

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1076

Bill Subtitle: TO AMEND THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM ACT; TO AUTHORIZE TRANSFER OF ABLE ACCOUNT ASSETS FOLLOWING DEATH OF DESIGNATED BENEFICIARY; AND TO PROHIBIT THE STATE FROM SEEKING PAYMENT FROM ABLE ACCOUNT.

Basic Change :

Sponsor: Representative J. Mayberry

HB1076 will amend the Achieving a Better Life Experience (ABLE) Program Act to allow the transfer of ABLE account assets following the death of a designated beneficiary to another eligible individual or the estate of the designated beneficiary. The purpose is to prohibit the state from seeking payment from the ABLE account through Medicaid Payback. This bill will be effective on January 1, 2019.

Revenue Impact :

FY2020 – Possible Reduction in Medicaid Payback of up to \$5,000.

FY2020 - \$0 Reduction in State General Revenues (Income Tax)

Taxpayer Impact :

Allowing transfer of ABLE assets of deceased designated beneficiaries would only impact approximately one taxpayer per year. The funds in ABLE accounts have approximately \$5,000 per designated beneficiary.

Resources Required :

Update Medicaid Payback program.

Time Required :

Adequate time is provided.

Procedural Changes :

Updated computer programs would need to be made in the Medicaid Payback system. No resources would be required to income tax programs, tax forms or instructions. Asset transferred to designated beneficiary estate would be subject to income tax due to being unqualified distributions.

Other Comments :

Data for revenue impact comes from calculating the estimated number of ABLE accounts, 45 designated beneficiary accounts, estimated to be up to \$5,000 per account with a death rate of 1% per year. Approximately one designated death each year with a total of up to \$5,000 in assets. These assets would be recaptured by State Medicaid under the Medicaid Payback Program. Transferring the assets to the designated beneficiary's estate would make the distribution unqualified and subject to income tax.

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Legal Analysis :

This bill creates a new provision that authorizes the transfer of funds from a disability savings account (ABLE account) established under the Arkansas Achieving a Better Life Experience Program, § 20-3-101 et seq. Upon the death of the ABLE account's designated beneficiary, the account funds may be transferred to the estate of the deceased beneficiary or to an ABLE account of another eligible individual.

The new transfer provision begins by stating that it will not be effective if "prohibited by federal law". It is unclear whether proposed § 20-3-109(c)(2) of the bill, which appears to prohibit Medicaid reimbursement to the state, violates state or federal law.