

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

May 22, 2019

Dear Senators:

Disability Rights Nebraska is the designated Protection and Advocacy organization for Nebraskans with disabilities. Disability Rights Nebraska supported the creation of the Achieving a Better Life Experience (ABLE) accounts, given the intent that these accounts would assist people with developmental disabilities to save and to afford disability-related expenses independently. Disability Rights Nebraska strongly supports LB 705.

As the ABLE National Resource Center [reports](#), states can work to take funds out of an individual's ABLE account upon her/his death to reimburse any Medicaid expenses after the account was established:

“Upon the death of the beneficiary, the state in which the beneficiary lived may file a claim to all or a portion of the funds in the account equal to the amount in which the state spent on the beneficiary through their state Medicaid program. This is commonly known as the ‘Medicaid Payback’ provision and the claim could recoup Medicaid-related expenses from the time the account was opened.”

We support LB 705 in that the state should not be able to reach in and take funds out of an individual's ABLE account for Medicaid expenditures. The funds in the account (whether deposited by the account owner or a relative or a friend) were not intended to accumulate so that the individual can pay their Medicaid “bill”. The state should be able to cover the cost of Medicaid without raiding the funds of individuals with disabilities; that is the nature of the appropriation process, and the state is better positioned to absorb an individual's Medicaid service costs than an individual with an ABLE account (with deposits capped at \$15,000 per year).

We recommend that the legislation be advanced, if not in the remaining days of this session, then during the next legislative session.

Sincerely,

Bradley A. Meurrens
Public Policy Director