What Is ABLE?

A Reference Guide for Service Providers

What is an ABLE account?

ABLE accounts are tax-advantaged savings and investment accounts for individuals with disabilities. They were created as a result of the passage of the Stephen Beck, Jr. Achieving a Better Life Experience Act of 2014, better known as the ABLE Act. The ABLE Act, considered by many to be one of the most significant pieces of legislation for the disability community since the Americans with Disabilities Act (ADA), had overwhelming bipartisan support in both the Senate and the House.

The law was the result of nearly a decade-long, cross-disability, grassroots effort. This effort originated with a group of parents of children with disabilities who recognized the unfairness of not being able to save funds in their child's name for fear of losing essential benefits; benefits that would allow their child to live independently in the community.

The individual with the disability is the ABLE account owner. The account owner, family, friends, an employer or the account owner's special needs trust (SNT) or pooled trust may contribute funds into the account. A 529 college savings account may also be rolled over into an ABLE account in increments of up to $16,000 per calendar year. ABLE account owners, both those who receive and those who do not receive public benefits, may save for qualified disability expenses (QDEs) related to transportation, health care, housing, food, education, employment, retirement and more.

Why the need for an ABLE account?

Millions of individuals with disabilities and their families depend on a variety of public benefits for income, health care, food and housing assistance. Eligibility for these public benefits requires meeting a means test that limits eligibility and requires individuals to have less than $2,000 in cash savings, retirement funds and other liquid resources. ABLE accounts allow eligible individuals to save and invest money, largely without affecting eligibility for public benefits. ABLE savings of any amount do not affect eligibility for any type of Medicaid, Medicare, Social Security Disability Insurance (SSDI), HUD (housing), SNAP (formerly known as Food Stamps) or FAFSA (federal student aid).

ABLE Accounts: Things You Should Know

YouTube: [Understanding ABLE]

What are the eligibility requirements?

The ABLE Act limits eligibility to individuals with disabilities with an onset of disability before turning 26 years of age, but an individual can be any age, including older than the age of 26 (e.g., 40, 50, 70-years-old), when opening the account. If a person had an onset of disability prior to age 26, and is also receiving benefits under Supplemental Security Income (SSI) and/or SSDI, they are automatically eligible to establish an ABLE account. If they do not receive SSI and/or SSDI, but still meet the age of onset disability requirement, they could still be eligible to open an ABLE account if they meet Social Security's definition and criteria regarding significant functional limitations and receive a letter of disability certification from a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, and/or, for some purposes, a doctor of podiatric medicine, a doctor of optometry or a chiropractor indicating the condition began prior to age 26. A letter of disability certification ***cannot*** be signed by a licensed psychologist, clinical therapist or certified vocational rehabilitation (VR) counselor.

Are there limits to how much money can be put in an ABLE account?

The total annual contributions by all contributors, including family and friends, for a single tax year is $16,000 in 2022. The amount may be adjusted periodically for inflation. Under current tax law, $16,000 is the maximum amount that non-working individuals can make as a gift to someone else and not report the gift to the IRS (gift tax exclusion). The total balance limit over time that may be held in an ABLE account is subject to the ABLE account's state limit for education-related 529 savings accounts. ABLE plans have set their balance limits anywhere between $235,000 to $529,000 per plan.

In addition to the annual contribution limit of $16,000, an ABLE account owner who works may also contribute his or her earnings or unearned income up to the previous year's federal poverty level (FPL) amount for a one-person household. The FPL amount applicable to 2022 ranges from $12,880 for individuals who live in the continental U.S., up to $16,090 for individuals who live in Alaska or up to $14,820 for individuals who live in Hawaii. A beneficiary cannot contribute this additional amount if they or their employer have made contributions to their 401(a) defined contribution plan or a 403(a) annuity contract, a 403(b) annuity contract or a 457(b) eligible deferred compensation plan during the calendar year.

