

Entitlement vs. Eligibility

as they relate to lifespan services for individuals with ASD

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PREAMBLE

- CORRECT VS. RIGHT
- POLITICAL CORRECTNESS OR RIGHTNESS?
- THE KING HAS NO CLOTHES...A WORRISOME TREND.
- CONFERRING MEANINGFUL AND SIGNIFICANT PROGRESS
- CHOICE WITHOUT OPTIONS IS NO CHOICE AT ALL;
Person Centered Planning/Real life Choices?
- Violent DVDs and Pornography

Eligibility

Stand in line

- Medicaid
- Social Security
- ABLE Accounts- Achieving a Better Life Experience
- Special Needs Trust
- Pooled Trust
- SNAP- Supplemental Nutrition Asst. Program
- Voc. Rehabilitation
- Division of Developmental Disabilities

1. See if your state expanded Medicaid

- Location Current Status of Medicaid Expansion Decision United States Adopted the Medicaid Expansion: 32 states (including DC); Not Adopting the Medicaid Expansion at this Time: 19 states
Alabama Not Adopting the Medicaid Expansion at this Time
Alaska Adopted the Medicaid Expansion¹
Arizona Adopted the Medicaid Expansion
Arkansas Adopted the Medicaid Expansion²
California Adopted the Medicaid Expansion
Colorado Adopted the Medicaid Expansion
Connecticut Adopted the Medicaid Expansion
Delaware Adopted the Medicaid Expansion
District of Columbia Adopted the Medicaid Expansion
Florida Not Adopting the Medicaid Expansion at this Time
Georgia Not Adopting the Medicaid Expansion at this Time
Hawaii Adopted the Medicaid Expansion
Idaho Not Adopting the Medicaid Expansion at this Time
Illinois Adopted the Medicaid Expansion
Indiana Adopted the Medicaid Expansion¹
²Iowa Adopted the Medicaid Expansion²
Kansas Not Adopting the Medicaid Expansion at this Time
Kentucky Adopted the Medicaid Expansion
Louisiana Adopted the Medicaid Expansion

Expansion Cont'd

- Expansion¹MaineNot Adopting the Medicaid Expansion at this TimeMarylandAdopted the Medicaid ExpansionMassachusettsAdopted the Medicaid ExpansionMichiganAdopted the Medicaid Expansion^{1, 2}MinnesotaAdopted the Medicaid ExpansionMississippiNot Adopting the Medicaid Expansion at this TimeMissouriNot Adopting the Medicaid Expansion at this TimeMontanaAdopted the Medicaid Expansion^{1, 2}NebraskaNot Adopting the Medicaid Expansion at this TimeNevadaAdopted the Medicaid ExpansionNew HampshireAdopted the Medicaid Expansion^{1, 2}New JerseyAdopted the Medicaid ExpansionNew MexicoAdopted the Medicaid ExpansionNew YorkAdopted the Medicaid ExpansionNorth CarolinaNot Adopting the Medicaid Expansion at this TimeNorth DakotaAdopted the Medicaid ExpansionOhioAdopted the Medicaid ExpansionOklahomaNot Adopting the Medicaid Expansion at this TimeOregonAdopted the Medicaid ExpansionPennsylvaniaAdopted the Medicaid Expansion^{1, 2}Rhode IslandAdopted the Medicaid ExpansionSouth CarolinaNot Adopting the Medicaid Expansion at this TimeSouth DakotaNot Adopting the Medicaid Expansion at this TimeTennesseeNot Adopting the Medicaid Expansion at this TimeTexasNot Adopting the Medicaid Expansion at this TimeUtahNot Adopting the Medicaid Expansion at this TimeVermontAdopted the Medicaid ExpansionVirginiaNot Adopting the Medicaid Expansion at this TimeWashingtonAdopted the Medicaid ExpansionWest VirginiaAdopted the Medicaid ExpansionWisconsinNot Adopting the Medicaid Expansion at this Time³WyomingNot Adopting the Medicaid Expansion at this Time

