



CalABLE and Special Needs Trust

November 17,
2021

Webinar Setup

ASL Interpreters

- View the speaker gallery to find a video feed of our ASL interpreters.

Captioning

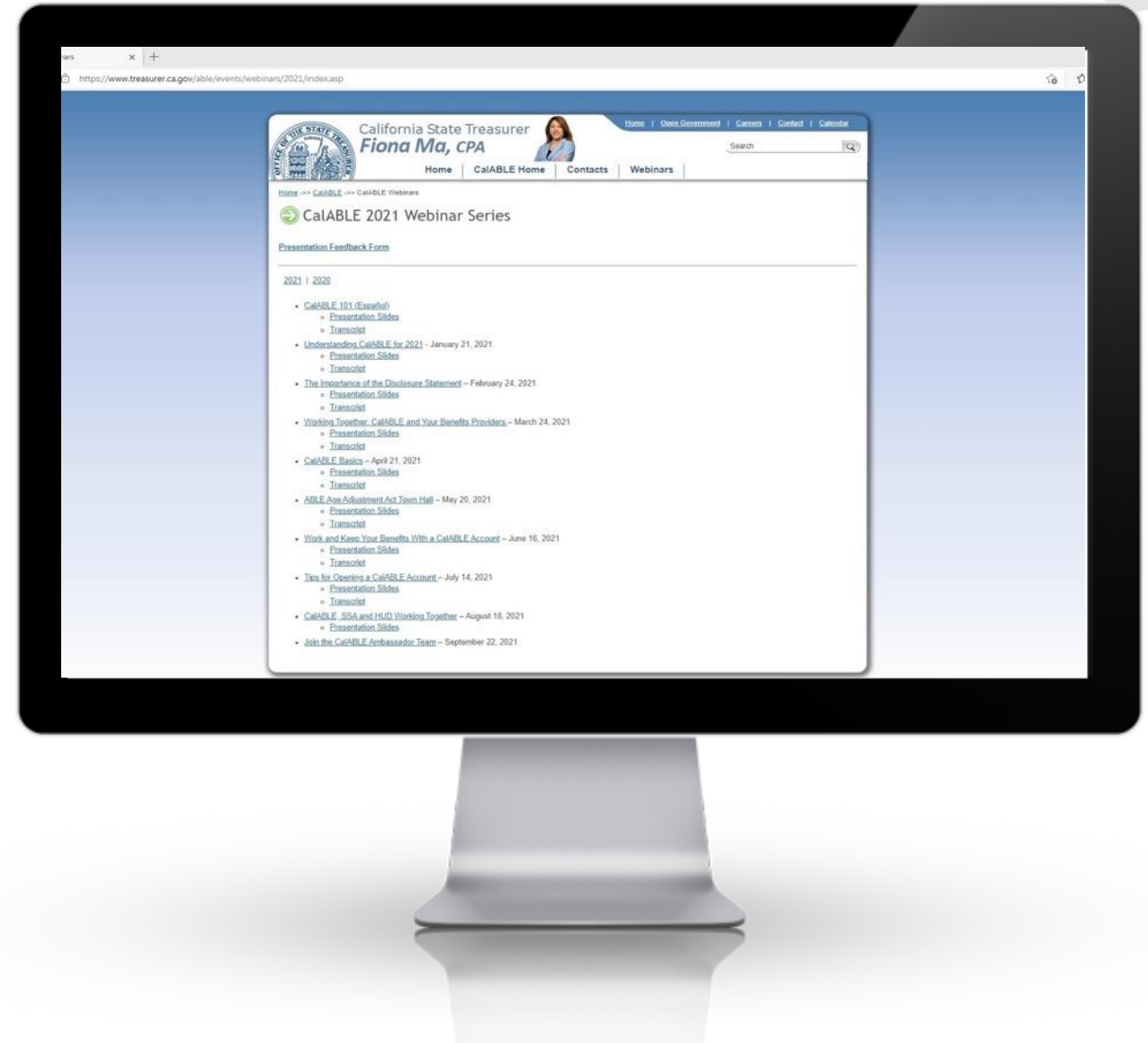
- Turn on Closed Captioning in the webinar controls.
- Adjust the captioning settings if needed
- A transcript view is also available.



Webinar Setup

Presentation Slides

Please visit the **CalABLE** website for a copy of today's slides.
treasurer.ca.gov/able/events/webinars/2021/index.asp



Audio Options for the Webinar

Via your computer speakers

- Please make sure your speakers are turned on or your headphones are plugged in.

