



## CalABLE Webinar: Qualified Disability Expenses

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**DANTE ALLEN:** Hello, everyone. This is Dante Allen. I'm the executive director of CalABLE. I want to thank you for attending today's meeting. We are about to begin our webinar on Qualified Disability Expenses. I wanted to make sure that you have the opportunity to ask questions. This is a form that we've been doing for several months now, and so we have set up some time to be able to answer your questions, and I'll go through in just one moment what it takes to be able to do that.

Thank you everyone for attending today's webinar on Qualified Disability Expenses. I have a few housekeeping items that I'd like to start with. I wanted to make sure that you are aware that this is the CalABLE webinar on Qualified Disability Expenses. If you're joining us by the Internet, you have the ability to have captioning included with the video presentation. You can go to Captioning and turn on captioning using the settings option in the lower right portion of your panel. It's the little gear looking wheel down at the bottom. And then you can turn on captioning.

There are audio options for the webinar. If you choose, you can listen through your computer speakers. Make sure that your speakers are turned on or your headphones are plugged in, or if you've dialed us via telephone, you dial the main telephone number, you can enter the conference ID and join us via that phone.

This is the first time that we've used this Microsoft Teams platform, so we want you to bear with us. We may have some growing pains associated with doing this, but we hope that it will give you a better experience to be able to listen and see what we have to talk about today. We do want to know from you how this experience works out for you, so we'll be sending out an evaluation after today's email. So if you gave us your email address in the registration, you should receive an evaluation. We ask for you to send those back. We use those for the purposes of improving our presentations, and we want to make sure that we have the ability to understand how we are doing.

Submitting questions. If you would like to submit a question for us to ask, please use the Q&A box. You can ask your questions at any time, and we'll direct those questions accordingly during the Q&A portion. Now, we've really enjoyed bringing these webinars to you, but one of the things that we've learned since we've started is that the number of questions that we receive can be overwhelming. One of the great things about doing these webinars is that we repost them on YouTube so you can view them at any time on demand. But one of the things that holds up our process for posting them on YouTube is the volume of questions we've been receiving.

Now, some of those questions can be answered if you would take a look at either the CalABLE website at [CalABLE.ca.gov](http://CalABLE.ca.gov), or if you view one of our earlier presentations, CalABLE 101. It has the basic information and we recognize that a lot of your questions are very basic how the program works, and as we've been doing this now for several months, we've been getting a little bit more specific into different elements of the program, rather than giving the broader, more general presentation.

Now, I will be giving a general overview today, but I will spend most of our time on this specific subject related to Qualified Disability Expenses. So if you do submit your questions, we're going to do our best to answer as many as we can during today's webinar. But if we don't get to them all, what we're going to do is we're going to go back, look at the most relevant questions, and then post answers to those questions. So if you feel like we never did answer your question, please visit our website because there's lots of great information are included there. And if you don't see what you're looking for on the website, we're going to give you numbers to be able to contact us by telephone or by email, and so you can reach out to us directly if you feel like your question wasn't answered. I want to make sure that this is an opportunity for us to have a dialogue and not just have you listening without being able to answer your questions. And you can email us anytime at [CalABLE@treasurer.ca.gov](mailto:CalABLE@treasurer.ca.gov). We answer those questions anytime and we're usually pretty quick about doing them.

So before we get started, I wanted to share a message from California State Treasurer Fiona Ma.

**CALIFORNIA STATE TREASURER FIONA MA:** Good afternoon, everyone. I am California State Treasurer Fiona Ma, and I would like to welcome you to the CalABLE webinar series. Today's topic will focus on a topic for which we regularly receive many questions. We will be discussing how CalABLE accounts can be used for Qualified Disability Expenses so you can achieve your financial goals. We've invited two account holders to share their stories with others who might benefit or be inspired by their experiences with their CalABLE account can be used to help you maintain or improve your health, independence, or quality of life.

The staff at CalABLE will continue to use this webinar series as an opportunity to address your most pressing questions and your biggest concerns. Supporting our communities of people with disabilities is something that is very important to me, which is why I'm so proud of the work we're doing on behalf of CalABLE. This program is a critical step toward ensuring that people with disabilities have access to important resources that can help put them on the path towards financial stability.

As State Treasurer, I focus on improving and expanding CalABLE as one of my top priorities. Thank you for taking the time to join us. I hope you find today's information useful. We will continue to bring you content that is designed to improve the lives of the many people we serve. Now, I would like to turn things over to CalABLE Executive Director Dante Allen.

**DANTE ALLEN:** Thank you, Treasurer Ma. Let me just give you a brief overview of the things that we're going to talk about this afternoon. I'm going to go into just a little bit of background on ABLE, talk about how these accounts work, and the most important thing that we're going to give you our resources and contact information. And again, we really value having direct conversations with you, so if you want to reach out, if you have questions that you feel like we didn't get the opportunity to answer, please don't hesitate to reach out.

The main thing though is that a lot of the information that we're going to provide to you today comes directly from the Social Security Administration, and they have a guide that they use in order to train their representatives. It's called the Program Operating Manual System, and most of the information that we're going to provide to you today comes directly from that Program Operating Manual System, or POMS, and so that will be the resource, and most of the time when we get feedback from account holders who say, "Hey, Social Security told me this and that's different from anything that I've learned," we usually

reach out to the folks at Social Security and show them the information that should have been provided to them from their organization on how they really should be interpreting the impact to ABLE accounts have on their benefits.

The final thing that we'll do is open things up for question and answer. And I'm very excited to hear about what questions you have, but wanted to get things started with just a little bit of background.

So in case you are not aware, ABLE actually stands for Achieving Better Life Experiences, and it was part of the ABLE Act of 2014. What the ABLE Act did, was it added a new section, Section 529A, to the Internal Revenue Service Code. And what it does is, it allows states to create these tax advantaged savings and investment programs for the benefit of people with disabilities. It also provides that assets in ABLE accounts will not affect eligibility for means-tested benefits programs like SSI or Medi-Cal. CalABLE is California's version of the ABLE Act. Currently, there are 42 states plus the District of Columbia that offer some form of ABLE account, and many of those ABLE programs like California's are national programs, meaning that you don't have to be a resident of the state in order to participate in that state's program. So you can live anywhere in the United States and open a CalABLE account, but there are some benefits that may be available to you as a California resident with a CalABLE account. So please make sure that you visit our CalABLE 101 video where we walk through that in detail.