Expansion Cont'd

- **Notes**
- States' decisions about adopting the Medicaid expansion are as of March 14, 2016. To view and download a map of these data, please click [here](#).
- A central goal of the Affordable Care Act (ACA) is to significantly reduce the number of uninsured by providing a continuum of affordable coverage options through Medicaid and the Health Insurance Marketplaces. The ACA expands Medicaid coverage for most low-income adults to 138% of the federal poverty level (FPL); see this [table](#) for state by state Medicaid income eligibility levels for adults. Following the June 2012 Supreme Court decision, states face a decision about whether to adopt the Medicaid expansion. It is important to note that per CMS guidance, there is no deadline for states to implement the Medicaid expansion.
- States where **Adoption of the Medicaid Expansion is Under Discussion** are based on Kaiser Commission on Medicaid and the Uninsured (KCMU) analysis of state executive activity; states are included in this category if executive activity supports adoption of the Medicaid expansion.
- **Sources**
- Current status for each state is based on KCMU tracking and analysis of state executive activity.
- **Footnotes**
- Coverage under the Medicaid expansion became effective January 1, 2014 in all states that have adopted the Medicaid expansion except for the following: Michigan (4/1/2014), New Hampshire (8/15/2014), Pennsylvania (1/1/2015), Indiana (2/1/2015), Alaska (9/1/2015) and Montana (1/1/2016). Louisiana's Governor Edwards signed an Executive Order to adopt the Medicaid expansion on 1/12/2016, but coverage under the expansion is not yet in effect.
- Arkansas, Indiana, Iowa, Michigan, Montana, New Hampshire and Pennsylvania have approved Section 1115 waivers for the Medicaid expansion. Coverage under the PA waiver went into effect January 1, 2015, but it has transitioned coverage to a state plan amendment.

2. Check income requirements Expanded vs Not Expanded Before/after Affordable Care Act

The next thing you need to do after checking whether your state expanded Medicaid is check your states income requirements to enroll in the program. The 29 states and D.C. that expanded Medicaid have set their cap at [138 percent of the federal poverty level](#) (FPL). Most people don't know what the federal poverty level is, let alone what 138 percent of the level is, so let me explain it in layman's terms: individuals **making \$16,243 and below a year would qualify for Medicaid in states that expanded Medicaid**. That number rises as the number of individuals in your household. So a family of four making \$33,465 and below each year would also qualify for Medicaid. Remember that this is only in the states that expanded Medicaid.

If you live in a state **that didn't expand Medicaid** then your income requirements are based off of the cap that was set before the ACA went into effect. This number is 106 percent of the FPL, or **\$11,670 for an individual** and \$23,850 for a family of four. You can see a full break down of income requirements for singles and families by visiting [Incomes that qualify for lower costs](#).

3. Apply for coverage

After visiting that site and determining that you may qualify for Medicaid then you need to apply in order to begin receiving coverage. All you need to do is go to [Medicaid.gov](https://www.Medicaid.gov) or [Healthcare.gov](https://www.Healthcare.gov) to get started.

It is also important for you to know that there are no cut off dates to enroll in Medicaid. While there are specific dates you are able to sign up for health insurance coverage under the Affordable Care Act, there is no such thing for Medicaid. That means that you can apply to receive coverage any time of the year.

Social Security

Supplemental Security Income

- SSI
- *Supplemental Security Income*
- Disability
- Cash
- Limited work history
- Monthly Earnings Cap: 1/2 of earnings + \$65 up to \$778.00 in 2016
- Earned & unearned income both counted
- Resource cap - \$2,000
- Welfare cash benefit
- Food and shelter counted as income, up to set limits
- US citizens, some qualified immigrants (some limited additional exceptions)
- No dependent coverage

SSDI

- **SSDI**
- *Social Security Disability Income*
- Disability
- Cash 6 months from disability date and Medicare 29 months from disability date
- Work history (or relationship to someone with work history)
- Earnings Cap: \$1200 in 2016 (slightly higher for individuals who are blind)
- Only earned income is counted
- No resource cap
- Insurance
- Food and shelter not counted as income
- All workers with a valid social security number who paid into Social Security
- Covers dependents