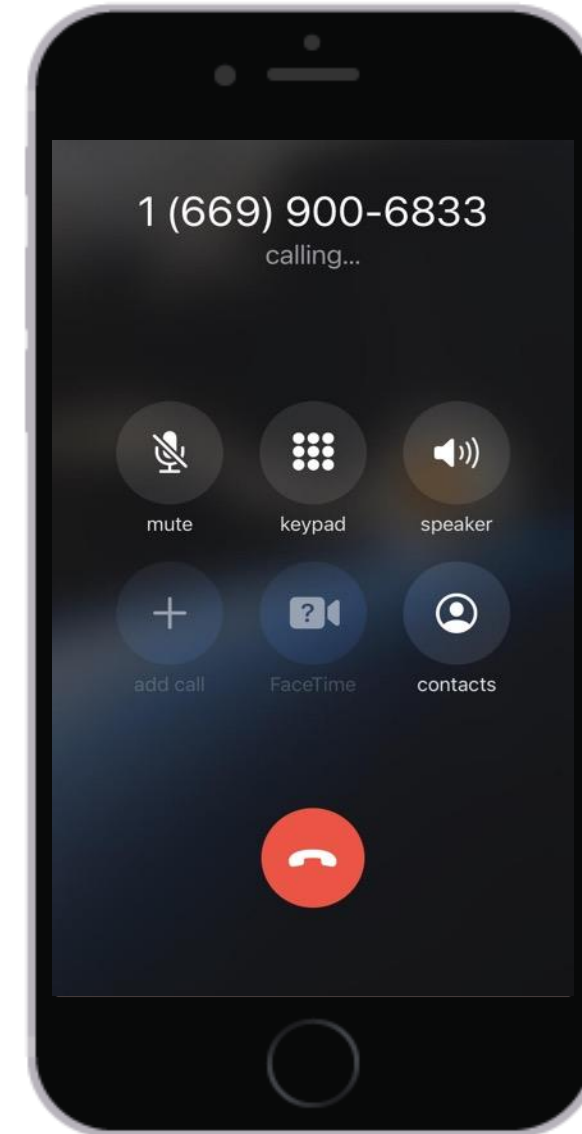
Don't forget

- You can adjust the volume if needed.

Audio Options for the Webinar

Via telephone:

1. Call: **1-669-900-6833**
2. Enter Webinar ID: **98483146264**



Submitting Questions

We will address your questions at the end of the presentation.

Q&A box

Submit your questions using the **Q&A box** at any time.

Audio-only participants

Audio-only participants may email us at CalABLE@treasurer.ca.gov.



Welcome

Fiona Ma
California State Treasurer



Poll #1

What Are You Saving For?

Share your savings goal in the Zoom poll!

☒ First home

☒ Education

☒ Service dog

☒ Recreation and
vacation

☒ Accessible
vehicle

☒ Technology or
equipment

☒ Health and
wellness



Today's Topics

1 What is **ABLE**?

2 **ABLE** Basics

3 How do **ABLE** accounts work?

4 Investment options

5 Opening an account

6 Resources and contacts

7 Connect with CalABLE

8 Q&A

What Is **ABLE**?

Achieving a Better Life Experience (ABLE) Act

- **ABLE** offers a tax benefit specifically for people living with disabilities, helping them reach their financial dreams. The act allows states to offer savings and investment plans. :
- Since Launch people have entrusted CalABLE with over 60 million in assets under management and opened over 6,000 accounts.



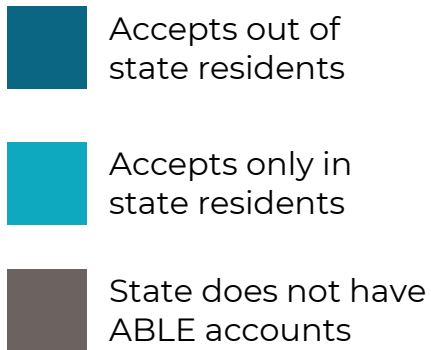
Achieving a Better Life Experience (ABLE) Act

Why save in an ABLE account?

- You can save up to \$100,000 without the risk of losing your other benefits.
- Offers a variety of professionally managed investment portfolios to fit your life situation, risk tolerance and savings goals
- Use money for qualified expenses without taxes and penalties.



ABLE States



ABLE Basics

Who is Eligible?

- You can open an ABLE account if your disability began before age 26.
 - If you meet the eligibility criteria for disability benefits like Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).
 - Your disability is on the SSA List of Compassionate Allowances or Blue Book listing.
-



What if I'm not on benefits?

- You can [self certify](#).
- You must confirm under penalty of perjury you were disabled [before age 26](#).
- You simply need a signed letter from a [qualified physician](#) that the applicant has a physical or developmental disability resulting in marked and severe functional limitations that is expected to last at least one year.

Who can open an account?

- You can open an account any age, as long as the onset of [your disability began before age 26](#).



More ABLE Basics

- Participants can only have **one ABLE** account
- **The person with a disability** is always the **ABLE** account owner and beneficiary
- Account can be opened by the person with a disability or an **Authorized Legal Representative** (parent, legal guardian/conservator, Power of Attorney)

Poll #2

Do you know anyone who has opened a CalABLE account?

Share your answer in the Zoom poll!

☐ YES

☐ NO



How do **ABLE** accounts work?

How do **ABLE** accounts work?

- Accounts **protect assets**, but cannot shelter income
- They can function like a **savings** account to potentially **grow your money** through investing
- Any earnings are tax free as long as they are spent on “Qualified Disability Expenses”
- Accounts holders can split their funds between savings and investments
- Anyone can contribute

Account Contributions

Before the ABLE Act

- A person with a disability could not save more than \$2,000 without impacting their SSI

Now

- You can save up to \$15,000 per year (or more in certain cases) and up to \$100,000 in total before SSI is impacted.

