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*Promoting the Full Inclusion of People with Intellectual/Developmental  
Disabilities in the Life of the Catholic Church*

## **2010 Report on Federal Legislation Affecting Supports for Adults with Disabilities**

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Medicaid is the source of funding for institutional care for people with disabilities, and also for most of the services provided to people living in the community, i.e., residential, day and employment supports. People who meet certain disability criteria have an absolute entitlement to Medicaid paying for their care in an institution, even though this is no longer regarded as appropriate by the disability community. However people do not have any similar entitlement to services in the community. Medicaid does pay for residential, day and employment supports through the Medicaid Waiver, but it is not an entitlement. Each state decides how much money to put into these services, and once remaining unserved individuals go onto a waiting list. In many states, the wait for services may be decades long, or people may never get them while their parents are still alive.

**Community First Choice (CFC) Option** A provision in the recently-passed health care laws, called the Community First Choice Option, may help to change this terrible situation. The CFC Option gives each state the option to make Medicaid waiver services for people living in the community an entitlement (no waiting lists). Each state has to choose to opt in to this. If they do, it would cost the state extra money, but there is a sweetener that might convince states to opt in: the federal contribution to Medicaid would increase by 6%. This would apply not only to people with disabilities, but also to older people who could be taken care of in their homes rather than in nursing homes, and this could save the states a lot of money. *The disability community will need to mount a major effort in each state to convince the states to buy into the CFC, but it could end waiting lists.*

**CLASS Act** The Class Act is also part of the health care laws that were passed. This act starts a government-run long-term care insurance program. Premiums would depend only on age when a person joins the plan, and there is no pre-existing conditions exclusion, so people with disabilities could join, as long as they are working and earning at least \$1200 per year. The premiums would be very low (\$5.00/month) for people with low income. After five years of paying premiums, a person with disabilities could begin collecting cash payments that they could use to pay for their care. This would include direct care services for residential, day and supported employment. It would not pay for food, housing or medical expenses. There would be no income or means test,

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and the payments would not prevent people from also being eligible for SSI, SSDI, Medicaid, etc. There would be limits on the payments, based on the level of disability. These haven't been decided yet, this will come in regulations, but my understanding is they will be at least \$18,000 per year. The payments may not be sufficient to cover all expenses, but they will go a long way, and they will allow people to manage their own care. This could give people a lot more independence than in the present developmental disabilities/Medicaid system. It would also be possible for people to combine these payments with the existing supports that the states provide through Medicaid, which would greatly reduce the financial pressure on the states and encourage them to provide more generous funding.

**Medicaid Expansion** is also part of the 2010 health care laws that were passed. As of 2014, people will be eligible for Medicaid if their income is less than 133% of the poverty level (\$14,600 for individuals), and there will be no means test.

**ABLE Act** Achieving a Better Life Experience Act of 2009 (S. 493; H.R. 1205) is introduced legislation that is currently being considered. It has 167 sponsors in the House, from both parties, and is thought to have some chance of passing. This act would set up completely tax-free savings accounts for people with disabilities. They could put their own money into the account, or family members or anyone else could put in money.

Money in an ABLE Act account would not be counted for the means test for SSI and Medicaid, so this eliminates the problem of people losing their services because they have too much money. The account could be a custodial account managed by a family member or by someone else. Up to \$500,000 lifetime could be put into the account. After the person dies, Medicaid could reclaim money for support they provided. These accounts would serve largely the same purpose as self-funded special needs trusts, but would be ideal for people of modest means, since no lawyer would be required to start the account and there would be minimal reporting requirements; a person could just go into a bank and fill out a form, and the account would be opened instantly. My understanding is the money could also be invested in mutual funds or other investments.

**DISCLAIMER:** This report is based, to the best of my understanding, on information I obtained at the Disability Policy Seminar of the Arc of the United States, April 12 – 14, 2010. This writer is not a lawyer or an expert on this subject.

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