Now, ABLE was established to empower people with disabilities and help them save to cover additional costs of living and working with a disability. ABLE is here to support the financial wellbeing of people with disabilities and their families and allow them to continue to control their own assets. It also allows people with disabilities to maintain public benefit status even while saving above and beyond the established resource limits of disability programs.

So some of the basics about ABLE. Number one is, you're only allowed to have one ABLE account, and that doesn't mean that you're allowed to have one in California and then go join another ABLE program. You're actually only allowed to have one ABLE account at a time. The accounts are portable, meaning that you can roll it over from one states program to another, but you really do need to close out one ABLE account to open another.

The Beneficiary, the person who the money is for, the person with a disability is always the account owner. That includes when that person is a minor, if that person is conserved, they're still the account owner, and more importantly the money that is in the ABLE account belongs to that person as the account owner.

The accounts can be opened by a Beneficiary themselves if they are legally of age to be able to enter into a contracted agreement, or it can be opened by an Authorized Legal Representative. And the law is very specific about who can become an Authorized Legal Representative. You can either be a parent; a legal guardian, which includes a conservator; or someone with power of attorney over the assets or the estate of the individual Beneficiary.

So who's eligible to open one of these ABLE accounts? First and foremost, you must have a disability, and the onset of that disability needed to begin before age 26. So if you are disabled and your disability began before he's 26, and you meet the eligibility criteria for benefits like SSI or SSDI, you can automatically go and you're automatically eligible to open an ABLE account. Now, that doesn't mean that you had to previously go through a benefits evaluation, and you don't have to currently be receiving benefits in order

to be eligible for a CalABLE account. You do have to go through an additional step though, and we call that service self-certification. And that is where you attest under penalty of perjury that you are a person with a disability, physical or mental, and that it results in a marked and severe functional limitation that is expected to last a year or longer.

We also ask that you get a letter from a qualified physician that says those same things that you have the disability and that the likely onset of it began before your 26th birthday. We don't ask for you to turn that letter into us. We ask you to have that letter on hand just in case you're asked, either by Social Security or potentially by the IRS down the road.

Now, the conditions that would make you eligible for opening an ABLE account are the exact same conditions that are listed in the Social Security Administration's List of Compassionate Allowances, or the Blue Book, and that includes everything from mobility disabilities to blindness to mental health conditions. It is a very broad definition of disability.

And so now let's talk about what you can do with an ABLE account. One of the greatest benefits of ABLE accounts are that you can maintain your benefits even while saving above and beyond the resource limits that have previously been established. So before the ABLE Act, a person with a disability who is receiving SSI couldn't save more than \$2,000. As a matter of fact, if your bank account ever got above \$2,000, you'd get a letter from Social Security saying, "We've detected that you have an excess of resources and you need to spend that money down or your benefits are in jeopardy of being suspended." And if you don't spend that money down in the time frame that they say, then your benefits would be suspended until you actually do complete that spend down. You will no longer receive that monthly cash payment until you get below \$2,000.

But now with an ABLE account, you have the ability to save up to \$15,000 a year and up to \$100,000 in total before your SSI is impacted at all. And so I know that one of the major questions that you may be asking is: well, if the person is living off of SSI, they're probably getting a little less than \$1,000 a month. How could they possibly save \$15,000 a year or up to \$100,000 in total? And one of the great things about ABLE is that if an individual is receiving benefits like SSI, and they receive contributions from any third party, and that third party is anyone other than the Beneficiary themselves – it can be a parent, it can be other family or friends or loved ones, it could even be a church – if those folks put money into the individual's ABLE account, Social Security won't count that as additional income. So you can actually get contributions from all sources and not have it counted as income. The one thing that you should know is that \$15,000 a year limit exists for all contributors. So it's not \$15,000 per contributor. It's actually \$15,000 per ABLE account per year. The one thing that you should know is that \$100,000 limit that I mentioned is really the limit before your SSI is impacted at all. If you go above that \$100,000, then SSI can look at it and say, "Okay, we're detecting that you have excess resources." And you could have your benefit suspended just like you would have at \$2,000 without an ABLE account.

Another thing that you should know is that CalABLE will automatically reject access contributions if you try to exceed that \$15,000 per year contribution. We'll tell you that you can only put in \$15,000 per year.

If you're not worried about benefits and you want to maximize your savings, you can actually contribute up to \$529,000 into an ABLE account, and even at that \$529,000, your account can continue to grow because, like I said, this is an investment account, and so hopefully your account will grow over time.

But at \$529,000, you are capped from making any additional contributions. But remember that after you exceed \$100,000, you're probably off benefits because you've exceeded their resource limits.

Now, there are a small number of folks who can contribute above and beyond that \$15,000 per year, and that was done as a way of making sure that folks had a sort of retirement nest egg. And so they passed with tax reform of 2017, they passed a law that said that if you are working and if you're not actively contributing to an employer-sponsored retirement program, you can actually contribute a lot more than the \$15,000. You can contribute, whichever is less, an amount equal to your annual gross salary or to the federal poverty level of the year prior to your contribution. So in 2020, an individual working and not participating in an employer-sponsored retirement program could contribute in an additional \$12,490, for a total of up to \$27,490 in a single year.

Okay, next slide. So how do these ABLE accounts work? The first thing that you need to know is that accounts are meant to protect assets. They are not a shelter for income. What do I mean by that? So programs like SSI, any means-tested program, they actually do two separate tests. One is an income test, and that looks at how much money do you have coming in. And then the other is an asset or resource test, and that looks at what resources or how much money do you have in the bank, what other resources can you tap into. Now, the ABLE accounts are meant to protect the latter, meaning that they are meant to be a protection of that \$2,000 resource limit to let you go and save above and beyond that.

But like I mentioned earlier, you don't have to currently be receiving benefits to qualify for an ABLE account. And so if you're not concerned, so if you're working and earning money, just putting that money into an ABLE account doesn't then turn that money into non-income that would then allow you to qualify for any benefits programs. So it doesn't work like that. Income is always counted as income. Now, these ABLE accounts can function both like savings or checking account, or there are investment options that will allow you to grow your money over time.

We have a prepaid debit card that is optional, and it allows folks to be able to move money directly from their CalABLE account to the prepaid debit card and then use that card everywhere that Visa debit cards are accepted.