Account Contributions

\$15,000

**Annual
contribution cap**
(contribution only)

\$100,000

**Total cap for
recipients of SSI
benefits**
(contribution + earnings)

\$529,000

**Total contribution
cap for CalABLE**
(contribution + earnings)

CalABLE will automatically reject excess contributions

ABLE to Work

The ABLE to Work program permits working account owners to contribute above the \$15,000 annual contribution limit, if they or their employer are **not** contributing to a retirement plan **that calendar year.**

ABLE to Work

Account holders can contribute whichever is less:

- Amount equal to annual gross salary or
 - Federal Poverty Level (\$12,760 in 2021)
 - For a potential maximum of \$27,760 per year (\$15k + \$12,760)
-



Save, but also spend

- The money you save is for your needs and goals and can be spent any time for qualified disability expenses.
- No waiting until retirement age to take out money like a 401k or other accounts

What Is a Qualified Disability Expense (QDE)?

Any expense related to the ABLE account owner as a result of living a life with a disability that helps maintain or improve health, independence or quality of life.

Categories are intentionally broad and include education, employment, housing, transportation, healthcare expenses and more.

Examples of QDEs

- Education
- Housing
- Transportation
- Employment training and support
- Assistive technology and related services
- Personal support services
- Basic living expenses
- Health
- Prevention and wellness
- Financial management and administrative services
- Legal fees
- Expenses for ABLE account oversight and monitoring
- Funeral and burial

IMPORTANT NOTE: If CalABLE money is used for a non-qualified disability expense (non-QDE), the expense would be subject to regular income taxes, plus a 10% tax penalty on account earnings – and benefits may be at risk. Money used for non-QDEs may now be considered a resource.

Special Needs Trust

CalABLE & Special Needs Trusts (SNTs): A Comparison

CalABLE accounts and SNTs both allow people with disabilities to save money without losing access to government benefits.

In general, CalABLE accounts may be less costly and easier to use. You can open and manage an account online all by yourself.

SNTs offer more oversight and the ability to make larger contributions. But they can be costly to set up and cannot be used for food or housing. You generally cannot open a Trust by yourself, and you will need a Trustee to manage it for you.

Which is better for me?

Depending on your needs, your best option may be either a CalABLE account or an SNT, but many people use both! You can, for instance, use an SNT to fund a CalABLE account.

Let's take a look at how these tools compare:

Can open by yourself online in 20 minutes or less.	Set Up	Generally, need to work with an attorney to create.
Individual with a disability is the owner. They, or an Authorized Legal Representative, can manage and spend the money,	Ownership & Control	A Trustee manages the Trust and has sole discretion over spending.
Broad range of allowable uses, including food and housing.	Purchases	Broad range of allowable uses, but not food or housing.
State Administrative Fee	Cost	Varies; anywhere from a few hundred to a few thousand to start, plus ongoing costs.
Free to open. Fees start at just \$37 a year. Some investment choices have additional fees.	Contribution Limits	Contributors are limited (may not include Beneficiary). No deposit limits.
Anyone can contribute. Deposits limited to \$15K/year (possibly more if individual is employed)	Medi-Cal Payback	Only first-party (self-settled) trusts must pay back Medi-Cal.
Yes, four options. Offers ability to grow your money. Account owner chooses how to invest.	Investment Options?	Yes, options vary. Offers ability to grow your money. Trustee chooses how to invest.
Tax-free withdrawals for qualified expenses.	Taxes	Earnings are taxed.

Investment Options

Risk

In general, investing always comes with some risk. When choosing investments, understanding your tolerance for risk is important.

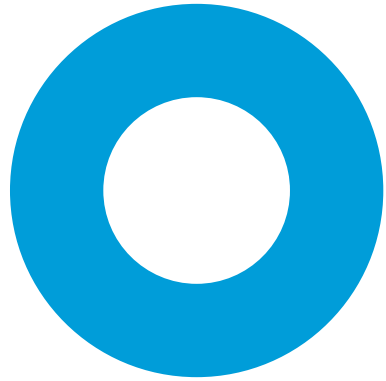
At CalABLE, we've designed our investment portfolios to be easy to understand with clear information on the risk level for each.

We also offer educational resources about our portfolios to help you assess the risk you may face depending on the investments you choose.

Saving and Investing

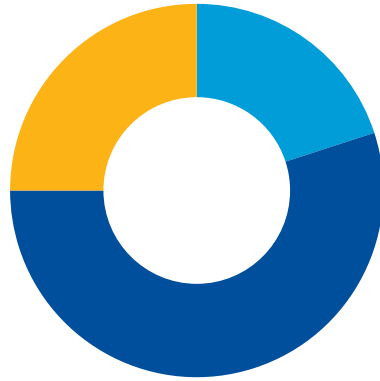
- Investments managed by TIAA-CREF
- Money can be deposited into an FDIC-insured portfolio or invested in any of three Target Risk Investment Options
- Fees vary based on the savings / investment options selected
- Funds may be transferred between portfolios two times annually