SS Retirement Income

- **SSRI**
- *Social Security Retirement Income*
- Retirement
- Cash at age 62+ and Medicare at 65
- Work history
- Yearly Earnings Cap (if under full retirement age): \$14,160 in 2011
- Only earned income is counted
- No resource cap
- Insurance
- Food and shelter not counted as income
- All workers with a valid social security number who paid into Social Security
- Covers dependents

ABLE Accounts: 10 Things You Must Know

1. What is an ABLE account?

- Achieving a Better Life accounts, which are tax-advantaged savings accounts for individuals with disabilities and their families, will be created as a result of the passage of the ABLE Act of 2014. Income earned by the accounts will not be taxed. Contributions to the account made by any person (the account beneficiary, family and friends) will not be tax deductible.

2. Why the need for ABLE accounts?

- For the first time, eligible individuals and families will be allowed to establish ABLE savings accounts that will not affect their eligibility for SSI, Medicaid and other public benefits. The legislation explains further that an ABLE account will, with private savings, "secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, Medicaid, SSI, the beneficiary's employment and other sources." -

3. Am I eligible for an ABLE account?

- Passage of legislation is a result of a series of compromises. The final version of the ABLE Act limits eligibility to individuals with significant disabilities with an age of onset of disability before turning 26 years of age. If you meet this criteria and are also receiving benefits already under SSI and/or SSDI, you are automatically eligible to establish an ABLE account.

4. Are there limits to how much money can be put in an ABLE account?

- The total annual contributions by all participating individuals, including family and friends, is \$14,000. The amount will be adjusted annually for inflation. Under current tax law, \$14,000 is the maximum amount that individuals can make as a gift to someone else and not pay taxes (gift tax exclusion). The total limit over time that could be made to an ABLE account will be subject to the individual state and their limit for education-related 529 savings accounts. Many states have set this limit at more than \$300,000 per plan. However, for individuals with disabilities who are recipients of SSI and Medicaid, the ABLE Act sets some further limitations. The first \$100,000 in ABLE accounts will be exempted from the SSI \$2,000 individual resource limit. If and when an ABLE account exceeds \$100,000, the beneficiary will be suspended from eligibility for SSI benefits and no longer receive that monthly income; but still maintain their Medicaid Eligibility.

5. Which expenses are allowed by ABLÉ accounts?

- A "qualified disability expense" means any expense related to the designated beneficiary as a result of living a life with a disability. These include education, housing, transportation, employment training and support, assistive technology, personal support services, health care expenses, financial management and administrative services and other expenses which will be further described in the federal ABLÉ regulations once they are finalized. ([Proposed regulations](#) were issued in June 2015).

6. Where do I go to open an ABLE account?

- Each state is responsible for establishing and operating an ABLE program. If a state should choose not to establish its own program, the state may choose to contract with another state to offer its eligible individuals with significant disabilities the opportunity to open an ABLE account. To learn more about the implementation of ABLE in the states, visit the [NDSS State ABLE webpage](#).

How is an ABLE account different than a special needs or pooled trust?

- An ABLE Account will provide more choice and control for the beneficiary and family. The cost of establishing an account will be considerably less than either a Special Needs Trust (SNT) or Pooled Income Trust. With an ABLE account, account owners will have the ability to control their funds and, if circumstances change, still have other options available to them. Determining which option is the most appropriate will depend upon individual circumstances. For many families, the ABLE account will be a significant and viable option in **addition to**, rather than instead of, a Trust program

SPECIAL NEEDS TRUST

- A **special needs trust** is a trust designed for beneficiaries with disabilities. It is written so the beneficiary can enjoy the use of property that is held in the trust for his or her benefit, while at the same time allowing the beneficiary to receive essential needs-based government benefits. In addition to the public benefits preservation reasons for such a trust, there will be administrative advantages of using a trust to hold and manage property intended for the benefit of the beneficiary. Special needs trusts are sometimes known as supplemental needs trusts.