I mentioned previously that anyone can contribute to an ABLE account, and if you're receiving benefits, those benefits won't count third-party contributions as additional income, and the funds in your ABLE account are tax exempt. They are tax exempt as long as they stay in the account, and then when you withdraw the money, they remain tax exempt as long as you're spending the money on Qualified Disability Expenses.

And that leads us to the main topic of what we're here to talk about today, and that is Qualified Disability Expenses. So what makes up a Qualified Disability Expense? I'll start first with the definition. And Social Security is actually very specific about what is a Qualified Disability Expense, and they say any expense related to the designated Beneficiary as a result of living a life with a disability that helps to maintain or improve your health, independence, or your quality of life is considered a Qualified Disability Expense.

So the three things that I want you to remember here are health, independence, and quality of life. If you're using your ABLE account to pay for things that improve health, independence, or quality of life, generally speaking, it is a Qualified Disability Expense. If you don't believe me, you can look for yourself. This is the link to the [Social Security POMS](#) that I mentioned previously, and you actually will have the

ability to go and read for yourself exactly what they say and how they will view withdrawals from an ABLE account.

I know that definition that I gave you is extremely broad, right? Just about anything you can imagine would fit in one of those three categories of health, independence, or quality of life. Well, to help folks out, Social Security went a little further and gave us some examples of what could be considered Qualified Disability Expenses. Now, this isn't by any means an exhaustive list. There are many more expenses other than these, but this will put you in the mindset of what could be considered a Qualified Disability Expense. That includes education, housing, employment training and support, assistive technology, any prevention and wellness expenses, financial management services, legal fees, expenses for ABLE oversight and account monitoring, death and burial expenses, and basic living expenses are all things that are considered to be categories for Qualified Disability Expenses.

Now, we get questions all the time regarding whether or not something makes up a Qualified Disability Expense, and so I wanted to bring out some folks that can tell you how they're using their accounts themselves. And we'll go over some examples of things that may not be considered Qualified Disability Expenses, but I want to introduce you to someone that I'm just getting to know myself, but he is a very knowledgeable young man. And so, Armand, please allow me to introduce you to our group. Armand is a CalABLE account holder and will be sharing some of his thoughts on how he's using his ABLE account.

**ARMAND BUJANDA:** Good morning, everyone. So my name is Armand Bujanda. I opened my ABLE account at the beginning of 2019, and I made sure to research it thoroughly to know, okay, once I have enough money built up, what can I use it for and not incur any penalty or fees or anything of that sort? So in my own experience, I use it for assistive technology costs, disability-related costs so I have visual impairment and walk with a white cane so if I need to buy a new cane, things like that. I also do have a job which helps me along with my benefits provide input into the account. So I also use the account to help pay for my transportation costs when going to and from work. I mean that cost has been pretty much at zero given these current times, but other than that, that is mainly what I use it for. My long-term goal is to attend graduate school at ASU and also save up to move out and live independently. Starting to look for places and I feel like the account has helped me get on my feet in terms of actually making moving out seem more near to coming to pass as opposed to just something I wanted to do and had no idea how to do it.

Also, I work at my local independent living center and as part of our services, we help people apply for benefits and one thing I always share is my own CalABLE experience and share how it can help people save their benefits also while using them because we help our clients try to be as independent as possible and that even includes financial management. Some people just need a little extra coaching, but we structure it so that their set up for success and not failure.

**DANTE ALLEN:** Thanks, Armand. Is that all of your comment?

**ARMAND BUJANDA:** Yes.

**DANTE ALLEN:** Thank you so much for that. Really appreciate it. So I want to give you a few examples, and these two come directly from the Program Operating Manual. "What if you change your mind?" is a question that we get on a regular basis. What if I take money from my ABLE account and then decide that

what I was going to use the money for, I actually am not going to use it. What then happens? So here's an example of if an individual change the intent on what they were using a distribution for. So it says:

“In June, Jennifer takes a \$7,000 distribution from her ABLE account to pay an educational expense that is a Qualified Disability Expense. Her educational expense is due in September, but in August, Jennifer gets a job offer and decides not to return to school. The \$7,000 that she took then becomes a countable resource in September because she no longer intends to use it for an educational expense that is a Qualified Disability Expense.”

Now, unless Jennifer re-designates it for another Qualified Disability Expense, or returns the funds to her ABLE account prior to September, then that money will be counted as a resource. And so because it's \$7,000, if she were receiving benefits, that would put her benefits in jeopardy of being suspended unless she completed a spend down. So that's an important example that even when she took the money for what was assumed to be a Qualified Disability Expense, if she made the decision and used it for a Non-Qualified Expense, that would actually change the implication of it. One of the things that I did learn myself in researching for today's presentation is that there are very few circumstances where if you took money for a Non-Qualified Expense, where that would be counted against the individual as income. It could be counted, and it's likely that it will be counted, as a resource if you take it for a Non-Qualified Expense, but it will not be counted as income. So that is a great example of what if you just changed your mind.

Now, housing. One of the things that I mentioned is that ABLE accounts can be used to pay for housing, but we know that the folks who govern housing are very different than the folks who govern SSI. So it's actually the Department of Housing and Urban Development that makes decisions on how things look in regard to housing. And so it took a while for HUD to give us exactly how they would look at these ABLE accounts, but we're very pleased to say that once they did, they said and did exactly what we expected them to. And it said that HUD would exclude all funds in an ABLE account from determining family income. They would exclude any third-party contributions to an ABLE account, they would exclude the entire value of an ABLE account from being counted in household assets, and they would exclude distributions from an ABLE account from being counted as income. The one thing that we did expect is that they said that any income like that which you earned from a job or any wages that you receive will continue to be counted as income. The same thing that I said before, this is asset protection rather than an income sheltering.

The one thing that you should know that is different regarding housing or payments to cover housing expenses is that they must occur within the same calendar month as the time that you withdrew it from your ABLE account. So if you're using your ABLE account to pay for a housing expense like rent, you need to withdraw the money and make the payment within the calendar month. So that means that for September's rent, you want it to make the payment between September 1st and September 30th rather than making the payment say October 28th and making your payment September 3rd if you do. If you do make that split over 2 calendar months, what will happen is that money could be considered as an additional resource for you for that particular time period. So you always want to make sure that when you're spending the money on housing expenses, that you do it within the calendar month.

