

Updated 1/23/18

Q: What is an ABLE Account?

A: An ABLE Account is an investment account available to Eligible Individuals with disabilities. ABLE Accounts are made possible by the federal Achieving a Better Life Experience (“ABLE”) Act of 2014. ABLE Accounts allow individuals with disabilities to save and invest money without losing eligibility for certain public benefits programs, like Medicaid and Social Security Income (SSI). Earnings in your ABLE Account are not subject to federal or California state income tax, so long as you spend them on “Qualified Disability Expenses” (see below).

Q: Are ABLE Accounts like bank checking or savings accounts?

A: Many ABLE Account programs have some similar features. We anticipate California’s ABLE Accounts will function like a checking and savings to a large degree; however they will be set up as primarily long-term investment accounts. You will have the ability to invest your money in a way that suits your particular risk appetite while helping you achieve your financial goals.

Q: Who is eligible to open an ABLE Account?

A: An “Eligible Individual” is someone who developed their disability before the age of 26. The individual must have been living with their disability for at least one year, or they must expect their disability to last for at least a year.

In addition, the individual must meet at least one of the following criteria:

- Be entitled to SSI because of their disability;
- Be entitled to Social Security Disability Income (SSDI) because of their disability;
- Have a condition listed on the Social Security Administration’s List of Compassionate Allowances Conditions; or
- Be able to provide "self-certification" of his or her disability and diagnosis (see details below) when opening the account.

"Self-certification" simply requires an individual to agree to the following statements during enrollment:

- The individual has a written, signed diagnosis from a licensed physician (*Note*: individuals do not have to provide us with a copy of the diagnosis during enrollment, but a copy of the diagnosis must be available upon request); **and**
- The individual is either:
 - (1) blind, within the meaning of section 1614(a)(2) of the Social Security Act, or
 - (2) has a medically determinable physical or mental impairment that results in "marked and severe functional limitations, and which can be expected to result in death or has lasted or expected to last for a continuous period of not less than 12 months"

Examples of conditions that result in "marked and severe functional limitations" can be found in the Social Security Administration's disability Blue Book. See Part A for adults and Part B for children. A condition will also qualify if it is equal in severity to one of the conditions found in the Blue Book.

Q: How do I prove my eligibility?

A: For many if not all, currently available ABLE programs, you can prove eligibility online. We anticipate the California plan will be just as easy. Through an online portal, you may be asked a series of questions when you open your account. If you are self-certifying your disability, you may need to provide your doctor's name and address and the date of your diagnosis or onset of disability. Although you will not need to produce a copy of your diagnosis in order to open an account, you must have a record of the diagnosis readily available in case of an audit by the Social Security Administration and/or IRS.

Q: Do I have to be a resident of any particular state to open one of the available ABLE Accounts now?

A: No. Most states offer national plans, meaning the plan is open to residents outside of their state. Seven exceptions are Florida, Kentucky, Missouri, Georgia, Louisiana, Vermont, and New York. For a current list of ABLE plans operating nationally, and to

compare plans and features, you may visit the ABLE National Resource Center at <http://ablenrc.org/state-review>.

Q: How can I use the money in my ABLE Account?

A: Money in your ABLE Account can be used to pay for Qualified Disability Expenses.

An expense is “qualified” if:

- (1) You incurred the expense at a time when you were considered an Eligible Individual (see “Eligibility” above);
- (2) The expense relates to your disability; and
- (3) The expense helps you to maintain or improve your health, independence, or quality of life.

Q: What are some examples of Qualified Disability Expenses?

A: Qualified Disability Expenses do not have to be merely medical expenses. They can include basic living expenditures. While the following list is not exhaustive, some examples of Qualified Disability Expenses are:

Education

- Tuition for preschool through post-secondary education
- Books
- Supplies and educational materials

Housing

- Expenses for a primary residence
- Rent
- Purchase of a primary residence
- Mortgage payments
- Real property taxes
- Utility charges

NOTE: SSI benefits can be affected if you use ABLE funds for any housing expenses and don't spend the money right away. To avoid any impact to your SSI benefits, be sure to spend housing money within the same calendar month that you withdraw the

money. For example, if you withdraw \$800 from your account on June 3rd for rent, you must pay that money to your landlord by June 30th. As long as you do not hold housing funds over from one calendar month to the next, the funds will not affect your SSI benefits.

Transportation

- Use of mass transit
- Purchase or modification of vehicles
- Moving expenses

Employment Support

- Expenses related to obtaining and maintaining employment
- Job-related training

Health, Prevention and Wellness

- Premiums for health insurance
- Mental health, medical, vision, and dental expenses
- Habilitation and rehabilitation services
- Durable medical equipment
- Therapy
- Respite care
- Long term services and supports
- Nutritional management
- Communication services and devices
- Adaptive equipment
- Personal assistance

Assistive Technology and Personal Support

- Expenses for assistive technology and personal support (e.g., a smart phone for a child with autism)

Miscellaneous Expenses

- Financial management and administrative services
- Legal fees
- Oversight and monitoring
- Home improvement, modifications, maintenance and repairs
- Funeral and burial expenses

Q: How do I prove that I am spending my money on Qualified Disability Expenses?

