on our progress with all our legislative proposals. And any that any that don't make it into a legislative package this year, we will have more time to get into a package for the following year.

Did I answer it?

>> CARRIE FISHER STONE: So what is the maximum amount one could have in a CalABLE account above the $100,000 protected amount?

>> CHRISTINA ELLIOTT: That's a good question. Our state statute is a little bit quirky because we don't address Medicaid, for example. If you look at the federal statute there's an exemption for Medicaid, there’s authority given to the states. And then, if you look at our State statute, we are silent on Medicaid. The way that the Medicaid Medi-Cal staff, legislative and legal staff view it, is there is no cap for Medicaid, for example. So if you are not collecting benefits from SSI/SSDI, you want to go above the $100,000 limit, technically there's no cap you could have in your account

before Medi-Cal benefits would be impacted. I mean not technically, that IS how we are interpreting our law. In conversations with Medi-Cal staff, they don't have any intent on capping it. Here in California, with the advocacy groups, and the organizations statewide that work on this type of policy, they believe it would pretty much be impossible to cap Medicaid. Now for other public benefit programs, we are going to start having those conversations with those agency staff at our advisory council meeting in December. We ask them to go look at their governing statutes, their governing regs and come back to see where ABLE might need to be clarified or included, to make sure their staff understand that there is no cap. That benefits can't be impacted. Because the federal law, the $100,000 cap is only for SSI and SSDI.

>> CARRIE FISHER STONE: Okay, and can you explain a little bit more about caveat about rent moneys being spent in the month?

>> CHRISTINA ELLIOTT: Sure. As I was talking, I knew I wasn't being very clear. So each month, on the first, we will be required to report to SSA names of account holders and the account balance.

So if you pay rent on the 2nd and you took money to pay rent on the 29th, it will show that money was out of your account across that first of the month barrier. Therefore, if SSA audits you, you may be subject to paying taxes on that money, because it wasn't made on a qualified disability expense **[see SSA website]**.

And that's if SSA audits you. As I mentioned, the processes and how that will look is still in development, but all of the money you take out needs to be spent within a calendar month, because of that reporting feature that our program has to comply with, with SSA **[see SSA website]**.

>> CARRIE FISHER STONE: Christina, how is the account managed for clients and beneficiaries who have significant disabilities and can't manage their own finances, is it through a conservator or other organization that manages their finances?

>> CHRISTINA ELLIOTT: It's unclear to us whether an organization like a regional center could have authority to set up an ABLE account for a client, but a legal guardian, a conservator, yes. Family member that has legal authority for finances.

>> CARRIE FISHER STONE: Okay. Let's see we have a whole bunch here. How are we doing on time?

>> We have a little.

>> CARRIE FISHER STONE: Will we have other multiple webinars in the future before we go live?

>> CHRISTINA ELLIOTT: Yes, we hope to. We are strapped for resources, so this is an efficient, cost-effective way to communicate with our stakeholders.

Actually prior to going and starting this webinar, we were talking about how it would be useful to have more focused webinars.

So a webinar for state agency staff, focused on how we will work together. A webinar for people who are legal guardians of eligible participants. Family members. And webinar for beneficiaries who will be handling their ABLE accounts themselves. And any recommendations you have, please send them to us.

>> CARRIE FISHER STONE: Can we use CalABLE account funds for groceries and clothing? These are currently forbidden expenses under trust.

>> CHRISTINA ELLIOTT: Yes, absolutely. Those are considered. Basic living costs, toiletries.

>> CARRIE FISHER STONE: And clarification of the 26 year age cap, that's for the onset.

>> CHRISTINA ELLIOTT: Onset, yes. Onset of disability prior to age 26, but again, diagnosis and treatment happening after age 26, we believe is not going to preclude you from participating. It's just important that you go to your doctor and get a doctor's note stating that onset occurred before age 26.

>> CARRIE FISHER STONE: Okay. How does a person get on a list of possible ABLE ambassadors?

>> CHRISTINA ELLIOTT: Yay! Send us an email and we will start that list up.

>> CARRIE FISHER STONE: The question, does the disability have to be limited to those on the SSA list?

>> CHRISTINA ELLIOTT: No. That's where the self-certification. You get your doctor to certify that you have a disability, that's limited and severe, lasting no less than 12 months.

>> CARRIE FISHER STONE: Okay. I think we are going to go ahead and return the remaining questions via email. Also someone asked if we would post a Q&A and we will do that from this webinar.

>> CHRISTINA ELLIOTT: We will get to all --

>> CARRIE FISHER STONE: I want to thank everyone for their questions. I know folks have specific situations and examples they want to address. We will do our best to get back to you and clarify those specific situations.

>> CHRISTINA ELLIOTT: Okay, well thank you, everyone. And please feel free to reach out and share materials with your clients, your membership, your family and your friends. We hope you have a really great week.

[Webinar ends at approximately 11:00 am PST]