Saving and Investing



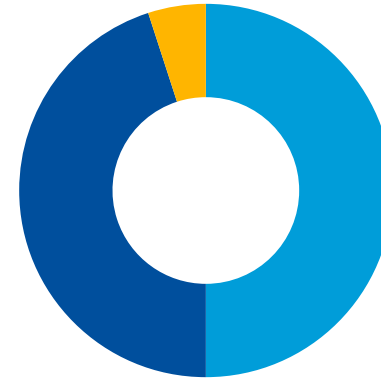
**FDIC- Insured
Portfolio**

- 100% Interest-Bearing



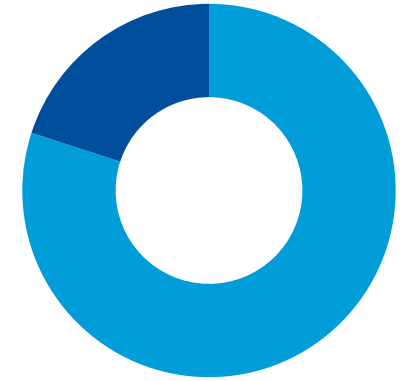
**Conservative
Portfolio**

- 20% Stocks
- 55% Bonds
- 25% Funding Agreement



**Moderate
Portfolio**

- 50% Stocks
- 45% Bonds
- 5% Funding Agreement



**Aggressive
Portfolio**

- 80% Stocks
- 20% Bonds

CalABLE Fees

\$3,000 Assumed Assets

Investment Option	FDIC-Insured Portfolio	Investment Portfolios
Account Maintenance Fee	\$37	\$37
Underlying Investment Fee 0.00% FDIC 0.09% Conservative 0.09% Moderate 0.08% Aggressive	\$0	\$2.40 to \$2.70
State Administrative Fee	\$0	\$13.20
Total Annual Fees*	\$37	\$52.60 to \$52.90

**Paper statements will include an additional annual \$10 fee*

Medicaid & ABLE

Medi-Cal, California's Medicaid Program, provides health care services including medical, dental, mental health, substance use treatment, long-term care services and support for low-income adults, children, seniors, pregnant women, and persons with disabilities.

- ✓ Any outstanding QDEs, including funeral and legal expenses, may be paid using ABLE funds.
- ✓ The account is then transferred into the deceased individual's estate.

Medi-Cal Recovery

SB 833

Medi-Cal will only attempt recovery if (**ALL** must apply):

- ✓ The deceased was age 55 or older
- ✓ The individual was a user of comprehensive Medicaid services (in home support, skilled nursing, etc.)
- ✓ The individual's estate is required to go into probate (\$150,000 or more)
- ✓ The individual is not survived by a spouse or children under 21 or a disabled child of any age.

Medi-Cal will not seek recovery from a CA resident and CalABLE account holder.

Ready to Open Your Account?

Get started at CalABLE.ca.gov

Meet Our Presenter

Stephen W. Dale



- Disability rights advocate
- Recipient of the prestigious 2010 Theresa Foundation Award and 2007 NAELA Powley Award
- Board of the ARC of California
- Trustee of the Golden State Pooled Trust
- Charter Member of the Special Needs Alliance
- Public service website:
www.achievingindependence.com
- Golden State Pooled Trust www.gspt.org

SSI and the \$100,000 Suspension Rule

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Trustee - Golden State Pooled Trust

www.gspt.org


For Video on SSI and the \$100,000 Suspension Rule Go To <https://www.youtube.com/watch?v=sGzZ8X8bSzQ>



ABLE and SSI Eligibility

- If the beneficiary is receiving Supplemental Security Income (SSI) benefits, **when the assets in the account total \$100,000**, any monthly SSI benefits will be **placed in suspension**.
- **If the assets in the ABLE Account drop back below \$100,000**, the SSI benefit suspension ceases and any **SSI benefit resumes**.
- The beneficiary **will not have to reapply for SSI** benefits once the account drops back below the \$100,000 threshold.





CalABLE as a Work Enhancement Tool

Stephen W. Dale, Esq. LL.M

Trustee - Golden State Pooled Trust

www.gspt.org

CalABLE as a Work Enhancement Tool [CLICK THIS LINK - https://www.youtube.com/watch?v=3yM0ne9RvVU&t=10s](https://www.youtube.com/watch?v=3yM0ne9RvVU&t=10s)

