



529 ABLE Accounts

Creating a Life Full of Possibilities and Opportunities



The ABLE ACT

The Achieving a Better Life Experience (ABLE) Act would ease the financial burden for individuals with disabilities by creating tax-free accounts that can be used to save for disability-related expenses. These accounts can be created by individuals to support themselves or by families to support their dependents. Earnings on an ABLE account would not be taxed, and account funds would generally not be considered for the supplemental security income (SSI) program, Medicaid, and other federal means-tested benefits.



ND ABLE ACT

On April 1, 2015, the North Dakota governor signed into law HB 1373. HB 1373 gives the Bank of North Dakota the ability and opportunity to implement an ABLÉ program and to issue rules. ND has chosen just to offer resources to help those wishing to open a 529 ABLÉ Account.

James M. Barnhardt, the North Dakota College SAVE Plan Administrator, www.bnd.gov/able



What is a 529 ABLÉ Account

- **ABLE accounts: Are established in the new Section 529A Qualified ABLÉ Programs**
- **Are qualified accounts that receive preferred federal tax treatment**
- **Enable eligible individuals to save for disability related expenses**
- **Assets in and distributions for qualified disability expenses will be disregarded or given special treatment in determining eligibility for most federal means-tested benefits**
- **Total annual contributions may not exceed the federal gift tax contribution, which is currently \$15,000.00**
- **Disregards include Medicaid; SSI payments up to \$100,000(suspended/ still eligible)**
- **Must be disabled before the age of 26**
- **Disability defined by SSA or Disability Certificate**
- **Designated Beneficiary is the account holder**
- **Any left assets of account left at death is subject to Medicaid payback**

Who is Eligible

Individuals with Disabilities Must Meet Two Requirements

AGE REQUIREMENT

- Must be disabled before the age of 26.
- (Currently there is bi-partisan federal legislation to change the age requirement from 26yr.of ages to 46 yr. of age/it is called the ABL E AGE ADJUSTMENT ACT)

SEVERITY OF DISABILITY

- Individual must be determined to meet the disability requirements for Supplemental Security Income(SSI) or Social Security Disability Benefits(SSDI)
- Must be receiving SSI or SSDI
- Or have a disability certification (will be discussed later in training)





Why ABLE Accounts are Needed

Many individuals with disabilities rely on public benefits for income, healthcare, food, housing assistance and more. Until ABLE Accounts were created, eligibility for these public benefits required a “means, or resource test” which limited the amount of income for persons with disabilities could have. In a sense, many individuals with disabilities would remain poor. Now with ABLE Accounts, the beneficiaries(the person with a disability) are “able” to Supplement not Supplant benefits.

Disability Certification

The individual (beneficiary of ABLE Account) has a medically determined physical or mental impairment that results in marked and severe functional limitations

(1) Can be expected to result in death; or has lasted or can be expected to last for a continuous period of not less than 12 months;

(2) Or Is blind and such blindness or disability occurred before the date on which the individual attained age 26 .

Includes a copy of the individual's diagnosis relating to the individual's relevant impairment or impairments, signed by a physician

The ABLE account beneficiary will not have to file the disability certification with the state where the ABLE account is opened but must have readily available for IRS purposes. Most require on application to categorize the beneficiary in disability categories.

Impacts on Federal Benefits

ABLE assets will be disregarded when determining eligibility for most federal means-tested benefits:

Supplemental Security Income (SSI): For SSI, only the first \$100,000 in ABLE account assets will be disregarded. SSI payments (monthly cash benefit) will be suspended (not terminated) if the beneficiary's account balance exceeds \$100,000, but SSI benefits (eligibility) will not be terminated. Funds above \$100,000 will be treated as resources. All other rules still apply for SSI.

Medicaid: ABLE assets are disregarded in determining Medicaid eligibility.