For individuals with disabilities who receive SSI, the ABLE Act and the Social Security

Administration (SSA) set some further limitations. The first $100,000 in an ABLE account is exempt from the SSI $2,000 individual resource limit. If the combination of ABLE savings over $100,000 plus non-ABLE savings exceeds the resource limit, the beneficiary's SSI cash benefit would be suspended until such time as the account balance falls back below the resource limit. It is important to note that while the beneficiary's eligibility for the SSI cash benefit is suspended, eligibility or continued eligibility for medical assistance through Medicaid is not affected so long as other resources remain under the resource limit.

Additionally, upon the death of the ABLE account owner, all outstanding qualified disability expenses, including funeral and burial expenses, may be paid from the ABLE account. After QDEs are paid, the state in which the ABLE account owner lived may file a claim to all or a portion of the funds in the ABLE account equal to the amount in which the state spent on the beneficiary through their state Medicaid program, since the opening of the ABLE account. Medicaid subtracts the payback amount for Medicaid Buy-In premiums that may have been paid. This is commonly known as the Medicaid payback provision. Funds remaining in the account would then be payable to the ABLE account owner's estate. Several ABLE plans are taking steps to limit Medicaid payback for their state's residents.

Do earnings from employment contributed by an employee count as "income" when deposited into an ABLE account?

Yes. Earnings that are the result of employment are still counted in terms of earned income or substantial gainful activity (SGA) and are taken into consideration when determining eligibility or continued eligibility for certain public benefits.

Can an employer contribute to an ABLE account?

Yes. However, when an employer contributes to an employee's ABLE account it is taxable income and could affect means-tested benefits when received. If an employer contributes to an employee's family member's ABLE account, it is subject to the rules governing taxation of compensation.

Which expenses are allowed by ABLE accounts?

A qualified disability expense, or QDE, is any expense related to the ABLE account owner as a result of living a life with a disability. Funds saved and invested in an ABLE account grow tax-free when used to pay for QDEs. QDEs include expenses related to education, housing, transportation, employment training and supports, assistive technology, personal support services, health care expenses, financial management and administrative services and other expenses which help improve health, independence and/or quality of life. QDEs also include basic living expenses such as food and shelter costs.

ABLE savings and investments can enhance an ABLE account owner's financial well-being and can help a person meet employment, transportation and other expenses that may improve their quality of life. The savings may be used for emergencies or other sudden expenses, including those surrounding the COVID-19 pandemic, which could create challenges in continuing to work or living safely within a community. For example, if a vehicle breaks down and the individual does not have funds for the repair, the individual may not be able to commute to work. Similarly, ABLE savings may be used to purchase a computer or office equipment for individuals who telecommute. ABLE savings can also support your customers by allowing them consistent access to medical care, which may help them avoid absences from work, health-related financial emergencies or other health-related barriers to employment and living in their community. ABLE savings may also help to reduce financial stress for caregivers and offer savings for purchasing respite care services.

Can an individual have more than one ABLE account?

No. The ABLE Act limits the opportunity to one ABLE account per eligible individual.

Does a person have to wait for their state to establish a program before opening an account?

No. While the original law passed in 2014 did stipulate that an individual had to open an account in their state of residency, this provision was eliminated by Congress in 2015. This means that regardless of where an individual might live and whether or not their state has decided to establish an ABLE program, they are free to enroll in any ABLE plan that accepts out-of-state residents.

To determine which ABLE plans are accepting out-of-state residents, please refer to the individual state pages or use the three ABLE Plan Comparison Tools on ablenrc.org. Most ABLE plans accept enrollment by out-of-state residents although some are limited to in-state residents. These comparison tools were designed to help people understand which plans are open to them and give them an introduction to other key characteristics and features that may be important when selecting an ABLE plan.

Do ABLE plans offer options to invest ABLE funds contributed to an ABLE account?

Like state 529 college savings plans, states do offer qualified individuals and families multiple options to establish ABLE accounts with varied investment strategies; some plans offer an FDIC insured option. Each individual and family will need to forecast an estimate of possible future needs and costs over time and assess their risk tolerance for possible future investment strategies to grow their savings. Changes to the way money is invested in the account may be made up to two times per year. Moving funds from an investment fund into a cash fund to process a distribution is not a change in investment direction.