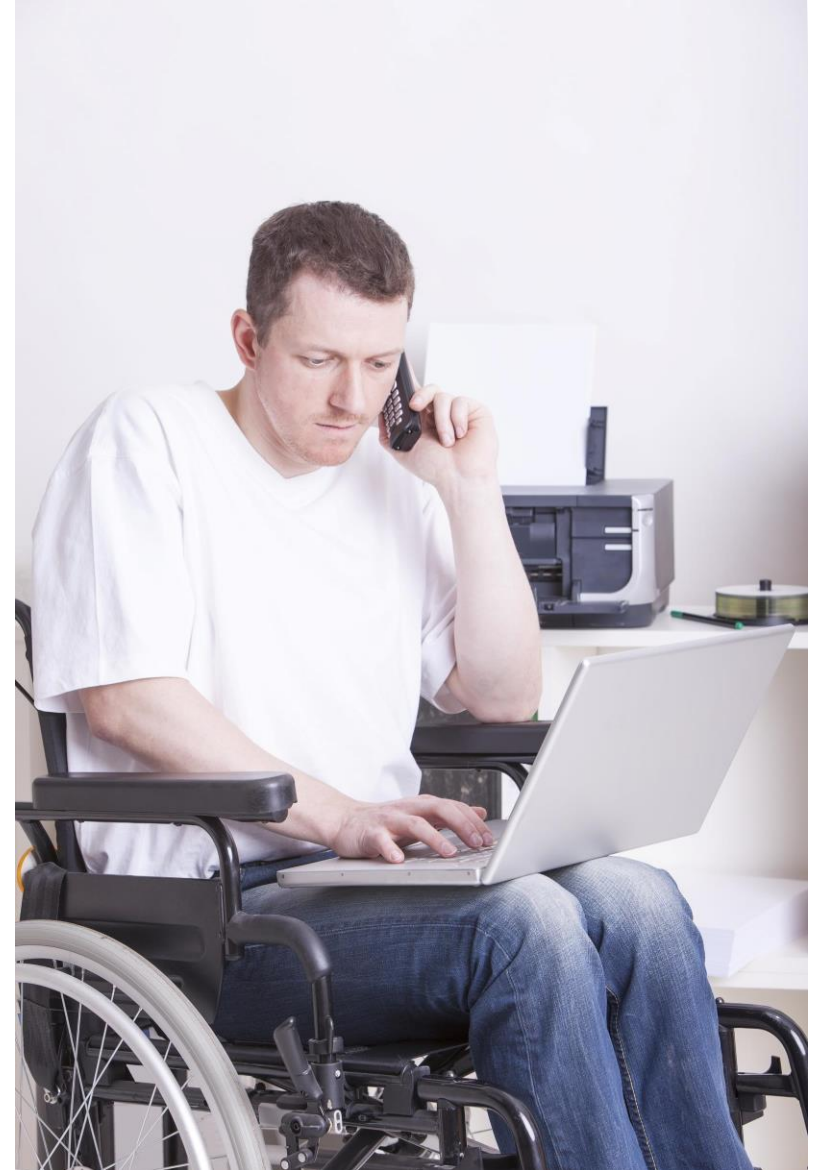


Types of SSI Income

Unearned Income	Earned Income	In-Kind Support & Maintenance
Includes cash gifts, payments from annuities and pensions, alimony & support payments, dividends, interest, rents, awards and payment from other benefit programs.	Consists of wages, royalties, net earnings from self-employment, and any honoraria received for services rendered.	Actual receipt of food and shelter including property taxes and utilities
Reduces benefits dollar for dollar after the first \$20	Reduces benefits one dollar for every two dollars after the first \$65 earned monthly	Reduces benefits dollar for dollar up to a maximum of \$303.33 (2022)

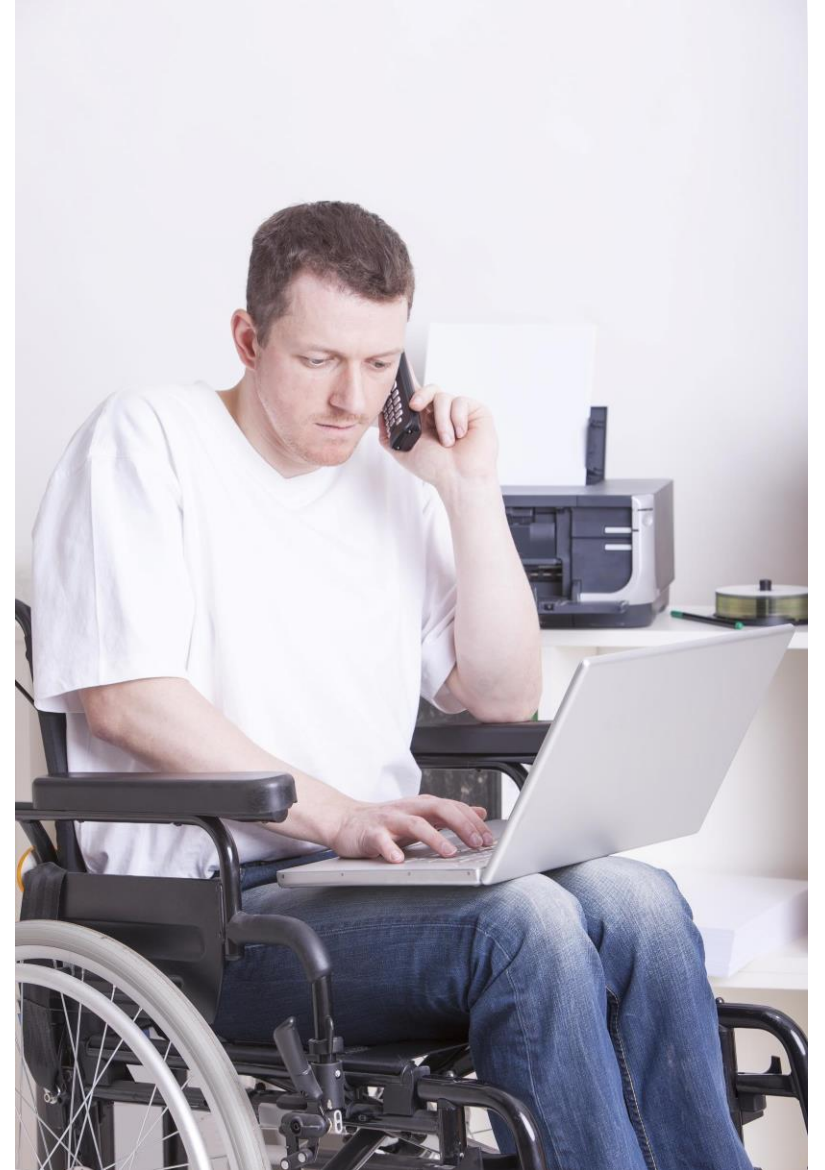
Jason's Story – on SSI

- Jason has a disability from a birth, is now 25 years old, and receiving SSI.
- His goal is to enter the workforce, and eventually no longer be dependent on benefits.
- To assist him, his parents set up a CalABLE Account and contribute the maximum \$15,000 a year.



