ABLE
Achieving a Better Life Experience

Date
Speaker Name
Title

CN1615093_0423  Products and Services offered through the Voya® family of companies.

PLAN  |  INVEST  |  PROTECT

VOYA  |  Cares

Helping people with special needs and caregivers plan for the future they envision.
The Stephen Beck, Jr. ABLE Act (Achieving a Better Life Experience)

ABLE Accounts

- Are state-established savings options providing more independence for people with disabilities and special needs
- Are available in all states
- Are accounts that receive preferred federal tax treatment
- Enable eligible individuals to save for disability related expenses without jeopardizing eligibility for public assistance benefits
- May be subject to Medicaid payback

Assets in and distributions for qualified disability expenses will be disregarded or given special treatment in determining eligibility for most federal means-tested benefits.

Source: National Disability Institute (http://www.realeconomicimpact.org/)

PLAN | INVEST | PROTECT
Congress made two improvements to the ABLE Act as part of the Tax Cuts and Jobs Act, which was signed into law on December 22, 2017:

1. **The ABLE to Work Act**
   Beginning January 1, 2018, it allows an employed ABLE beneficiary who does not participate in an employer pension plan to contribute an additional amount above the $15,000 limit, up to the lesser of (a) the Federal poverty line for a one-person household (currently $12,760); or (b) the individual’s compensation for the taxable year.

   In addition, such contributions are eligible for the Saver’s Credit, an existing federal tax credit that low and middle-income individuals can currently claim when they make contributions to a retirement account.

2. **The ABLE Financial Planning Act**
   Beginning January 1, 2018, it allows ABLE beneficiaries to roll over regular 529 accounts to 529A (ABLE) accounts up to the annual maximum contribution.

   This change is particularly helpful for families who set up 529 accounts before receiving a child’s diagnosis that may result in an inability to go to college and use 529 funds for their original purpose.
Eligibility

Individuals must meet two requirements:

1. **Age requirement:**
   People of any age may be eligible *if* the disability occurred *before age 26*

2. **Severity of disability:**
   - Must have been determined to meet the disability requirements for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits (Title XVI or Title II of the Social Security Act) *
   - OR *
   - Self-certify that there is a diagnosis of:
     - A physical or mental impairment that causes “marked and severe functional limitation”
     - A condition that has lasted or is expected to last for at least 1 year
   - AND provide a Disability Certification—signed by physician (check with your state’s program to see if you have to submit documentation, or just keep on hand)

---


Important Rules

• Each eligible individual may have only one ABLE account.
• The “designated beneficiary” is the account owner.
• Parents, guardians, conservators and Powers of Attorney (POAs) can be authorized representatives to help manage the account, if applicable.
• Multiple individuals (including special needs trusts, family members, friends, corporations, etc.) may make contributions to the one ABLE account.

Contribution Limits:

$15,000 + $12,760 = $27,760

Lifetime maximum varies by state, but many are $300,000 or more

Source: ABLE National Resource Center: http://ablenrc.org/about/what-are-able-accounts

PLAN | INVEST | PROTECT
ABLE Impact on Eligibility for Federal Benefits

Supplemental Security Income (SSI)

Up to $100,000 in ABLE account assets will be disregarded in determining government means-tested benefits eligibility.

- SSI payments will be suspended 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.
- ABLE account funds used for housing expenses will not affect SSI payments (i.e., will not be counted as income or in-kind support maintenance), unlike housing funds obtained from other sources. ABLE account distributions intended for housing must be spent in the month they are taken.

ABLE assets will be disregarded or receive favorable treatment when determining eligibility for most federal means-tested benefits.

Source: ABLE National Resource Center (ablenc.org)
ABLE Impact on Eligibility for Federal Benefits

**Medicaid**

- ABLE assets are disregarded in determining Medicaid eligibility.
- Medicaid benefits are NOT suspended if the ABLE account balance exceeds $100,000 (the SSI limit).
- Medicaid Payback: Any assets remaining in the ABLE account when the beneficiary dies may be used towards outstanding qualified disability expenses and will be used to reimburse a state for Medicaid payments made on behalf of the beneficiary after the creation of the ABLE account.
- The state is considered a creditor of the ABLE account, not a beneficiary.
An expense is a “Qualified Disability Expense” if:

- The expense was incurred at a time when the individual was eligible for an ABLE account.
- The expense relates to the disability; and
- The expense helps to maintain or improve the health, independence or quality of life.
Use of Funds

- Education
- Housing
- Transportation
- Employment
- Assistive Technology & Adaptive Equipment
- Health, Prevention & Wellness
- Legal & Financial Services
- Funeral & Burial
- Basic Living Expenses
- Other

Non-qualified expenditures may be subject to taxes, penalties and potential loss of benefit eligibility.

Source: National Disability Institute (http://www.realeconomicimpact.org/)
Examples of Qualified Education Expenses

- School tuition, pre-school through post-secondary
- School supplies
- Other educational materials
- Text books
- Certification
- Trade school
- Attendant fees
Examples of Qualified Housing Expenses

Distributions to pay for housing costs are not counted as income for SSI eligibility: When the distribution pays for rent, mortgage, taxes or utility payments, the SSI program will not count it as income to the designated beneficiary, if spent in the month distributed.

