



Policy Update – Employment, Health Care and Disability - May 2015 Newsletter

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The LEAD Center Policy Update – Employment, Health Care and Disability is a project of the LEAD Center in collaboration with the [Autistic Self Advocacy Network](#).

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EEOC Proposes Rule Allowing Financial Incentives for Wellness Programs

On April 20, 2015, the Equal Employment Opportunity Commission (EEOC) issued a notice of proposed rulemaking that would allow employers to use significant financial incentives to encourage worker participation in employer-sponsored workplace wellness programs. These programs, which have become increasingly popular, aim to increase worker productivity by promoting healthier lifestyles. However, many of these programs require participants to complete a health risk questionnaire that may result in disclosure of disability. As a result, the Americans with Disabilities Act (ADA) requires that such programs be “voluntary.” At issue in the proposed rules is the extent to which an employer can impose financial incentives or penalties to encourage participation, while preserving the “voluntary” nature of the program.

The proposed rule would allow employers to impose a financial incentive of up to 30 percent of the total cost of employee-only coverage – including not only the amount that the employee pays but also the portion covered by the employer. For example, if an employer contributes \$3,000 per year in premiums for an employee health plan and the employee contributes \$2,000, the employer would be permitted to offer up to \$1,500 (30 percent of \$5,000) in incentives or penalties to participate in a wellness program that includes disability-related questions and/ or

medical examinations. In addition, employers are prohibited from firing any employees who choose not to participate or excluding those workers from coverage under the company's health insurance plan.

The regulations will be open for comment until June 19, 2015. For more information, visit the [EEOC website](#).

http://www.eeoc.gov/laws/regulations/qanda_nprm_wellness.cfm

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Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities Hosts Third Virtual Meeting

On May 11 and 12, 2015, the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, which was created under the Workforce Innovation and Opportunity Act (WIOA), held its third meeting since first convening in January. During the meeting, presentations were made by various subcommittees, Department of Labor leadership from the Wage & Hour Division and the Office on Federal Contract Compliance Programs (OFCCP), and the commissioner of the Department of Education's Rehabilitation Services Administration. Testimony included information on Federal programs to increase employment, including ways to leverage health care programs, such as Medicaid waivers to increase workforce participation. [For materials from the meeting, visit the Department of Labor website.](#)

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Virginia is First State to Pass ABLE Act Implementation Legislation to Lessen Financial Strains for Those with Disabilities

In April, Virginia governor Terry McAuliffe [signed into law](#) the state's Achieving A Better Life Experience (ABLE) Act, which permits certain people with disabilities to maintain tax-advantaged savings accounts to cover a variety of expenses, including healthcare, housing and transportation-related costs without losing eligibility for means-tested programs such as Medicaid and Supplemental Security Income (SSI). In late 2014, Congress enacted Federal legislation authorizing such accounts. Each state must pass enabling legislation in order to make the accounts available in that state.

ABLE accounts are intended to enable people with disabilities to achieve greater financial security while retaining necessary benefits, including eligibility for health care and long-term supports and services under Medicaid. These accounts may be particularly helpful for workers with disabilities who need a financial "cushion" to cover unexpected medical, transportation, mobility or other expenses associated with their disability in order to maintain employment and optimal self-sufficiency.

Other states that have passed ABLE Act enabling legislation include [Tennessee](#) and [Montana](#). To

read more about the ABLE Act, visit the [National Disability Institute \(NDI\) page on the ABLE Act](http://www.ndi.org/ABLE-Act).
<http://www.wset.com/story/28824508/virginia-is-first-state-pass-able-act-helps-lesser-financial-strains-for-those-with-disabilities>

<http://www.chattanooga.com/2015/5/18/300671/Governor-Signs-ABLE-Legislation-To-Help.aspx>

http://ravallirepublic.com/news/local/article_1fc5a8cc-f51a-11e4-b6bd-27b084e1ac48.html

<https://www.realeconomicimpact.org/Public-Policy/ABLE-Act.aspx>

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Special Commission Finds Medicaid Expansion Would Benefit New Hampshire's Economy

New Hampshire has convened a special commission to study the potential consequences of expanding the state's Medicaid budget. Preliminary evidence indicates that expansion would benefit around 58,000 low-income residents⁷. New Hampshire's Department of Health and Human Services has provided data showing that the influx of federal funding, combined with existing revenues, would ultimately allow the state to see a net gain in revenue from expansion by 2021. Under the Affordable Care Act (ACA), states may choose to expand Medicaid eligibility to residents within 133 percent of federal poverty guidelines, which often benefits those who are employed, but not earning sufficient wages to obtain coverage on their own. Many people with disabilities face disability-related health care costs that lower wages cannot cover, and rely on specialized health care services that may not be obtainable without Medicaid funding support. Read more about [Medicaid expansion in New Hampshire](#) or the report, [An Evaluation of the Impact of Medicaid Expansion in New Hampshire](#).

<http://www.nhfp.org/wp-content/uploads/2013/07/Medicaid-Expansion-Coverage-for-Thousands-Low-Cost-to-NH.pdf>

<http://www.dhhs.nh.gov/ombp/documents/nhmedicaidexp-phase-IIrpt.pdf>

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University of Massachusetts Studying Patterns of Health Care Use Among People with Intellectual Disabilities

The Kennedy Shriver Center received a grant from the Association of University Centers on Disabilities (AUCD) to examine data from MassHealth (the Massachusetts Medicaid program) on what types of health care are used by people with intellectual disabilities. The researchers noted that they have a clearer understanding about the health care needs of people with intellectual disabilities living in group home settings than those living on their own or with families. The research team seeks to identify health care usage trends across the entire population of people with intellectual disabilities, who comprise 15 percent of Medicaid recipients and 42 percent of Medicaid costs for all types of health-related services. This can include employment services

covered under Medicaid, such as customized and supported employment programs, as well as health care services that make it possible for people with intellectual disabilities who have complex health needs to maintain employment. [Read more about the study.](#)

<http://www.umassmed.edu/news/news-archives/2015/04/umms-studying-patterns-of-health-care-use-among-people-with-intellectual-disabilities/>

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