



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

December 14, 2016

VIA EMAIL

Lourdes M. Castro Ramirez
Principal Deputy Assistant Secretary, Office of Public & Indian Housing
Department of Housing and Urban Development
451 Seventh Street, S.W., Room 4100
Washington, DC 20410

**RE: Exemption of ABLÉ Accounts from Income and Asset Limits Authorized by
the Housing Opportunities Through Modernization Act of 2016**

Dear Principal Deputy Assistant Secretary Castro Ramirez,

We write as Co-Chairs of the Consortium for Citizens with Disabilities (CCD) Housing Task Force and Financial Security Task Force regarding implementation by the Department of Housing and Urban Development (HUD) of certain provisions of the Housing Opportunities Through Modernization Act of 2016 (HOTMA, P.L. 114-201).

CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

This letter specifically addresses exemption of ABLÉ accounts from the new income and asset limits for Section 8 housing assistance and public housing established in Sections 102 and 104 of HOTMA. The CCD Housing Task Force will separately share with you recommendations on other aspects of HOTMA implementation.

The Stephen Beck, Jr. Achieving a Better Life Experience Act of 2014 (ABLE Act; P.L. 113-295) allows certain individuals with disabilities the opportunity to save resources in a tax advantaged savings account (an ABLÉ account) for the purposes of covering disability related expenses. Section 103(a) of the ABLÉ Act requires that the resources saved in an ABLÉ account are not taken into consideration when determining the individual's eligibility for or amount of federally funded means tested benefits, stating:

“(a) ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN OTHER MEANS-TESTED FEDERAL PROGRAMS.—Notwithstanding any other provision of Federal law that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision

to be provided to or for the benefit of such individual, any amount (including earnings thereon) in the ABLE account (within the meaning of section 529A of the Internal Revenue Code of 1986) of such individual, any contributions to the ABLE account of the individual, and any distribution for qualified disability expenses (as defined in subsection(e)(5) of such section) shall be disregarded for such purpose with respect to any period during which such individual maintains, makes contributions to, or receives distributions from such ABLE account...”

To meet this requirement, HUD should direct public housing agencies (PHAs) to disregard funds held in an ABLE account, contributions to an ABLE account, and distributions from an ABLE account for qualified disability expenses from calculations of income or net family assets.

HOTMA provisions related to income and assets provide authority for the Secretary of HUD to take such action. Section 102 of HOTMA, in defining “Income”, provides for “(v) exclusions from income as established by the Secretary by regulation or notice, or any amount required by Federal law to be excluded from consideration as income”. Section 104 of HOTMA, in defining “Net Family Assets”, provides a list of exclusions including “(vi) such other exclusions as the Secretary may establish”.

We understand that HUD plans to implement Section 102 and Section 104 through rulemaking. We urge HUD in its proposed rules to identify ABLE accounts and any funds held in, contributed to, or disbursed from ABLE accounts for qualified disability expenses as a named exemption from the definition of income established under Section 102 of HOTMA and as a named exemption from the definition of Net Family Assets established under Section 104 of HOTMA.

In closing, thank you for your leadership on the implementation of this important new law.

Sincerely,

CCD Housing Task Force Co-Chairs:

Andrew Sperling
National Alliance on Mental Illness

T.J. Sutcliffe
The Arc of the United States

CCD Financial Security Task Force Co-Chairs:

Dara Baldwin
National Disability Rights Network

Marty Ford
The Arc of the United States

Susan Goodman
National Down Syndrome Congress

Sarah Meek
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Chris Rodriguez
National Disability Institute (NDI)