A: It is up to you to track how you spend the money in your ABLE Account. We will not ask you how you plan to spend your money. However, the Internal Revenue Service (IRS) may ask you to verify your expenditures. You should keep good records on how you are spending your ABLE funds.

Q: What if I use my ABLE funds for something that isn't a Qualified Disability Expense?

A: You may have to pay income taxes, plus a 10% additional federal tax and a 2.5% California state tax on those funds. Additionally, the non-Qualified funds you withdraw may be counted against you for purposes of determining your eligibility for means-tested public benefits programs like SSI.

Q: Can I use ABLE Account funds for housing and rent?

A: Yes! But if you receive SSI benefits, be sure to immediately spend any money you withdraw for housing expenses, to avoid any negative impact to your SSI. As long as you spend the housing funds within the same calendar month that you withdraw the money, the housing payments will not affect your SSI benefits.

Q: Who can set up an ABLE Account?

A: An Eligible Individual, the parent or legal guardian of an Eligible Individual, or the holder of a power of attorney for an Eligible Individual can set up an ABLE Account.

Q: How much does it cost to open an ABLE Account? Is there a minimum amount I have to contribute in order to open an ABLE Account?

A: Online enrollment is free in most states. However, each program has different fees and costs associated with it. We encourage California residents to shop each state's program to determine which best fits their needs; a tool comparing programs can be found at this site: http://ablenrc.org/state_compare/. With California's large eligible population, we anticipate fees to be lower or comparable to other ABLE programs. Additionally, Californians with a CalABLE account will be protected from Medi-Cal recovery upon the account owner's passing.

Q: Can I have more than one ABLE Account?

A: No. Individuals can have only one ABLE Account.

Q: Do I have to pay taxes on the money in my ABLE Account?

A: You do not have to pay taxes on any money while it is in your ABLE Account. You also do not have to pay taxes on any money you withdraw from your ABLE Account, as long as you use the money to pay for Qualified Disability Expenses.

Q: Are there limits on how much I can contribute to an ABLE Account?

A: Yes.

- The maximum yearly contribution limit is currently \$15,000.
- The maximum lifetime limit is currently \$100,000 before SSI or state-means tested benefits are suspended (however, in California, beneficiaries are able to save up to \$475,000 and still participate in Medi-Cal and other federal means-tested public benefits programs). Once your balance drops below the lifetime limit, you may resume making contributions. In California, we plan to develop regulations that will outline exactly how participants are notified when these balances are close to being reached and ensure a mechanism is in place to help safeguard not only assets, but participants' benefits as well.

Q: Who can contribute money into an ABLE Account?

A: Anyone.

Q: How can I take money out of my ABLE Account?

A: The CalABLE Board is currently designing the program. Withdrawals can be electronic through the online web portal or through the debit or prepaid card.

Q: Will the money I save in an ABLE Account affect my Medicaid eligibility?

A: No. The money in an ABLE Account will not affect your eligibility for Medicaid benefits.

Q: Will I lose my SSI eligibility if I open an ABLE Account?

A: No, but your SSI benefits may be suspended if your ABLE Account balance is over \$100,000. Any money in your ABLE Account *over* \$100,000 will be treated as a countable resource when determining your SSI benefits or eligibility for state-means tested programs. You will begin receiving your benefits again once your ABLE Account balance drops to or below \$100,000.

Q: Can an individual with a disability work and maintain an ABLE Account?

A: Yes, as long as the individual meets the eligibility requirements for an ABLE Account.

Q: Can I have an ABLE Account and a Special Needs Trust or other type of Trust?

A: Yes, you can maintain your ABLE Account in addition to trusts. Please consult a licensed financial planner or trust attorney for more information on how to concurrently utilize both of these resources.

Q: Can I make a tax-exempt transfer of funds from an existing 529 college savings account to an ABLE Account?

A: In December 2017, Congress passed three tax reform provisions that impacted ABLE programs:

- 1) Tax-free rollovers between 529 college savings programs and ABLE programs are permitted, but only up to the current annual contribution limit of \$15,000;
- 2) For account owners who work, additional contributions of up to \$12,060 (the Federal Poverty Level) are allowed on top of the existing \$15,000 annual contribution limit – bringing total allowable contributions to \$27,060 annually; and
- 3) Saver’s Credit contributions of up to \$2,000 per beneficiary are also permitted.

Additionally, there are efforts in Congress to increase the current age cap of 26 to 46 (S. 817 and H.R. 1874).

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