Medicaid Payback (Claw Back): Any assets remaining in the ABLE account when a beneficiary dies, subject to outstanding qualified disability expenses, can be used to reimburse a state for Medicaid payments made on behalf of the beneficiary after the creation of the ABLE account (the state would have to file a claim for those funds)



Impact on State Benefits in ND

SB 2124 was passed during the last Legislative Session, effective August 1, 2017. In addition to disregarding these funds in determining eligibility for means-tested federal programs, these funds are now disregarded when determining eligibility for all local or state means tested programs.

- **Service Payments to Elderly and Disabled (SPED) and Expanded SPED.**
- **Aid to the Blind Remedial Care**
- **Autism Voucher**
- **Substance Use Disorder Voucher**
- **State SSI Long Term Care Subsidy Program**
- **Children's Special Health Services**
- **Basic Care Assistance Program (BCAP)**

DHS Policy #5310



ABLE Accounts or Special Needs Trust

ABLE Account

- More Choices
- More Control
- Less Cost
- Assets do not roll in
- Owner is beneficiary*
- Medicaid Clawback
- Limit on Deposits(annually/life)
- Tax Free benefits

Special Needs Trust

- Can put assets into
- Less Control
- Unlimited Amount
- Costs more
- May have beneficiaries
- POSSIBLE Medicaid Clawback
- Protects inheritance
- Non tax free

Types of Special Needs Trusts

First Party

- Person with Disability own assets and income
- More Complex
- Keeping up with regulations more difficult
- Medicaid Clawback at death*
- Option of a Pooled Trust
- Typically see with an inheritance left to specific person or a personal injury case, or an older person with disability
- Legal Binding/ Attorney

Third Party

- Any 3rd party assets and income (grandparents, parents and ect..)
- Less Complex
- No Medicaid Clawback
- Option of Pooled Trusts
- Legal Binding/ Attorney



Pooled Trusts

Pooled Trusts can be in a First Party Trust or 3rd Party Trust. Pooled Trust are pre-approved by Medicaid and SSI(Supplemental Social Security) Pooled trusts have one Trust documentation and are managed only by non-profits and individual beneficiaries create trusts within a larger trust. In other words the assets are "pooled" with other trusts.

Though the assets are in a 'pooled trust', each beneficiary's account remains his own.

Typically at death, the Medicaid Clawback is in effect, though the non-profit managing the "pooled trust" may retain 50% of what is left in trust, rest could be a payback to Medicaid (if a First Party Pooled Trust)or remaining would go to a beneficiary named (Thirds Party Pooled Trust).

Contributions

- **Contributions to an ABL Account can be made by: the beneficiary(account owner), parents, caregivers and anyone who may want to contribute.**
- **Contributions are all POST-TAX dollars(what is in the account and the distribution for qualified disability expenses is tax-free and tax exempt)**
- **Trust Funds(including Special Needs Trust Funds) cannot be rolled into an ABL Account.**
- **529 College Savings accounts can currently be rolled into an ABL account. This was a change beginning January 1, 2018.**
- **Some states offer a "one-time roll over" of one ABL account to another states ABL account for the same beneficiary.**
- **Total annual contributions is \$15,000. Total aggregate amount is varied between \$225,000.00 and \$500,000.00 with the average being \$350,000.00**

Qualified Disability Expenses

“Qualified disability expenses” are expenses that relate to the designated beneficiary’s blindness or disability and are for the benefit of that designated beneficiary in maintaining or improving his or her health, independence, or quality of life.”

*******Land, Large Inheritance, Mineral Rights,
Certain Assets should have Special Needs Trust**

Examples of Qualified Disability Expenses

- **Education**- tuition, books, tutoring, meal plans
- **Transportation**- car payment, bus, taxi or Uber/Lyft fare, train and airplane fares
- **Housing**- rent, mortgage, property taxes, HOA dues
- **Employment training and support**- Job Coach, continuing education classes
- **Assistive technology and personal support services**- Dragon Dictation, iPhone, a cook, housekeeper
- **Health, prevention, and wellness**- unreimbursed medical expenses, dietary supplements, healthcare products