I'll give you another example. Just a second here. Okay, so this is an example from the POMS of housing expenses. Now, housing expenses for the purpose of an ABLE account are similar to any kind of household

calls for in-kind support and maintenance purposes. However, and this is one of those quirky, unique things, is that food is considered a Qualified Disability Expense. It's a basic living expense, but it's not a housing expense. So if you use your ABLE account to pay for food, you don't have to do the whole thing of withdrawing it and using it to spend for food within the same calendar month. You can actually overlap consecutive months if you need it to.

But examples of housing expenses for ABLE purposes include mortgage, and that would include any property insurance as required by your mortgage holder. It includes property taxes, rent, utilities, heating fuel, sewer and garbage removal, gardening expenses – anything that is related to your housing expenses, and those are all considered Qualified Disability Expenses. But for the purpose of these, all the ones that I listed would need to be withdrawn from your ABLE account and paid for within the same month to avoid any risk above of interrupting your benefits.

“Here's an example of housing expense. Amy takes a distribution of \$500 from her ABLE account in May to pay for a housing expense for June. She deposits \$500 into her checking account in May, withdraws \$500 in cash on June 3<sup>rd</sup>, and pays her landlord. This distribution is a housing expense and part of her checking account balance as of June 1<sup>st</sup>, which makes it a countable resource for the month of June.”

The way to avoid this being considered accountable resource is that she would have either needed to have withdrawn the money and made the payment within the month of May, or she would have needed to withdraw the money and make the payment within the month of June. If she had done either of those, it would have been a Qualified Disability Expense. The money in her checking account would not be a countable resource for the month.

Now, I mentioned that I brought a few friends along. This is another friend that I'm going to introduce you to. This is Amy Tessler. Amy is the parent of an adult child with a disability, and she has been operating her son's CalABLE account for quite a while. And Amy is going to give us – and this is a different Amy from our last example – Amy is going to talk about how she is managing the CalABLE account that she works with. Amy, take it away.

**AMY TESSLER:** Good afternoon. Like many of you, I am the parent of a son who is now 25 with a disability. He started getting SSI when he was 18. We opened an ABLE account for our son back in 2018 to avoid the ISM reduction, which Dante just talked about. The ISM reduction is now \$261 a month. If you can show that he is paying his full share of housing and food costs, that reduction does not take place. When he became eligible for SSI, I was not even aware that there was a way to avoid the reduction if your disabled child lived at home. We were just glad that he finally got through the process.

Back in 2016, I learned after attending a conference that with an ABLE account, if you show that you're again that you're disabled adult child is paying their full share of household expenses, there is no reduction. You might say to yourself, “How could that be done? The SSI check is nine hundred and some dollars, and living in California is very expensive.” Well, that's where the ABLE account comes in. Since anyone can put money into an ABLE account, we provided the initial funding in order to allow our son Scott to pay his full share. He pays us his full portion of household expenses and food, and we continue to contribute to his ABLE account monthly. So this process just continues indefinitely – all totally allowed. It's a very easy way for any SSI recipient to get in an additional \$3,000 a year. This can be done whether your adult child lives at home or whether they move out and live in their own apartment. You can



continue to use your ABLE account to help your son or daughter pay their monthly rent expenses, and they can get an additional \$261 a month. So everyone wins.

**DANTE ALLEN:** Thank you so much, Amy, for that great example. I see that folks are using the Q&A feature to submit your questions. Like I said, we'll do what we can in order to make sure that we answer all of your questions, and if not, we'll post the most relevant questions online when we post the replay of the event on our [YouTube channel](#), and so you'll have all of the information that you need.

I'm sorry I'm trying to answer a question at the same time that I am speaking, and my brain is not made for multitasking. But as I was saying, we will answer all of your questions but please feel free to submit questions through the Q&A portal and we'll get to all that we can now answer.

One of the questions that we receive in Q&A on a regular basis is, what happens to the money in an ABLE account when the Beneficiary passes away? And this is an important distinction because many of you have heard that Medi-Cal can go into many ABLE accounts and reimburse themselves for money that they've paid for that individual's healthcare. Well, here in California, things are a little bit different and so I can walk you through what happens when a Beneficiary passes away. The first thing that you should know is that any outstanding Qualified Disability Expenses may be paid using funds directly from the ABLE account, and that includes – remember, I mentioned previously that death and burial expenses are considered Qualified Disability Expenses – and so yes, you can pay for even things posthumously in order to satisfy Qualified Disability Expenses.

What would happen at that time is that the account would be transferred into the deceased individual's estate. Here in California, we've passed a law that said that Medi-Cal will not attempt to recover directly from a CalABLE account of a California resident, and so that's important. But it's not all inclusive, so there are few things that you should know. So after all Qualified Disability Expenses have been paid from a deceased individual's CalABLE account, the money is transferred into the estate. If you know anything about our probate laws, if the individual's estate is required to go through probate, then that would give Medi-Cal what I would call a second opportunity to try to recover, not directly from the ABLE account, but directly from the individual's estate.

But Medi-Cal went a little further to say that they will only attempt to recovery if the following things apply. Number one, if the deceased individual was age 55 or older; and if that individual was a user of comprehensive Medicaid Services like in-home support, skilled nursing, prescription drugs, and a few others; and like I said, if that individual's estate is required to go through probate, meaning that it was valued at \$150,000 or more; and that individual is not survived by a spouse or children under the age of 18 or a child with a disability of any age. So unless all four of those bullets apply, then Medi-Cal will not attempt to recover from a deceased individual's estate, and then that money can be willed or given to family and loved ones the same way that other folks can do when they pass away.

That is a very important thing to know, and as I mentioned, we passed a couple of laws that give additional protection to ABLE accounts. The first was AB 688, which protected ABLE accounts from the enforcement of money judgments. That is, if you're ever sued and you get a judgement against you, they can't go into your ABLE account in order to satisfy that money judgment. It is protected and completely exempt from enforcement of money judgments.

The other was SB 218, and that is the one that protects you from Medi-Cal recovery if you're a Californian with the CalABLE account. And that's one of those examples of, it is a pretty significant benefit for you if you're a Californian to have a CalABLE account because other states, and there aren't many states that have passed these laws, and so if you joined an ABL program in another state, you may not have this level of protection. So that is very important to know.

So let's talk now about Non-Qualified Disability Expenses. And the first thing that I'll say about that is it's not illegal to take a Non-Qualified Disability Expense. The thing that you should know, though, is that if you take an expense that's non-qualified, any growth that your ABL account has had over time could be subjected to a regular income taxes, plus a penalty. The federal penalty for withdrawal of money for a Non-Qualified Expense is 10%, and it's an additional 2.5% for the state. And then if you're receiving benefits, you could be putting your benefits at risk because any Non-Qualified Expense may now be considered a resource.

