The Arc

For people with intellectual and developmental disabilities

The Arc Michigan: Update from Washington

Nicole Jorwic, J.D.
Director of Rights Policy,
The Arc of the United States

The Arc
For people with intellectual and developmental disabilities

THANK YOU

Over 2500

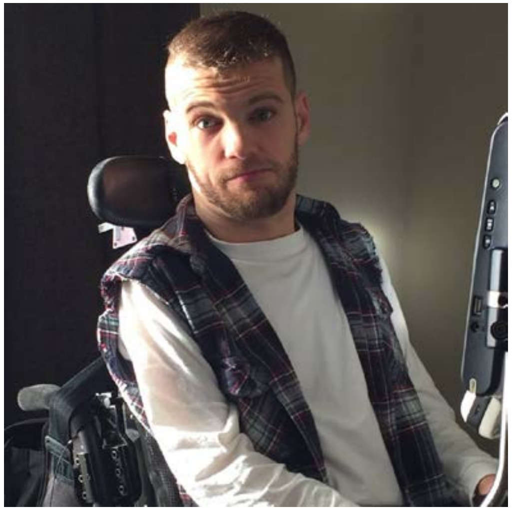
Letters delivered to Hill collected over 2 weekends.

Over **100** from MI

The Arc

For people with intellectual and developmental disabilities

My Story…



Achieve with us.®

The Arc

For people with intellectual and developmental disabilities

Observations and Lessons Learned

The Arc
For people with intellectual and developmental disabilities

Lessons Learned

- Our core issues will keep coming back – they are never permanently resolved
- Need to remain vigilant
- Need to connect/reconnect with grassroots
  - In some areas, connections may not be as strong/visible as we thought
  - In other areas, grassroots were working like gangbusters – just not communicating with us
- Seen new appetite for the advocacy “kitchen table” and movement building on line
  - Need to learn together about how to get the most/best out of that new frontier

The Arc
For people with intellectual and developmental disabilities

Catalyst for Future Advocacy

- Kudos to all who have worked so hard on the Medicaid and ACA efforts
  - We have seen some really creative and engaging mobilization and activities at the state level
- We can use our experiences of the last 18 months as a catalyst for:
    - Reconnecting and rebuilding with our grassroots & building a stronger chapter network
    - Taking the good ideas and “test runs” to develop stronger models and tools
    - Ensuring a learning flow back and forth to grow together

The Arc
For people with intellectual and developmental disabilities

Working Together

- Strength and visibility of connection helps individuals and families
- Engagement with younger families
- Once again showing the power of The Arc network
- What it means on the Hill
- Continued vigilance
- The fight is never over
- The Arc will always be at the table

The Arc

For people with intellectual and developmental disabilities

Tax Bill

Tax Bill

- The House and Senate passed the Tax Cuts and Jobs Act (TCJA) on December 20, 2017 by votes of 224 to 201 and 51 to 48, respectively. President Trump signed the measure into law two days later.
- Though the final version of the legislation removed some of the objectionable provisions from prior versions, such as repeal of the medical expense deduction, the work opportunity tax credits, and the disabled access credit.
- The Arc strongly opposed this legislation. The TCJA repeals the individual mandate to have health insurance, leading to 13 million fewer people with coverage over 10 years, and increases the deficit by nearly $1.5 trillion over a decade, adding pressure to cut Medicaid and other critical programs

The Arc

For people with intellectual and developmental disabilities

Farm Bill

Achieve with us.®

2018 Agriculture and Nutrition Act

- The proposed Farm Bill would cut off basic food assistance for children, adults, and seniors who are struggling to put food on the table. We fundamentally disagree with the notion embedded throughout the proposed bill that some people are more “deserving” of basic food assistance than others.

- 11 million people with disabilities rely on SNAP, 2 million could lose benefits under this proposal

Farm Bill

- The bill would significantly expand SNAP's existing work requirements, forcing SNAP beneficiaries age 18 to 59 to engage in work or job training activities for at least 20 hours per week. The bill's exceptions for people raising children under the age of 6 or supporting a family member who is "incapacitated" (as stated in the bill) are likely to prove woefully inadequate and extremely difficult for people with disabilities to navigate. Ultimately, these new requirements would cause many people to lose their food assistance, making it harder for them to work, based on experience with existing work requirements in SNAP and other programs.
- While the draft bill calls for greater access to job training programs, new federal investments would be funded in large part by cuts to SNAP food benefits, and analysis by the Center on Budget and Policy Priorities indicates that funding levels for job training would be highly insufficient.
- The draft bill also includes extensive new reporting requirements with harsh consequences if a person misses a deadline. For example, a person who fails to provide a monthly utility bill on time could see their SNAP benefits cut.

The Arc

For people with intellectual and developmental disabilities

Continued Threats to Medicaid

Medicaid – Current Threats

Medicaid Restructuring

- Currently: States receive Federal Medicaid matching funds as an "entitlement" for services provided under the state plan or approved waivers. The federal match is based on a formula - poorer states receive a higher federal match.
  - restructuring is a permanent change to Medicaid program
- Restructuring proposals would eliminate the automatic matching funds to the states. Depending on the nature of the restructuring, many federal requirements could be eliminated.
    - Block grants
    - Per capita caps*

New Graham-Cassidy?