Examples of Qualified Disability Expenses

- **Financial management and administrative services-** tax preparation, financial advisor, legal guardianship
- **Legal fees-** attorneys fees, court filing fees, trust and estate planning
- **Expenses for oversight and monitoring-** guardianship, financial management software
- **Basic Living Expenses** - food, housing, clothing, household supplies
- **Funeral and burial expenses-** expenses for a funeral, casket, burial, religious or civic officer

IRS Interpretation



IRS

Department of the Treasury
Internal Revenue Service

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Expenses are Very Broad

- ▶ The term “qualified disability expenses” should be broadly construed to permit the inclusion of basic living expenses and SHOULD NOT BE LIMITED TO:

Which provide no benefits to others in addition to the benefit to the eligible individual

Expenses for an items which there is a medical necessity

Funds used for Qualified Disability Expenses are not included in taxable income

Misuse of ABLE Funds

- ▶ **May not have more than one ABLE account to each qualified individual; can only have one ABLE Account. If an individual has more than one ABLE account for a period of 60 days then they are subject to a 10% penalty and income taxation on the funds and may affect eligibility for federally means-tested benefits.**
- ▶ **Non-qualified disability expense o If an expense is deemed during an IRS audit to not be a Qualified Disability Expense, then these funds are subject to a 10% penalty and taxation and may affect eligibility for federally means-tested benefits**



Spending Able Funds Easy Access and Convenient

- ▶ The ABL account owner does not need authorization, pre-approval or any kind of permission to spend funds in their ABL account.

- ▶ Different ABL programs offer various ways to access the funds in your account, including pre-paid debit cards





Employment Related Expenses

ABLE Account funds can be used by account owner to secure and maintain employment

- Job coaching or additional job coaching;
- Costs associated with certificates, accreditations, and/or job related trainings
- Interview prep and resume development;
- Transportation to and from the beneficiary's place of employment
- Financial management education/assistance.

2018 Guidance Related to SSI/SSDI

A contribution made by the designated beneficiary themselves and deposited into their own ABLE account is not counted as income or resources for the purpose of SSI/SSDI. A third-party contribution made into the designated beneficiary's ABLE Account is also not counted as a resource or income.

Income received by the designated beneficiary then deposited into his or her own ABLE Account is counted as income for the purpose of SSI/SSDI.

Examples of payments that are counted as income:

Wages Earned

Mandated Support Payments (child support and alimony)

Earnings within the ABLE Accounts are not counted as income, such as dividends and interest.

Example: (\$2000.00 Individual)