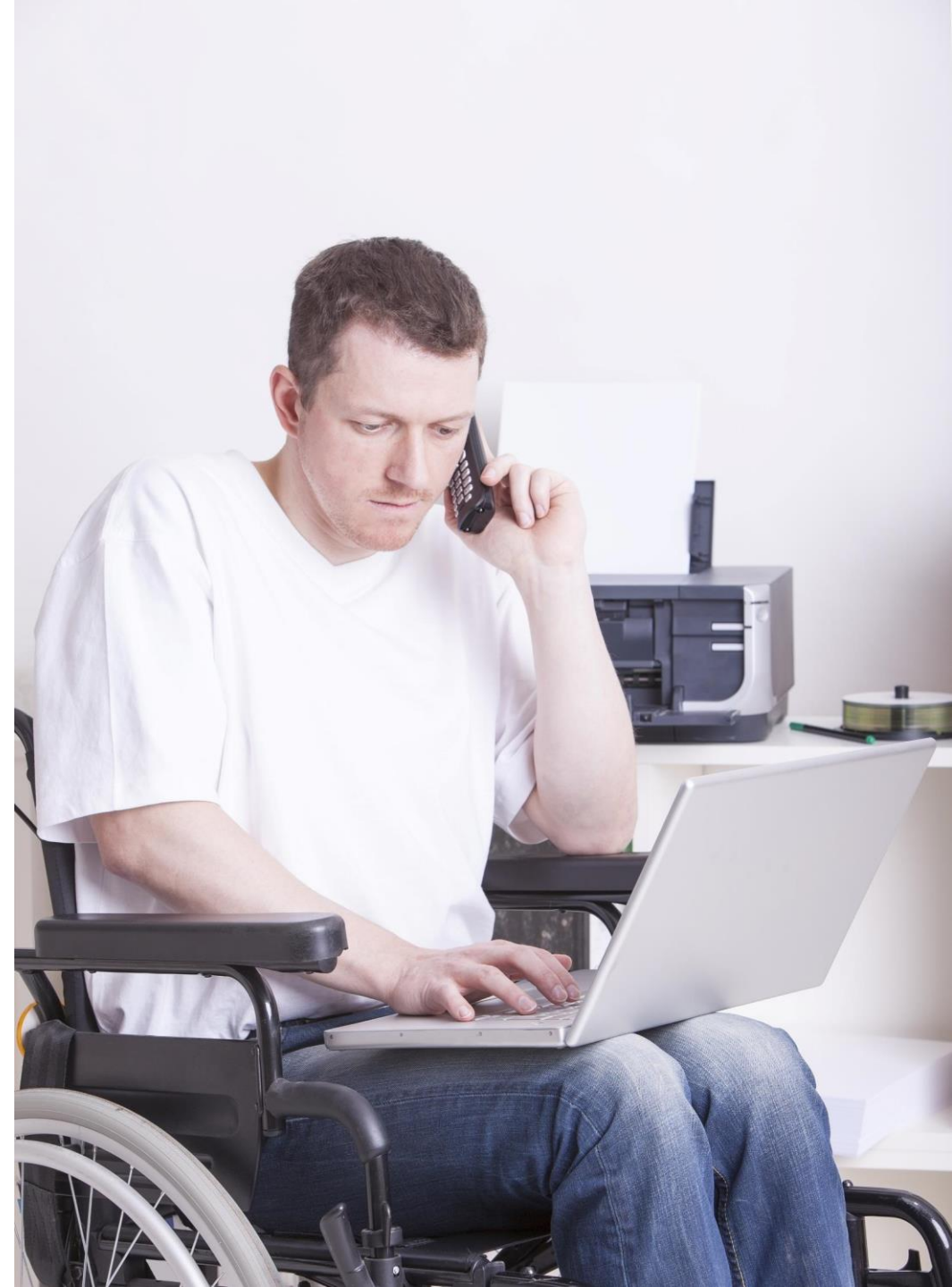
Jason's Story – on SSI

- Jason receives SSI, is eligible for \$954.72.
- Jason takes a job, and earns \$1,200 a month
- His earnings reduce his SSI, \$1 for every \$2 he earns after the first \$65. $(\$1,200 - \$65)/2 = \$567$
- SSI after reduction = $\$954.72 - \$567 = \$337.72$
- His monthly income is now \$1,200 (earnings) + \$337.72 (SSI after reduction) = \$1,557.72
- Even with the reduction, Jason will net \$603 more than had he not worked.



Jason's Story – on SSI

- He would like to save \$800 a month for his future and add that to his CalABLE Account.
- Without a CalABLE Account, he can only have \$2,000 in resources.
- With a CalABLE he can contribute the funds to his CalABLE Account and remain below the \$2,000 SSI resource limit
- NOTE – contributing earnings to a CalABLE Account does not prevent it from being countable income for benefit purposes.
- Remember, in this scenario Jason's parents have already contributed \$15,000 to Jason's CalABLE account.