- The new proposal is being spearheaded by the Heritage Foundation and Sen. Rick Santorum (R-PA)
- The plan convert federal Medicaid funds to block grants for individual states.
- The recommendation would also allow states to waive the requirement that insurers' plans cover 10 essential health services, including maternity and mental-health care.
- May also add lifetime spending caps

The Arc
For people with intellectual and developmental disabilities

DOJ and The ACA

- Earlier this month the U.S. Department of Justice announced that it will refuse to defend the Affordable Care Act (ACA) in a lawsuit brought challenging the constitutionality of the law by the state of Texas.

- In a legal filing, administration officials said that key parts of the Affordable Care Act should be invalidated.

- The Arc submitted a declaration in support of a Motion to Intervene in *Texas v. United States* filed by California Attorney General Xavier Becerra and joined by 16 other attorneys general. The State of California and 16 other states seek to enter the lawsuit to defend the ACA. In its declaration, The Arc noted that it views the ACA "as critical for people with I/DD and their families in providing benefits, supports, and civil rights protections that help make community living possible."

The Arc

For people with intellectual and developmental disabilities

EVV

Electronic Visit Verification

What Is Electronic Visit Verification (EVV)
Electronic Visit Verification (EVV) is a telephone and computer-based system used to verify electronically that a personal attendant provides services for a client.

The 21st Century CURES Act Requires EVV
The 21st Century CURES Act, federal legislation signed into law in December 2016, requires that all states implement EVV for Medicaid-funded personal attendant services. This law outlines the requirements that states must meet, but provides little guidance on how states can fulfill the requirement.

CMS Guidance

Delay Bill

The Arc

For people with intellectual and developmental disabilities

EMPOWER Care Act

Achieve with us.®

The Arc
For people with intellectual and developmental disabilities

Money Follows the Person

- Since 2008, Michigan’s Money Follows the Person (MFP) rebalancing demonstration has served as a catalyst that enhances existing Medicaid transition services, resulting in over 6,000 Medicaid beneficiaries returning to community living.
- Out of money

The Arc

For people with intellectual and developmental disabilities

Waivers

Work Requirements

- On January 11, the Center for Medicare and Medicaid Services (CMS) issued guidance about how states can require some Medicaid recipients to work in order to receive coverage.
- While the guidance requires states to exclude some people with disabilities from the requirement, it acknowledges that such an exception will not cover all people with disabilities. To learn more, read The Arc's statement on the guidance.

The Arc

For people with intellectual and developmental disabilities

HCBS SETTINGS RULE

The Arc
For people with intellectual and developmental disabilities

New Guidance

- Released this Tuesday, May 9, 2017
- Extends timeline for bringing settings into compliance to March 2022
- Timeline for transition plans remains 2019
- Note on Heightened Scrutiny

Trends in State Transition Plans

- Some states are using the HCBS regs as a real opportunity to modernize services to support full integration
  - Including phasing out sheltered workshops, setting size limits on residential settings, and expanding capacity of non-disability specific settings
- Varied approach to presumptively institutional settings, especially “settings that isolate”
  - Some states are being rigorous in identifying settings that are presumed institutional (such as settings on the grounds of institutions, campuses, and sheltered workshops)
  - Other states are only identifying settings on the grounds of/adjacent to public institutions and have said they will seek to continue funding these settings

The Arc
For people with intellectual and developmental disabilities

For full approval:

- A comprehensive site-specific assessment of EVERY HCBS setting, including necessary strategies for validating results.
- Draft remediation strategies with a timeline for the remediation strategies that align with the end of the HCBS transition period (March 17, 2019).
- Site specific remediation strategies
- Identifying a heightened scrutiny process for settings that are identified as presumed to be institutional.

For full approval (cont'd.)

- Identify a process for communicating with beneficiaries who may be impacted by changes, closures, etc.
- Establish ongoing monitoring and quality assurance processes.
- Process to evaluate privately-owned homes, can't assume they don't have characteristics that isolate.
- Plans to ensure that there is adequate capacity in the state for non-disability specific settings
- No reliance on reverse integration for non-residential services

The Arc

For people with intellectual and developmental disabilities

Federal Activity on Employment

Achieve with us.®

Recent AbilityOne Declaration

- **The AbilityOne Commission Issued a Declaration in Support of Minimum Wage for All People Who Are Blind or Have Significant Disabilities: http://www.abilityone.gov/media_room/documents/US%20AbilityOne%20Commission%20Declaration%2018March2016%20Final.pdf**
- "The U.S. AbilityOne Commission®, which oversees the AbilityOne® Program, recognizes there are strongly held positions about paying special minimum wages to people with disabilities under Sec.14(c) of the Fair Labor Standards Act. … Our call to action is for all qualified nonprofit agencies participating in the AbilityOne Program to commit to, and begin (if not maintain), paying at least the Federal minimum wage, or state minimum wage if higher, to all employees who are blind or have significant disabilities working on AbilityOne contracts."