So what are some examples of Non-Qualified Expenses? Purchasing a gift for someone else, the purchase of anything illegal would be a Non-Qualified Expense. Social Security is very specific to say that gambling is a Non-Qualified Expense. And so yeah, I know that there are folks out there to say, "Hey, if I gamble, that helps to improve my quality of life." But again, I think that you should definitely listen to the folks in Social Security, especially if you're trying to protect your benefits.

So here is a great example of a Non-Qualified Disability Expense. So let's say that Sam takes a \$25,000 distribution from his ABL account in May for an assistive technology device and related services. He pays a \$10,000 deposit, but while waiting for the service to be completed, Sam takes a trip to a local casino in July where he loses \$1,000 of his ABL distribution gambling. The \$1,000 that he lost gambling now becomes a countable resource in July. The other \$14,000 Sam retains is an excluded resource while it meets the requirements of a Qualified Disability Expense. So even though he took \$25,000 out, he only used \$24,000 for the Qualified Disability Expense. That meant that that additional \$1,000 that he took was now a Non-Qualified Expense, and it would be counted as a resource.

So who keeps track? And the first thing I want you to know here is that CalABLE does not make a determination of what is considered a Qualified Disability Expense. We don't ask. You're not required to tell. When you withdraw your money, CalABLE makes the assumption that it's for a Qualified Disability Expense. So you make the withdrawal and you have to be the one that is keeping track of whether it is a qualified expense or not. So you have to determine whether it meets the Qualified Disability Expense criteria. The other thing that you should know is that the account holder, the owner, may be subject to an audit by the Internal Revenue Service. The account holder may also be asked during any kind of SSI benefits review to provide documentation once they are aware that you have an ABL account and that you've been using money from your ABL account to pay for expenses. They may ask you to verify that. So we highly, highly recommend that you keep excellent records of the withdrawals that you take from your CalABLE account.

And here are some of the best tips that we can think of for maintaining those records. Number one, review your statement for accuracy. Statements are issued on a quarterly basis for CalABLE, but you can actually log in at any time and see a current statement sheet that allows you to see what money you've put into your account, what money you've taken out, what growth has happened, any expenses or any

fees that have been taken out of your account. All of those things you want to make sure that you are monitoring.

The other thing is, you should keep receipts and make sure that you're matching up those receipts with that statement. So if you're taking money out and then you're buying something with the money you took out, make sure that you link the receipt for whatever you bought back up that statement. And add notes. You can say that I used this to buy a new computer, or I used this to make a down payment on a house. Keeping notes is a great way of recalling what you actually spent the money for. It's probably not going to be enough that you just say I took out \$10,000, and I think it was to pay for qualified expenses. You should always have detailed notes along with receipts in order to be able to verify, just in case you're ever asked. Now remember, CalABLE will never ask, but the folks who may ask are your benefits providers or the Internal Revenue Service. And then, remember to always keep your receipts and your notes in a safe place, and the recommendation is that you hold onto those things for at least three years.

This is a screenshot of the CalABLE web portal, and this lets you know where you can actually see your statements. On that tab across the top, the Home, you'll see the second tab is Your Account. If you go into that account, you can actually see your up-to-date Transaction History. And then if you go over a couple of more tabs to the Documents section, that's where you'll be ABLE to see your Quarterly Statements. And so remember the statements only come out quarterly, but the Transaction History gives you a detailed list, and it's always up to date, so you can look at any time you want to.

I'm keeping notes and this is another great feature of the CalABLE web portal is that you can actually do an export if you use a program like Microsoft Excel. You can actually do an export where you'll get your transaction history, and then you'll be able to put it into an Excel document and add notes to it. So if you see on the bottom, this person said they took out \$100 on April 6<sup>th</sup>, and it was four transportation. What would be great if they included the receipt for that transportation expense along with this Excel spreadsheet. The same for rent. And the important thing to remember when you're paying for housing expenses like rent, you want to make that withdrawal and the payment within the same calendar month, and so you want to have a receipt that shows that you paid your rent within the month of April because that's when you took the withdrawal. So please, please keep notes.

The last thing that I wanted to do is give you some resources and ways to be able to contact the CalABLE team. One of the best resources that we have is our [Achievable Corner](#). Now you can access this web page on the CalABLE website down at the bottom of every of every page, and this gives you some tips and tricks to make the most out of your CalABLE account. It helps walk you through some of the questions. If you're still on the fence of whether you want to open an ABLE account or not, it gives you great resources. The other element – because CalABLE is a product of the State Treasurer's Office of California, you can visit [www.treasurer.ca.gov/able](http://www.treasurer.ca.gov/able) and see all of the up-to-date.... We have lots of resources there. You can get our calendar schedule for our board meetings if you want to know how the inner workings of the ABLE program. Those board meetings are open to the public, and you can attend. And you can see all of the previous decisions that were made about the ABLE Act and any additional resources that we've posted since opening the program.

Another great example is the ABLE National Resource Center. You can visit their website at <https://www.ablenrc.org/> and it allows you to do side by side comparisons of the various ABLE programs. And you can see how the programs may be a little bit different. Does one program charge more fees than

another program? Or does one program have better investment options? Or like in the case of CalABLE, has the state passed a law that will protect residents of that state from things like monetary judgments or Medicaid recovery?

And then the final resource that I'll give you is [Disability Benefits 101](#). This is a website put together by the World Institute on Disability, and it does a great overview of the many disability benefits programs that exist. There are programs out there that you may be qualifying for but don't even know anything about, and this is a great website to go and take a look at those things. And so we can make sure that these resources are included when we send out our evaluation after today's webinar.

The other thing that I want you to be able to do is reach out to any member of the CalABLE team. Yes, we are a large and mighty team. Actually, no, there's just a few of us, but I can say that we do answer the phone, and we do respond to emails. So if you wanted to give us a call or send us an email, our numbers are available to you. Our email addresses are available to you. Our main office email is [CalABLE@treasurer.ca.gov](mailto:CalABLE@treasurer.ca.gov) and we're happy to answer any of your questions. The one thing that we do not have access to though, when you call us at the office is, we can't see inside your accounts. That would be considered a security risk. So only the folks in our Customer Call Center can view your accounts. So if you run into technical problems where you say, "Hey, I made a deposit and I'm not seeing it yet," if you gave this number a call, 833-Cal-ABLE, then you can talk to someone who can actually look and see when that deposit was made and when it posted, etc. We don't have the ability to do that in our offices, but the folks in the call center do. They're available Monday through Friday 9:00 AM to 5:00 PM. They also have the email address [CalABLEsupport@calable.ca.gov](mailto:CalABLEsupport@calable.ca.gov).