ABLE to Work

- Permits working account owners to contribute above the \$15,000 annual contribution limit, if they do not participate in an employer-sponsored retirement plan.
 - Can contribute whichever is less:
 - Amount equal to annual gross salary OR
 - Federal Poverty Level (\$12,760 in 2021) for a potential \$27,760 per year
 - Therefore, despite his parent's annual contribution, Jason can contribute up to \$12,760 of earnings on top of his parents annual \$15,000 contribution to his CalABLE Account



The Basics of Supplemental Needs Trusts

Stephen W. Dale, Esq. LL.M

Trustee - Golden State Pooled Trust

www.gspt.org

Tying a SNT to a CalABLE Account [CLICK THIS LINK - https://www.youtube.com/watch?v=uB2NmXUc0_s&t=217s](https://www.youtube.com/watch?v=uB2NmXUc0_s&t=217s)



Special Needs Trust Basics

- The SSA defines resources as cash and any other personal property that an individual owns or has the power to convert to cash, or not legally restricted from using for his or her support and maintenance.
- If an SSI recipient does not own an asset outright and is legally restricted from direct access to the funds, those assets are not considered a resource for benefits eligibility.



Special Needs Trust Basics

- A special needs trust is a contract where the trustee has sole and absolute discretion over the assets in the trust and the beneficiary has none.
- In essence, a special needs trust is a form of a spendthrift trust
- By directing assets otherwise intended for the individual to a special needs trust, you are preventing those assets from counted as an available resource thus preserving his or her eligibility for benefits.



Self Settled and 3rd Party Special Needs Trusts

Self Settled Stand Alone SNT


- Contains the assets of the benefit recipient
- Benefit recipient must be under the age of 65 when trust is created and funded.
- Can be established by the benefit recipient themselves, parent, grandparent, legal guardian of court.
- Upon the death or earlier termination of the trust, the funds are subject to a Medi-Cal lien for any Medi-Cal used for medical purposes.

Self Settled Pooled Trust

- Contains the assets of the benefit recipient
- There is no age limitation
- Can be established by the benefit recipient themselves, parent, grandparent, legal guardian of court.
- Upon the death or earlier termination of the trust, the funds are subject to a Medi-Cal lien for any Medi-Cal used for medical purposes, for any amount not retained by the trust

3rd Party SNTs (Including Pooled Trusts)

- Contains the assets of a 3rd party
- No age limitation
- Can be established by anyone except the benefit recipient or spouse.
- Upon death of the beneficiary or earlier termination of the trust there is no Medi-Cal lien.
- Remaining funds according to the terms of the trust.



Tying a Supplemental Needs Trust to a CalABLE Account

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www.gspt.org

Tying a SNT to a CalABLE Account [CLICK THIS LINK - https://www.youtube.com/watch?v=uB2NmXUc0_s&t=217s](https://www.youtube.com/watch?v=uB2NmXUc0_s&t=217s)

Can a SNT Make Contributions to a CalABLE Account for an SSI or Medi-Cal Recipient?

- This question was answered in 2018 by the Social Security Administration in their administrative regulations called the Program Operations Manual System (POMS).
- Additionally, Medicaid (Medi-Cal) cannot make rules more stringent than SSI.
- To find the regs which covers many aspects of the ABLE Act for SSI recipients – google [SI 01130.740 Achieving a Better Life Experience \(ABLE\) Accounts](#)



Can a SNT Make Contributions to a CalABLE Account for an SSI or Medi-Cal Recipient?

- A contribution is the payment of funds into an ABLE account. **Contributions must be in cash and may be made in the form of cash or a check, money order, credit card, electronic transfer, or a similar method. Any person can contribute to an ABLE account. ("Person," as defined by the Internal Revenue Code, includes an individual, trust, estate, partnership, association, company, or corporation.)** However, the total annual contributions that an ABLE account can receive from all sources is limited to the amount of the per-donee gift-tax exclusion in effect for a given calendar year.



With Limited Exceptions, the Social Security Administration is Not Allowed to Review Distributions from an ABLE Account

- [SI 01130.740 Achieving a Better Life Experience \(ABLE\) Accounts](#) goes on to say;
- **Do not count distributions from an ABLE account as income of the designated beneficiary, regardless of whether the distributions are for a QDE not related to housing, for a housing expense, or for a non-qualified expense.**



Making Distributions from a SNT to a CalABLE Account

Special Needs Trust

- All distributions must be in the trustee's sole and absolute discretion
- All distributions are subject to review by the Social Security Administration for SSI recipients, and the Department of Health Care Services (DHCS) for Medi-Cal recipients

CalABLE Account

- Distributions are in the discretion of the person with signature authority
- With limited exceptions, the Social Security Administration, and the Department of Health Care Services (DHCS) cannot review distributions from a CalABLE account.
- The CalABLE account may be subject to review by the IRS

Nov 9, 2021

CalABLE and the Medi-Cal Payback, Medi-Cal Recapture, and Remainder Beneficiaries

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[CalABLE and the Medi-Cal Payback, Medi-Cal Recapture, and Remainder Beneficiaries -](#)

[CLICK THIS LINK - https://www.youtube.com/watch?v=cm5ZkYbtQ5k&t=17s](https://www.youtube.com/watch?v=cm5ZkYbtQ5k&t=17s)




ABLE Accounts and the Medicaid Payback

Federal Law

- Upon the death of the designated beneficiary, funds remaining in the ABLE account, after payment of all outstanding qualified disability expenses, must be used to reimburse the State(s) for Medical Assistance (Medicaid) benefits that the designated beneficiary received, if the State(s) files(s) a claim for reimbursement.