Transition to Independence Act (S. 1604)

The Arc
For people with intellectual and developmental disabilities

- Introduced by Senator Charles Grassley (R-IA). This bill would create a five-year Medicaid demonstration program in ten states. The program would give bonuses to the states for helping individuals with disabilities obtain integrated employment and for reducing reliance on segregated employment and day services.
- New version to be introduced this Congress

TIME Act

- U.S. Rep. Gregg Harper (R-Miss.) introduced the Transitioning to Integrated and Meaningful Employment (TIME) Act of 2015 (H.R. 188) seeking to responsibly phase out the use of Special Wage Certificates under Section 14(c) of the Fair Labor Standards Act (FLSA) that would facilitate the transitioning of people with disabilities now working in sheltered, segregated employment.

Current Issues

Workplace Choice and Flexibility for Individuals with Disabilities Act: Grothman (R-WI)

Department of Ed plans to reopen WIOA regulations

The Arc
For people with intellectual and developmental disabilities

Changes to ABLE in 2018

The Arc
For people with intellectual and developmental disabilities

Increased Contribution Limit

The Arc
For people with intellectual and developmental disabilities

Increased Contribution Limit

- The annual contribution limit is periodically adjusted for inflation. As a result, for the 2018 tax year, the annual contribution is set at $15,000 (previously $14,000).
- The $15,000 annual contribution limit accounts for ALL contributors combined in any given tax year.

The Arc
For people with intellectual and developmental disabilities

529 College Savings Account Rollover

529 College Savings Account Rollover Provision

- Previously known as the "ABLE Financial Planning Act"
- This provision was passed as part of the "Tax Cuts and Jobs Act of 2017"

529 College Savings Account Rollover Provision (Continued)

- Allows funds in a 529 College Savings account to be rolled over into a 529A account (ABLE Account).
- The ABLE account beneficiary (to receive the funds) must be either:
  - the beneficiary of the 529 College Savings account, or
  - A “family member” of the beneficiary of the 529 College Savings account
- The funds rolled over from the 529 college savings account to an ABLE account are subject to the annual contribution limit and thus capped at $15,000 for any given tax year (provided that no other contributions into the account have been made during that tax year)
- This provision will expire on Jan. 1, 2026*
  - This should not act as a deterrent, we have every reason to believe that this will be exceeded when needed.

The Arc
For people with intellectual and developmental disabilities

Eligibility for Saver's Credit

Achieve with us.®

Saver’s Credit

- Formal name is the Retirement Savings Contributions Credit
- Purpose: This tax credit acts as an incentive for low and moderate income tax payers to make contributions to retirement accounts (an IRA, 401k, 403b) by allowing them a tax credit (which can be deducted from the taxes they owe).
- The new tax law extends this credit to those ABLE account owners who contribute to their own ABLE account and who meet the other criteria related to being eligible for the Saver’s credit.

Saver's Credit (Continued)

- To claim the credit you must meet eligibility requirements:
  - Age 18 or older;
  - Not a full-time student; and
  - Not claimed as a dependent on another person's return.
  - For a single filer, the adjusted gross income limit to qualify for the Savers' Credit in 2017 was $31,000 and $62,000 for married couples filing jointly.
- It is a nonrefundable credit which means you must owe taxes to use the credit and the maximum value would reduce the taxes you owe down to zero.

The Arc
For people with intellectual and developmental disabilities

Additional Contributions Above $15,000

Additional Contributions Above $15,000

- Previously known as the “ABLE to Work Act”
- This provision was passed as part of the “Tax Cuts and Jobs Act of 2017”
- This provision allows ABLE account beneficiaries who work, and earn income, to contribute above the $15,000 annual contribution limit.
- By how much?
  – The lesser of their gross income for that taxable year, or the amount equal to the federal poverty line (for the contagious 48 states) for a one-person household (as determined for the calendar year preceding the calendar year in which the contributions are made). 2018 FPL: $12,060*.

The Arc
For people with intellectual and developmental disabilities

Additional Contributions Above $15,000 (Continued)

- The contributions above the $15,000 annual contribution limit would be limited to contributions made specifically by the account beneficiary into their ABLE account*.
- The additional contribution would only be allowed if the beneficiary is not participating whatsoever in his/her employer-based retirement fund*.
- Earnings by the beneficiary, as a result of employment, that are contributed into their ABLE account, will still be counted in terms of Substantial Gainful Activity(SGA) or earned income, and thus taken into consideration when determining eligibly for certain public benefits (as earned income, not as an asset).

Additional Contributions Above $15,000 (Continued)

- Questions remain about aspects of the provision relating to these increased contributions and may require guidance from the U.S. Department of the Treasury.
  - Ex: Definition of “work/employment”
- This provision expire on Jan. 1st, 2026
  - This should not act as a deterrent, we have every reason to believe that this will be exceeded when needed.

The Arc
For people with intellectual and developmental disabilities

Questions?

Feel free to contact me:

Jorwic@thearc.org

Achieve with us.