Joe , an adult with autism

Receives \$400 per month income

Not counted first \$85.00

= \$315.00

Divide by $\frac{1}{2}$ = \$157.50 countable income

SSI Benefit=

\$750.00-\$157.50=

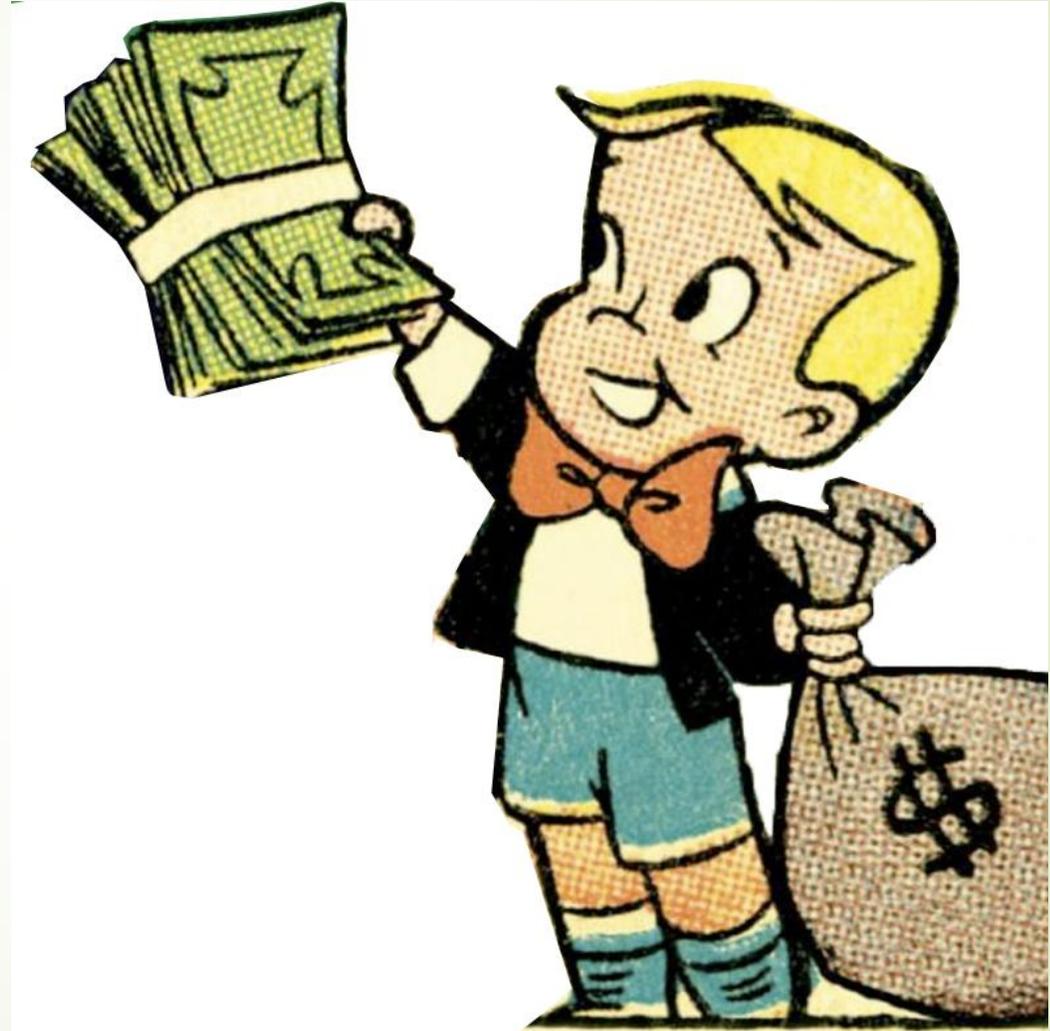
\$592.50

Deposits \$592.50 in ABLÉ account. Does not need to spend down in that account for maintaining Eligibility for SSI. ABLÉ Account balance can be \$100,000.00 before SSI will be suspended.

Medicaid Funded Services

- Medicaid pays for many disability-related support services, including supported employment services. The Centers for Medicare and Medicaid Services (CMS) also oversees Medicaid Buy-In programs, which are designed to support people who are working so that they can retain the support services they need from Medicaid.
- The ABLE Act is designed to supplement, rather than supplant, benefits and services provided from other sources. Therefore, it can cover gaps in services and supports and, for some people, enable them to maintain Medicaid coverage while possibly saving up for future expenses.

Example of Expenditures



Scenario

Troy is a 4 year-old child with Down syndrome and his parents have opened an ABLE account for Troy. As a military family, Troy will have Tricare health benefits for his whole life, but he is unable to get on a state's Medicaid waitlist because the family moves frequently. Troy's parents are saving money in his ABLE account for his transition to adulthood. They contemplate the money to be used for: Post-secondary education, transportation, assistive technology, employment training and support, independent living support and basic living expenses



Scenario

Jack is an adult with Autism and has an ABLÉ account. He uses his ABLÉ account to pay for:

- A job coach to help him at his workplace (employment)**
- An iPhone to help him with time management, directions and text-to-speech software (assistive technology)**
- Speech therapy sessions not covered by Medicaid or private insurance (health & wellness)**
- Horseback riding lessons which relax him (health & wellness)**
- An accountant to file his taxes (financial management)**

Savings and Investments



Savings Account VS. Investments

ABLE Savings Accounts

- Safest
- Easy Access
- Least at Risk
- Most states offer debit cards
- Least opportunity for growth
- Low rate of return