*This is a clear differentiator for ABLE accounts, as compared to any special needs trust.*

- Rent
- Purchase of a primary residence
- Mortgage payments
- Real property taxes
- Utility charges
Examples of Qualified Employment Expenses

- Expenses related to obtaining and maintaining employment
- Job-related training
- Tools of the trade
- Certification & licensing fees
- Work-related uniforms
- Job coaching
- Start-up fees for entrepreneurs
- Moving expenses
Examples of Assistive Technology and Adaptive Equipment

- Hearing aids
- Wheelchairs
- Transfer devices
- Walkers
- Prosthesis
- Screen readers, magnifiers and magnifying software
- Braille
- Tactile keyboards

- Wearable technology
- Accessibility software and computer devices
- Personal emergency response system (PERS)
- Alerting Devices
- Memory Aids
- Educational Software
- Home automation
- Augmentative and Alternative Communication Devices (AAC)
Examples of Qualified Health, Prevention & Wellness Expenses

- Mental health, medical, vision & dental expenses
- Health insurance premiums
- Habilitation and rehabilitation services
- Durable medical equipment
- Therapy
- Personal assistance
- Respite care
- Long-term services and supports
- Nutritional management
- Communication services & devices
- Exercise services and equipment
- Prescription medications
Recordkeeping & Non-Qualified Expenses

- The IRS has the right to ask for verification of expenditures; therefore, it is important that individuals and families keep good records. Many ABLE plans offer debit cards and other simplified reporting that can make it easier.

- Non-qualified expenses
  - If ABLE account funds are used on non-qualified expenses, regular income taxes, plus 10% additional tax on the earnings portion of those non-qualified funds will need to be paid.
  - Non-qualified funds withdrawn may be counted for purposes of determining eligibility for means-tested public benefits programs (Medicaid or SSI).
Benefits of ABLE Accounts

1. **Ownership**
   Account is owned by the individual with a disability or special need
   A personal representative (guardian/conservator, POA or parent) can help manage the owner’s account

2. **Financial independence**
   Ability to save and invest an individual's own money and income from employment
   Ability to budget and manage spending

3. **Tax benefits**
   Earnings accumulate tax-free and are not taxed if used for qualifying expense
   Some states offer tax deductions or credits for contributing to ABLE accounts
   Contributions may qualify for Saver’s tax credit

4. **Cost effective**
   Low or no start-up costs
   Minimal opening deposit (often as low as $50)
   No attorney or trust administrator needed

Investment costs vary, check with your ABLE plan for details
Tax Implications

Federal Taxation

In general, ABLE account funds are exempt from taxation.

ABLE accounts grow tax deferred and distributions for qualified expenses are tax free.

Distributions from ABLE accounts for qualified disability expenses are exempt from taxation.

With certain exceptions, distributions of earnings not used for qualified disability expenses are taxable and subject to an additional 10% tax.

Contributions to ABLE accounts can qualify for the "Saver's tax credit".

State Taxation

State tax incentives vary by state. Some states offer tax deductions or credits for contributing to ABLE accounts.

Contributions to an ABLE account are made with post-tax dollars.

Source: National Disability Institute (http://www.realeconomicimpact.org/)
If the individual with a disability or special needs passes away:

- There is no “named beneficiary”.
- The ABLE account becomes part of the owner’s estate.
- A will, executor, and the probate process will dictate where remaining funds go.

Medicaid may become a creditor of the account, but is NOT the beneficiary.

**Limitations**

Medicaid can only ask for payback for expenses incurred while the account was open.

**Outstanding Bills**

Executors can pay outstanding qualified disability-related expense (QDE) bills from the ABLE account prior to Medicaid payback.

**Final Expenses**

Funeral and burial expenses can also be paid prior to Medicaid payback.

**State by State**

Each state’s Medicaid policy may differ; some choose not to recapture from ABLE, at all.
ABLE Accounts & Special Needs Trusts

Consider using both of these powerful planning tools as complementary pieces of a holistic special needs plan.

**ABLE Account**
- May be easier to access for short term spending
- Allows broader spending power, including food and housing
- State tax deductions and federal saver's credits may apply
- Tax-deferred growth, tax free withdrawals for qualified expenses
- Increased financial independence from managing your own account

**Special Needs Trusts**
- Can hold unlimited assets and non-cash items
- 3rd party trust for estate planning and family wealth transfer
- Unlimited assets to 1st party trust
- Trustee manages assets on behalf of individual to ensure compliance with the trust
- 1st party trusts can receive income from child support or certain annuities that would otherwise be countable resources
Case Study

Val is 10 and receiving SSI and Medicaid. Her grandparents contribute to 529 plans for her siblings and would like to save for her, as well, but don’t want to jeopardize her eligibility.

Solution: An ABLE account allows Val’s grandparents to accumulate up to $100k (SSI) or more (Medicaid) while preserving her access to benefits. This allows them to save the same amount for Val as for the other children, and they get the tax advantages similar to a 529.

When Val turns 18, she has to qualify for SSI on her own (no more deeming of parent’s assets) but also wants to enter the workforce. She gets a job that keeps her income just under the limit to retain SSI, but she wants to now save her own money for her future.

Solution: Val can contribute up to $27,760 of her income into her existing ABLE account and not have it count against her as an asset for needs-based government benefits eligibility.
ABLE Accounts by State

Orange = open for enrollment
Blue = signed into law and program in development OR no active program
To learn more about ABLE Accounts

Voyacares.com  |  Ablenrc.org

To purchase
Talk to an advisor
Visit your state’s ABLE website