Pooled Trust

- A pooled trust is a trust established and administered by a non-profit organization. A separate account is established for each beneficiary of the trust, but for the purposes of investment and management of funds, the trust pools these accounts. For self-settled, or (d)(4)(C) pooled trusts, each subaccount is established by the person with a disability, a parent, grandparent, guardian, or a court, and the trust is funded with the assets of the person with a disability.

SUPPLEMENTAL NUTRITION ASST. PROGRAM [SNAP]

- **Resources**
- Households may have \$2,250 in countable resources, such as a bank account, or \$3,250 in countable resources if at least one person is age 60 or older, or is disabled. However, certain resources are NOT counted, such as a home and lot, the resources of people who receive Supplemental Security Income (SSI), the resources of people who receive Temporary Assistance for Needy Families (TANF), and most [retirement \(pension\) plans.](#)

SNAP CONT'D

- **Income**
- Households have to meet income tests unless all members are receiving Temporary Assistance for Needy Families [TANF], SSI, or in some places general assistance. Most households must meet both the gross and net income tests, but a household with an elderly person or a person who is receiving certain types of disability payments only has to meet the net income test. Households, except those noted, that have income over the amounts listed below cannot get SNAP benefits.
- (Oct. 1, 2015 through Sept. 30, 2016)

STATE DIVISION ON DEVELOPMENTAL DISABILITIES

- RESIDENTIAL
- DAY SERVICES
- RESPITE SERVICES
- EMERGENCY RESIDENTIAL
- NOTE; ALWAYS CHECK YOUR STATE'S
MEDICAID WAIVER APPLICATION!

VOCATIONAL REHABILITATION

- REHABILITATION OF INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS
- WWW.GWU.EDU/CRCRE 32ND INSTITUTE ON REHABILITATION ISSUES
- NOTE; YOU CAN 'DOUBLE DIP'!

ENTITLEMENTS

- IDEA- INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT [AGES BIRTH THROUGH SCHOOL YEAR OF 21ST BIRTHDAY +
- ACA- Affordable Care Act?

The Contract

- FAPE- Free and Appropriate Public Education
- LRE- Least Restrictive Environment
- IEP- Individual Education Plan

Containment or Educational Benefit

- Exposure vs. benefit
- “What must occur for our children with Autism is an education that confers benefit; an education that challenges them to acquire adaptive skills that will serve them well during their adult years. Anything less is a waste of their time and their lives”
- DLH; 05-02-2008

National Association of State Directors of Special Education

- “The issue today is less than one of access...The question is making sure that they [children with special needs] have access to a challenging educational program”.
- Dr. Nancy Reder, Deputy Director, 12/20/2005

FAPE and LRE

- A Free and Appropriate Public Education does not have to be in a public school...it must be an appropriate education at public expense.
- An appropriate education is one “that is designed to confer meaningful and significant progress”. Administrative Law Ruling.
- “A Least Restrictive Environment is not a place; it’s what takes place”. DLH; testimony

IEP

- Must reflect triennial assessments
- Must be developed to confer meaningful and significant progress
- Must have operationalized Goals and Objectives;
 1. Conditions under which services will be rendered.
 2. Behavior that is observable and measurable
 3. Criteria that established mastery without prompts.

IEP Cont'd

Caveats

- ...“just like everyone else/typical students.”
- ESY Extended School Year that meets administrators needs not the children's.
- A school day ‘just like everyone else’.
- No Home or Community supports.
- Parents not treated as a valued member of the Child Study Team.

IEP as a contract

- You would never take an airplane ride with a pilot who developed his/her flight plan like most all IEPs.
- You would never have a contractor build a home for you with architectural plans developed like most all IEPs.
- IN ALL CASES YOU ARE EITHER CRASHING OR YOUR HOUSE WILL FALL DOWN AROUND YOU.
- IS THAT WHAT YOU WANT FOR YOUR CHILD/STUDENT WITH ASD?

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