If you want to connect with us, please do so. We're all across social media. We also produce a quarterly newsletter, and you can sign up for that newsletter at our website at [www.treasurer.ca.gov/able](http://www.treasurer.ca.gov/able), and we promise we won't spam you. We only send out information when there are updates to be made about the program, so please consider joining us. You'll get early notification for events like today's webinar.

Before I turn it over to questions, I am required to give you the fine print. The one thing that you should be aware is that CalABLE is a savings and investment program, and as is the case with any investment program there is a potential for risk. There is a possibility that you could lose money, and so you need to be aware of the risk before making that investment and take all necessary precautions for that.

But with that said, I would love to open things up to questions, and I know that Anne has been monitoring the questions. So Anne, if you want to, you can read those questions.

I cannot hear you, Anne. Sounds like you're very muted. I think that's probably better. Okay, just barely. I can hear you, though.

**ANNE OSBORNE:** You can hear me. Okay, I'll speak louder. We've had a lot of questions regarding different Qualified Disability Expense items. So I'm just going to read down some of the list. First one is making donations to charities. Is that considered a Qualified Disability Expense?

**DANTE ALLEN:** So that one is questionable, and the reason why I won't give you just a yes or no answer is because we're not completely sure. As far as I know, there haven't been any direct determinations that an expense is qualified or non-qualified. But if you go by the determination of, is the expense for the benefit of the Beneficiary themselves, using it as a gift for someone else even a charitable donation is

questionable to me. And I would say, if you avoid making a charitable donation from your ABLE account without directly consulting with somebody at Social Security, I would say you should probably avoid it.

**ANNE OSBORNE:** And I know we had a comprehensive list, but I just had a lot of people asking other similar questions. Purchasing a bicycle and PlayStation video game set – would those be considered Qualified Disability Expenses?

**DANTE ALLEN:** In all likelihood, I can say unequivocally yes, a bicycle for the obvious reasons above. It can be a transportation device that would help you have greater independence. It could also be a health device because you can use it for exercise. The same thing for the PlayStation, although it may be a little bit more questionable. It's an entertainment device, and yes, entertainment purchases are considered Qualified Disability Expenses. So I would say yes for both, actually.

**ANNE OSBORNE:** So just following up on the entertainment – we have a lot of people that are asking about going to Starbucks, going out to restaurants, theater, movies. A lot of people are asking about vacations. I know you did talk about that, but we still are getting quite a few questions on those.

**DANTE ALLEN:** Yeah, and that's something that we get quite a bit. Typically, every time that I give a presentation in front of any audience, the first question that is asked is typically could an ABLE account be used to pay for a vacation, and the answer that I give – it's probably not funny to the people who hear me present multiple times – but the answer that I give routinely is, I've never been on a vacation that didn't improve my quality of life, and so I would say absolutely, a vacation could be considered a qualified expense, whether it's for educational reasons or quality of life reasons. Remember, the key elements are: does it help to enhance or improve an individual's health, independence or quality of life? And so, again, it's a very broad definition, but it's broad on purpose because these accounts are meant to be used, and it's not necessarily intended to be very limiting for you. So yes, vacations, entertainment items, going out to dinner – all of those things would qualify as Qualified Disability Expenses.

**ANNE OSBORNE:** This is a new question. We haven't seen this one, Dante. Can someone fundraise on a crowdfunding platform and direct the money to CalABLE account.

**DANTE ALLEN:** That's a great question, and again money can come from all sources – from any individual who wants to contribute to a Beneficiary's CalABLE account. And so there's nothing inherent about a crowdfunding platform that would prevent folks from being able to use those in order to contribute to their ABLE account. Remember that you're going to be limited to the \$15,000 per account annual contribution limit, but we also have a resource available through CalABLE, and it's our eGift portal that works very similarly to some of those funding platforms like GoFundMe, where you can send out messages and a link to anyone in your network and let them know that you're saving money for a particular event or a purchase or just an additional help, and folks have the ability through a unique link to contribute directly to your ABLE account. And so my suggestion would be, you can skip the funding portals and just use your ABLE account because there's that resource is already there and available for you.

**ANNE OSBORNE:** Another question we get a lot, Dante. Are contributions tax deductible for people making contributions to the ABLE account?

**DANTE ALLEN:** Yeah, and that's a great question. And unfortunately at this time, third-party contributions are not tax deductible. We have pursued bills that would make them tax deductible. They just haven't moved in the way that we like. We'll keep working at it. If you'd like to see that, though, you can send messages to your state representatives and let them know that you'd like a tax deduction for ABLE contributions. We see it as a great way to encourage folks to contribute to an ABLE account. So we think that would be a really important distinction and something important to have, so we will continue to pursue it.

**ANNE OSBORNE:** Another question is if you do not have a receipt for that QDE, how would you verify that or say that it was used if there's not a receipt attached to it?

**DANTE ALLEN:** I think the important thing to do is, if you don't have a receipt and you're making a Qualified Disability Expense is, keep a really note and that note should be where you purchased it, what was the price when you purchased it, what was the exact item. You might even include a product number because the reality is, if you ever had to justify it, you will be required to justify it to people who get that kind of explanation all the time – "I don't have the receipt." So I think that you need to try and make the best good faith effort that you can to record as much as you can about a particular purchase if you're short a receipt. The other thing that you can do is see if you can replace the receipt. So for instance, if you purchased it with a credit card, typically they can do a credit card look up and give you a duplicate of that receipt, just to be safe. So all things to consider.

**ANNE OSBORNE:** Okay, another question we had is: is the total amount of funds used for housing and utilities eligible as a QDE, or is it only the extra expense that is attributable to the disability? The gross expense or marginal cost?

