Reallocation; ACOs; ABLE Accounts (Update on Federal Government Actions)

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This column normally focuses on benefits issues, not politics; but government actions have a large impact on benefits and the disabled persons who receive them. This month's article takes a look at three actions by the federal government that directly affect people dealing with disability, namely:

- **Reallocation of funds** between Social Security trust funds, which could have a dramatic effect on anyone collecting Social Security Disability;
- **Accountable Care Organizations (ACOs)** under Obamacare which looks to become an effective tool at reducing medical costs; and,
- **Enactment of ABLE accounts**, a recent federal law which could help disabled persons save money tax-free.

Reallocation of Trust Funds

This is the item that could have the quickest and most severe impact on people collecting Social Security Disability Insurance (SSDI).

A little background: The F.I.C.A. payroll taxes that pay Social Security Retirement and Disability beneficiaries go into two separate trust funds, the Retirement Trust Fund and the Disability Trust Fund. They are split by a formula that has been in effect for many years.

Because the formula does not accurately reflect the payouts from each fund, periodically, the House of Representatives, which initiates budget issues, must "reallocate" funds from one trust fund to the other in order to maintain full payments to both groups of beneficiaries. This is usually a fairly routine procedure and has been done eleven times since 1968 with no opposition or problems, regardless of the political party in control of the House. Due to the age of the allocation formula and the shifts in types of labor, age of workforce, and advancing the retirement age to 67, the reallocation of funds usually has been from the Retirement Fund into the Disability Fund.

If there is no reallocation of money into the Disability Trust Fund from the much larger Retirement Fund, before December, 2016, SSDI benefits will be cut 16 – 20% for the 11,000,000 disabled people currently receiving benefits.

On the first day of the new Congress, the new majority adopted a "rule" about reallocation without consulting the minority party. Instead of simply approving the reallocation as in the past, now a reallocation bill can only be considered if it comes with an accompanying proposal which "improves the actuarial balance" of both funds. In other words, disabled people's SSDI benefits will be cut by up to 1/5 unless there is a plan on

the table to put both Trust Funds into more permanent solvency, i.e., a major rewrite of the entire Social Security retirement and disability system.

Note that this is only a "rule" change, not a law. So it is now in effect; neither the Senate nor the President can do anything to stop it.

Supporters of this new rule have frequently tried to portray SSDI as too easy to get and claim almost anyone can walk in and get it. Any disabled person who has gone through the application and appeal process will have no problem appreciating the total inaccuracy of that.

One senator maintains that over half the recipients are either anxious or have a sore back, saying, "Join the club. Who doesn't get up a little anxious for work and their back hurts."

In 2011, the last year for when numbers are available, all types of mood disorders plus all types of musculoskeletal issues comprised less than 45% of total worker beneficiaries, which includes far more conditions than anxiety and a "sore back."

The reason for the new rule, according to its supporters, is to push Congress to address the inadequacy of current revenue and benefits payouts and stop "kicking the can down the road."

Those opposed to the new rules, which include virtually all of the disabled community and its advocates, accused the House of holding the disabled hostage. Who is correct?

While the supporters focused on anecdotes, the Government Accounting Office (GAO) performed an audit of improper SSDI payments and issued its report in 2013 (GAO13-635). It concluded only 0.4% of beneficiaries received overpayments, or payments for which they were not able–not even 1% of the total benefits paid.

The proposed budget recently issued by The White House specifically calls for a reallocation into the Disability Trust Fund, but that is only a proposal at present.

There is a possibility that, if pushed, the majority in the House may postpone this rule, however, that risks the rule or something like it being brought up in future years similar to other issues such as expanding the debt limit or threatening to cut successful, popular, and necessary programs. At present the rule is in place, and, if not changed or postponed, SSDI beneficiaries will see a large cut in their benefits by the end of 2016.

Accountable Care Organizations (ACOs)

One of the provisions of the Affordable Care Act (aka Obamacare) created ACOs in an attempt to control the rapidly rising medical costs. An ACO is a group of doctors, hospitals, and other health care providers who come together voluntarily to give coordinated high quality care to their patients. This would save costs by avoiding unnecessary duplication of services and prevent medical errors.

The goal of coordinated care is to ensure that patients, especially the chronically ill such as those with HCV and HIV, get the right care at the right time. When an ACO succeeds both in delivering high quality care AND spending health care dollars more wisely, it will share in the savings it achieves.

This may sound a little like the HMO model for health care, and the goals are definitely similar in that it attempts to move away from paying by the treatment provided (fee-for-service) and tie payment more to health outcomes. What separates an ACO from an HMO is the patient is not locked in to any set of providers or hospitals where they must go for treatment. Beneficiaries can still go to any doctor or hospital.

Under the terms of Obamacare, the ACO will be responsible for all the care needs for a group of patients and will be paid based on those patients' health outcomes, satisfaction, and costs.

At present, ACOs are primarily being tried with beneficiaries who are on original, (or fee-for-service) Medicare. Private insurance companies are watching closely and are also starting to work with it on a smaller scale. Kaiser Health News reports that Medicare ACOs are already serving over one million Medicare recipients with promising results. For an interactive map showing current Medicare ACOs, see the site below:

http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/sharedsavingsprogram/ACOs-in-Your-State.html

By having the various medical providers working together more closely, health outcomes will be improved, there will be less wasted dollars from duplicate and unnecessary procedures being performed, fewer and shorter hospital stays, and greater patient satisfaction. The indications so far are good.

ABLE Savings Accounts

In December, 2014, Congress passed and the President signed the Achieving a Better Life Experience (ABLE) Act. Similar to the tax-sheltered 529 College Savings Accounts, it allows people with disabilities to establish a tax-sheltered fund to assist with expenses.

To qualify, a person must have been diagnosed by age 26 with a disability that results in "marked and severe functional limitations;" those receiving Social Security disability benefits would also qualify. Note that there is no age limit to establishing the fund, but diagnosis of the condition must have occurred while the disabled beneficiary is age 26 or less. While this would eliminate anyone diagnosed with HCV after age 26, it could be a significant tool for those who are eligible.

The beneficiary, family, and friends could set up and fund a tax-free at financial institutions, depositing up to $14,000 per year. Funds could be used for housing, health care expenses, transportation, education, employment training, personal support services,

financial management, and administrative services. The contributions would be with after-tax dollars but earnings would grow tax-free.

The maximum amount of the fund would be the same as each state's maximum for the 529 Education Tax-Free Funds. A major advantage is that as long as the fund remains below $100,000, the beneficiary would still be eligible for Supplemental Security Income (SSI) benefits. Regardless of the fund size, eligibility for Medicaid would continue.

The ABLE Fund would have significant advantages over the Special Needs Trust, currently used to maintain eligibility for needs-based public programs. They are much less expensive to set up, and they do not have the significant limitations on the use of the funds.

For more information contact a financial planner or a banker. States may also set up funding plans as they do with the Education Accounts.