Effective 5/12/2015

Part 3
Administration of Accounts

35A-12-301 Account administrator -- Fees or service charges.

(1) The department shall:
 (a) serve as the account administrator; or
 (b) designate another person to serve as the account administrator in accordance with Title 63G, Chapter 6a, Utah Procurement Code.
(2) Subject to Section 35A-12-302, the account administrator shall:
 (a) receive contributions to an account; and
 (b) make distributions for the payment of qualified disability expenses on behalf of a beneficiary.
(3) The department may authorize the account administrator to collect a reasonable fee or reasonable service charge to offset the costs of administering an account.

Enacted by Chapter 460, 2015 General Session

35A-12-302 Contributions.

(1) For a calendar year, the total contributions to an account from all persons who contribute to the account may not exceed the federal gift tax exclusion provided in Section 2503, Internal Revenue Code, for the calendar year.
(2) If a contribution to an account would result in the total contributions to the account for a calendar year exceeding the amount provided in Subsection (1), the account administrator shall return the excess contribution to the person who made the contribution within 30 days after the date of the contribution.

Enacted by Chapter 460, 2015 General Session

35A-12-303 Account agreements -- Beneficiaries.

(1) Beginning on or after July 1, 2016, the department may authorize an account owner who holds a certificate issued under Section 35A-12-202 to enter into an account agreement with the account administrator.
(2) The account agreement shall designate a beneficiary.
(3) An individual may only be designated as a beneficiary of one account under this chapter.
(4) An account agreement shall state that:
 (a) an account is not insured or guaranteed by the state; and
 (b) the state does not guarantee the rate or payment of interest or other return on an account.

Enacted by Chapter 460, 2015 General Session

35A-12-304 Duties of account administrator.

(1) The account administrator shall ensure that an account, a contribution to an account, a distribution from an account, or the return of an excess contribution is administered in compliance with:
 (a) this chapter;
 (b) the federal Achieving a Better Life Experience Act, including a requirement for or prohibition on:

(i) the manner in which a contribution may be made;
(ii) providing a separate accounting for a beneficiary;
(iii) directing the investment of a contribution;
(iv) pledging an amount as security for a loan; and
(v) making excess contributions; and
(c) regulations, if any, issued by the United States Department of the Treasury.
(2)
(a) The account administrator shall provide a statement to an account owner at least monthly.
(b) The statement described in Subsection (2)(a) shall itemize:
(i) contributions made to an account;
(ii) distributions made from an account; and
(iii) the return of an excess contribution.
(3)
(a) The account administrator shall provide a statement to a person who contributes to an account within 30 days after the person makes the contribution.
(b) The statement described in Subsection (3)(a) shall itemize:
(i) the amount of the contribution made to the account; and
(ii) the amount of any excess contribution returned to the person who made the contribution.

Enacted by Chapter 460, 2015 General Session

35A-12-305 Reports.
(1) Except as provided in Subsection (2), the department shall issue statements and make reports as required by:
(a) this chapter;
(b) the federal Achieving a Better Life Experience Act; and
(c) regulations, if any, issued by the United States Department of the Treasury.
(2) The department may delegate the requirement to issue a statement or make a report under this section to the account administrator if:
(a) the department is not the account administrator; and
(b) the delegation is authorized or permitted by the federal Achieving a Better Life Experience Act or regulations, if any, issued by the United States Department of the Treasury.
(3) The department shall file a copy of a statement issued or report made under this section to the state treasurer.

Enacted by Chapter 460, 2015 General Session