**DANTE ALLEN:** Yeah, that is a great question, one of specificity that we rarely get. And it really is the total expense. The definition is any expense incurred as a result of living a life with a disability. So it's not as specific to say only the expenses incurred because you have a disability. So if your rent is \$1,000 and it's for an accessible apartment, but the smaller apartment that's not accessible is only \$800, the entire expense would be a qualified expense – the entire \$1000, not just the \$200 that's more than the other apartment.

**ANNE OSBORNE:** OK, another question we have here, and this was for – I'm not sure if Amy is on the line – but Dante, if rent is being paid through an ABLE account like Amy talked about, do the parents have to claim the rent on their taxes?

**DANTE ALLEN:** So the first thing that I will say is that you should always, always talk to a certified tax preparer. I am not one of those, so I would be reluctant to give you a tax preparation advice. Amy is on the line to see if she has any response.

**AMY TESSLER:** My husband does our taxes, so I'd really have to ask him. I know for certain we don't include Scott on our tax return as a dependent. I guess we probably do include his rent as income, but I'm not 100% sure.

**DANTE ALLEN:** Thank you so much for that, Amy. I think that I feel most comfortable leaving it with, you should probably talk to a tax accountant, a tax attorney rather than offering some non-expertise advice.

**ANNE OSBORNE:** Dante, that's really the bulk of the questions.

**DANTE ALLEN:** We do have a lot of folks on the phone that are muted, so I'd like to unmute those folks to see. We still have about 10 minutes left of time. I did see one question that said – let me see, let me find it. My son just went through SSDI annual review. The lady told me SSDI considers him having income from me because he lives with me. As a result, his monthly SSDI is like \$680. Is it true that if he has a CalABLE account and he pays rent from CalABLE to me, then I can report to SSDI that they should adjust his SSDI payment?

Yes, and that is exactly what Amy was talking about in the circumstance where you could actually instead of them considering it as an in-kind support, even if you were.... Let's say you gave your son the money to pay you the rent, if you put it into his ABLE account and then paid yourself from his ABLE account, that's a Qualified Disability Expense. It's not considered in-kind support, so he should get his full SSDI benefit rather than having it reduced down to what it is at \$680. So that's extra money that you can get simply from having a CalABLE account, and you can use that same rent money over and over again. You can put it in the CalABLE account, take it out to pay yourself, put it back in, take it out to pay yourself. You can do that over and over and that is completely legitimate, completely legal.

**ANNE OSBORNE:** Dante, we do have one question that came in: can ABLE funds be used to pay past debts as a Qualified Disability Expense?

**DANTE ALLEN:** So past debts – and that's something that we've done a little bit of research on, and I can't say that I've completely come up with an answer that I'm satisfied with, but I will say that the ability to alleviate a debt.... And so the way that we've explored this – let me go a little further – the way that we've explored this is, we've had questions in the past where someone said, “What if I receive an overpayment from SSI and they want money back? Would that be considered a Qualified Disability Expense?” And the answers that I've gotten from that, I'm not completely satisfied with. The estimation is that it would not be considered a Qualified Disability Expense. But if you're talking about a debt, so let's say you purchase something with a credit card and you've only been paying minimum account balances rather than paying off that entire expense, I would believe that that would more likely be determined to be a Qualified Disability Expense, but again, I haven't gotten direct confirmation of that, so I'm not 100% confident that is correct.

And then we're not able to unmute folks that are on the phone I don't think. I can't directly unmute the phone lines and there are a number of folks that are muted. I think if you hit \*7, you should be able to unmute yourself if you have a question.

**CALLER:** Dante, it's \*6.

**DANTE ALLEN:** Thank you so much for that. So if you have a question on the phone, and you'd like to ask it, now is a great opportunity. You hit \*6 and you can unmute yourself.

**CALLER (BARBARA):** I have a question. My name's Barbara.

**DANTE ALLEN:** Hi, Barbara.

**CALLER (BARBARA):** Hi, I'm wondering – my son has a CalABLE account and he's considering moving to Washington State. Will the rule then for Medicaid payback – he's on SSI – change based on the Washington State ABLE rules?



**DANTE ALLEN:** Yeah, so there are a couple of options there, and the thing is, the thing that you should be most aware of is that the protection that you get if, and I'm not sure, I don't believe that Washington has passed a law that says that they will protect their accounts from Medicaid recovery. California has and so the thing that you should be aware of is number one, is if that law exists or not. And the other thing is that because California is a national program, he doesn't necessarily need to do anything to move, but if Washington has given additional protection and he still is going to be using Washington State's Medicaid Services, it may be in his best interest to roll over from California to Washington State. So, I would really first, I would do a little bit of research on whether or not Washington has passed a similar law. You can actually find that out on the ABLE NRC website I gave previously – that's [ABLENRC.org](http://ABLENRC.org).

**CALLER (BARBARA):** Okay. And so and it is able then if need be to be rolled over to an ABLE account to another state.

**DANTE ALLEN:** It's a very easy process. There should be no fees associated with rolling over your account.

**CALLER (BARBARA):** Great. Thank you very much.

**DANTE ALLEN:** No problem.

**CALLER (GARY):** Hi there. My name is Gary. My daughter has an ABLE account. I've got a quick question for you.

**DANTE ALLEN:** Hey Gary, how are you?

**CALLER (GARY):** Good, thank you, and great webinar. Thank you very much.

**DANTE ALLEN:** Thank you.

**CALLER (GARY):** The rule about having to pay the housing cost the same month as the withdrawal, is it only housing costs that that's true for, and if so, does it get to the point where if you took it out on the 30th of the month, but you don't pay it till the 1st of the next month two days later that that's a problem?

**DANTE ALLEN:** Yes, unfortunately that is a problem. And yes, it's only for housing-related expenses. So everything that I listed in that – and that could include utility fees, rent – all those things have to happen within the same calendar month. And unfortunately, just a couple of days could mean that it can create some problems for you. Other Qualified Disability Expenses that are not housing-related don't have that same time frame within them. The one thing that you're going to want to avoid, if possible, is withdrawing money and holding onto it for too long where it could potentially be seen as a resource even though you're planning on using it for Qualified Disability Expense, but there is no specific time limit like it is associated with housing expenses.

The one other area where you do have a pretty significant time crunch is if you're doing one of those rollovers like I just mentioned. If you're rolling over from one state's ABLE program to another, you can do a full withdrawal from that one ABLE account, and you need to have opened it and put that money back into another ABLE account within 30 days. So it's not a calendar month thing, it is within 30 days, the rollover. *[Correction: Rollover transfers from one ABLE program to another must be completed within 60 days.]* That's the only other time where time is that significant of a factor.