ABLE Investments

- Greatest opportunity for growth
- Higher rate of return
- Greater risk of loss
- Stocks
- Bonds

Choosing the Right Option

- **First, identify your goals for the ABLÉ account**
- **Then understand what risk is and how much risk you are comfortable with**
- **Determine your timeframe & how different risk levels interact with a timeframe**
- **Short-term (daily expenses, an emergency fund stay on means tested programs**
- **Long-term investment- using ABLÉ to save for long-term financial goals, such as long-term care or purchasing a home.**
- **Understand what investment options are available to you**
- **Risk increases the possibility for a greater return, and the possibility to lose some money**



Savings and Investments



- ▶ Investment Options
 - ▶ ABL investment options contain a diversified mix of stocks and bonds to fit various risk profiles, so individuals can choose the options that best fit their goals.
 - ▶ Conservative asset allocations invest predominantly in bonds, moderate asset allocations invest in a mix of stocks and bonds. Aggressive asset allocations invest predominantly in stocks.
 - ▶ Many ABL programs also offer an FDIC-insured option
- ▶ Fees Associated with ABL Accounts
 - ▶ Account based fees - fees for opening an ABL account, account maintenance fees
 - ▶ Asset based fees - fees charged by the investment manager to pay fund expenses.
 - ▶ Understanding fees are important because fees can significantly impact investment returns, especially in smaller accounts.



Read Disclosure Statements

A disclosure statement/document shares the information about that particular state's ABLE accounts.

What is in the disclosure statement:

Purpose of ABLE accounts

Eligibility Requirements

Investment Options

Qualified and Non-qualified withdrawals

Any local state benefit

Annual Contributions

FEES

All fees must be in disclosure statements

Usually can find disclosure policies towards bottom of page of each state's ABLE plans, if not call the state where your looking for an ABLE account.



Information needed to open an ABLA Account

- Social Security Numbers: if Guardian or Rep Payee also need their Social security Number or TIN
- Drivers License if available/Birth Certificate
- Copy of a recent utility payment or rental agreement (need to prove residency)
- Keep copy of Disability Certificate
- Banking Account Numbers

Accepts verified copies and can upload using a jpeg as well as word/pdf

Record Keeping for ABLE Accounts

- ▶ **Very important to track of all disbursements on ABLE account and what the Qualified Disability Expense was used for, along with date and receipts.**
- ▶ **Many states with their ABLE accounts have record keeping tools to upload receipts and tracking of all expenses and deposits into the ABLE account.**
- ▶ **The IRS is the responsible agency for ABLE Accounts being used appropriately.**



ABLE National Resource Center

The ABLE National Resource Center (ANRC) is a collaborative whose supporters share the goal of accelerating the design and availability of ABLE accounts for the benefit of individuals with disabilities and their families.

Educate the disability community about the available opportunities to save and plan for a better economic future and quality of life experience through the establishment of ABLE accounts. Educate the public, policy makers and other relevant stakeholders about the positive impact of ABLE accounts at an individual and systems level and any needed changes for further policy development.

www.ablenrc.org



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Appendix of States with ABLE Accounts

List A: States that offer ABLE Accounts to residents of any state

Nevada

Montana

Colorado

New Jersey

South Dakota

Oklahoma

Minnesota

Illinois

Tennessee

Ohio

Virginia ABLE Now/ ABLE America

North Carolina

Washington DC

Massachusetts

Delaware

Mississippi

Alaska

Wyoming

Arizona

Nebraska

Kansas

Arkansas

Iowa

Indiana

Alabama

Michigan

California

Maryland

Pennsylvania

New Hampshire

Rhode Island

Oregon/ ABLE for ALL



Appendix of States with ABLE Accounts

List B: States that offer ABLE accounts only to their residents

Oregon Savings Plan

Kentucky

Missouri

Louisiana

Georgia

South Carolina

New York

Vermont

New Mexico

Wyoming

Florida

Texas

Washington

West Virginia