**CALLER (GARY):** Great, thank you very much.



**DANTE ALLEN:** No problem.

**CALLER (HELENA):** Hi, my name is Helena.

**DANTE ALLEN:** Hi, Helena.

**CALLER (HELENA):** Great webinar. I have a special needs trust and I'm on Medi-Cal and many other programs. What is the best document? Does the special needs trust go into ABLE or does ABLE go into the SNT upon my death? How do I avoid having Medi-Cal come after the account?

**DANTE ALLEN:** I would highly recommend, and again, I don't say this to be evasive in anyway, but I would highly recommend that you talk to someone specializes in estate law because I'm not an attorney and don't want to give you the impression that I am. But there are things that you can do that will limit the necessity of your estate going into probate, and so I would highly recommend that you talk to someone that could give you some legal advice there.

**CALLER (HELENA):** Okay, and one other question. If I had \$15K transferred from the SNT annually until it was gone, is that legal?

**DANTE ALLEN:** It's legal, it is appropriate, it is acceptable, and it's a great way of being able to give you back control of the money rather than having to go to a trustee any time that you want to make any small expense.

**CALLER (HELENA):** That is a great answer. Thank you so much.

**DANTE ALLEN:** Anyone else on the phone? We've reached our allotted time for the day.

**CALLER:** Yes. Yes.

**DANTE ALLEN:** Okay, go ahead. I heard you.

**CALLER:** Yes, thank you. I'm interested in understanding sort of down the line, what proof of eligibility somebody as a non-parent would need for a person who's under a California conservatorship of the person currently. So very often its sibling might be interested in providing support and benefits management moving forward after the parental [inaudible] is no longer effective. And my understanding from what you said previously has been that it's still true that in California, a California conservatorship of the person would not be sufficient for a non-parent to be eligible as an Authorized Representative for the account. The first part of the question is, is that still the case?

**DANTE ALLEN:** The recommendation that we say is if you have a conservatorship and you're a non-parent, it really should be a conservatorship of the estate. I know that there's additional expenses required and different....

**CALLER:** And there is a burden that frankly complicates something for a sibling who may be juggling children and a job, etc. I really hope that California can reconsider that. It appears that at least one other state has, and what they've done is to basically stipulate or have somebody attest to the fact that they will be acting in a fiduciary capacity, so they are accepting a conservatorship of the person for a non-parent and not requiring a conservatorship of the estate, and for me that's a really important consideration.

**DANTE ALLEN:** Yeah.

**CALLER:** It appears that one signs on to acting in a fiduciary capacity to be delinked from requiring a conservatorship of the estate, which can be costly, burdensome, etc. I think it is very compatible with the intent of ABLE programs to be user-friendly. At the same time, you have some accountability through the fiduciary capacity that's acknowledged and signed on to. I really think California should think about this because there are many aging parents who are trying to put into place solutions that are workable for people down the line.

**DANTE ALLEN:** Yeah.

**CALLER:** I know that this is a relatively new program, but...

**DANTE ALLEN:** You definitely gave me good information. There are things that we will continue to look at, especially as we look at sort of legislative priorities, including our rulemaking capabilities in regard to our program, so we will look at that. The one thing, though, that I would say is that you should consider that we do allow for folks who have power of attorney to be Authorized Legal Representatives.

**CALLER:** But you have to have capacity to issue that, and somebody right now under a conservatorship would not generally be in many cases considered to have that capacity.

**DANTE ALLEN:** I understand that, but the thing that I was thinking, as the current conservator, do you have the ability to extend power of attorney to a particular sibling, I'm wondering?

**CALLER:** I think that the only mention of finances under the seven powers of a conservatorship of the person would be that the conservator has the ability to limit the conservatee's ability to contract, so basically to declare something null and void if somebody has been suckered into signing something if they're not capable of understanding.

**DANTE ALLEN:** Okay, so I'd love to explore this a little further. Would you mind reaching out to me and we can have a conversation that I can keep you updated on where I am with this.

**CALLER:** Sure, yeah. Just very quickly, my understanding is that the other state did not require legislative action. They were able to do this administratively and sort of in alignment with IRS kinds of guidelines or requirements?

**DANTE ALLEN:** Yeah, I definitely want to investigate that. Yeah.

**CALLER:** Thank you so much.

**DANTE ALLEN:** No problem.

**CALLER (DIANE):** Yes, I have a quick question for you. Hello, this is Diane.

**DANTE ALLEN:** Hi Diane.

**CALLER (DIANE):** Using the debit card, does that give any benefit in particular with regards to the time frame where you have to pay your rent in the calendar month?

**DANTE ALLEN:** Not necessarily. So Social Security is a little vague about debit cards. They're not vague and whether a distribution to a debit card is a Qualified Disability Expense or not. They're actually fairly

clear, but what is a little vague is, what are the exceptions to their rule? And specifically, their rule says that a distribution made to a prepaid card associated with an ABLE account is assumed to be a Qualified Disability Expense, unless it isn't. And so it's difficult for me to understand in what circumstances the "unless" means, and so I will say that using the card, the card has a little bit more detail in purchase information. So it gives you the date and time of purchase it gives you an ability to recover a receipt if you lost your receipt, but I don't necessarily think the time frame from moving money from your ABLE account to a linked bank account is identical to the amount of time that it takes to move it from your ABLE account to your prepaid card. So I don't think it gives you any additional advantage in that way.

**CALLER (DIANE):** OK, thank you.

**DANTE ALLEN:** So we've hit our time. If there are no more questions, I can end things today. Just want to remind you that we will be posting this webinar on our YouTube channel. And if there are any questions that we didn't get to that I feel like are very relevant to today's discussion, I'll make sure that those are included.

I really want to thank Amy and Armand. I also want to thank the CalABLE team that includes Anne Osborne and Alyssa Delacruz. Thank you for your help, and I really want to thank everyone for participating with us today. We know that there are plenty of other things that you have to do, so we really value the attention that you've given us today. We'll let you know when the next event in our webinar series is coming up, and we will be sure to send out those evaluations. And we really want to hear what you have to say about this event, and it doesn't matter to us whether it's good or bad feedback. We want to know so we can improve. So thank you very much everyone.

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For more information, please contact CalABLE at (916) 653-1728 or [calable@treasurer.ca.gov](mailto:calable@treasurer.ca.gov).

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