California Law

- Prohibits recovery under California's Medi-Cal estate recovery provisions of any amount remaining in the designated beneficiary's ABLE account for any amount of medical assistance paid under the state's Medicaid plan, and would prohibit the state from filing a claim for the payment under the ABLE Act.



CalABLE and Medi-Cal Recapture

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Medi-Cal Recovery (Recapture)	ABLE Account	3 rd Party SNT
<p>Medi-Cal used for medical purposes after age 55 that passes through a formal probate.</p> <p>As of January 1, 2020 if the threshold probate amount is less than \$166,250, then a formal probate can be avoided by filing a small estate affidavit or 13100 affidavit.</p>	<p>Use Medicaid Outside of California</p> <p>The amount of any such Medicaid payback is calculated based on amounts paid by Medicaid from the time the ABLE account was established</p> <p>Use of Medi-Cal in California</p> <p>No Medicaid (Medi-Cal) Payback (though if the beneficiary uses Medicaid</p>	<p>No Medi-Cal payback because the beneficiary never owned the assets in the trust, and the remainder passes by beneficiary designation.</p>



CalABLE and Remainder Beneficiaries

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CalABLE and Remainder Beneficiaries

- Any remaining amount will be left to Angela's estate.
- If Angela has capacity to execute a will, she may designate whomever she wishes through her will.
- If she does not execute a valid will, then her heir's will be her "heirs at law"
- In order to access the funds, someone must become the executor of the estate either,
 - by filing an affidavit of small estate if under \$166,250, or
 - if over \$166,250 by filing for a full probate

CalABLE, SNTs and Remainder Beneficiaries

CalABLE

- Beneficiary may designate remainder beneficiaries through a valid will.
- If the beneficiary lacks capacity or does not execute a valid will, the remainder will be given to the beneficiaries “heirs at law” under [California Probate Code 6400-6455](#)

SNT

- Unless the document gives the beneficiary a “power of appointment”, the document decides who inherits.

https://www.courts.ca.gov/10440.htm?rdeLocaleAttr=en

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Wills, Estates, and Probate

**Simplified Procedures to
Transfer an Estate**

Estates That May Need Formal
Probate

Simplified Procedures to Transfer an Estate

[Print](#) [Español](#)

You may not need to go to probate court to obtain title to property belonging to a dead person. Figuring out if you have to go to probate court depends on many issues, like the amount of money involved, the type of property involved, and who is claiming the property.

One of the ways to decide if you can use a simplified procedure to transfer property is to figure out whether any of the assets have named beneficiaries. That means that the decedent, when alive, named one or more people as beneficiaries to receive the asset when they died. We listed some examples earlier, but here are some common ones:

- Life insurance proceeds,
- Retirement accounts, pensions, or annuities
- Bank accounts
- Property in a living trust

Another important way is to figure out how the property is owned (the type of title ownership). For example:

- Was the property owned in joint tenancy? If so, the surviving owner gets the entire property.
- Was the property community property with the right of survivorship? If so, the surviving spouse or partner would likely get the entire asset.
 - But, it can get complicated. If the asset was community property but there was no explicit right of survivorship, the decedent's spouse or partner may get the decedent's half, but it will depend on whether there is a will and the property was divided in other ways. It may also be necessary to make sure that the property is in fact community property and was not somehow changed to separate property through an agreement or in some other way. You may need to talk to a



CalABLE, SNTs, and Control

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[CalABLE SNTs and Control CLICK THIS LINK - https://www.youtube.com/watch?v= eXT0op0htA](https://www.youtube.com/watch?v=eXT0op0htA)

Special Needs Trusts and Control


- The general rule is that any asset that an SSI or Medi-Cal recipient can control is a resource
- A special needs trust is a form of a spendthrift trust where the trustee has sole and absolute discretion, and the beneficiary has none.
- An ABLE Account, including CalABLE by Federal Statute is not considered a resource to the ABLE beneficiary, even if they are in control of the account



Who can Establish and Manage an ABLE Account

- The only persons that can establish or have signature authority over an ABLE Account are
 - **The eligible individual**
 - **Agent under power of attorney**
 - **Conservator, legal guardian**
 - **Spouse, parent, sibling or grandparent**
 - **Representative Payee**
- Unless the ABLE beneficiary lacks capacity, the CalABLE beneficiary has first priority to manage the account regardless of who established the account or if signature authority was delegated by a power of attorney.





CalABLE Tied to a SNT as a Tool to Teach Financial Literacy

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Golden State Pooled Trust

www.gspt.org

[CalABLE Tied to a SNT as a Tool to Teach Financial Literacy – CLICK THIS LINK -
https://www.youtube.com/watch?v=9uX9DjIk5Iw&t=4s](https://www.youtube.com/watch?v=9uX9DjIk5Iw&t=4s)



CalABLE Tied to a SNT as a Tool to Teach Financial Literacy

- James and Janet have a 20-year-old daughter named Karen.
- Karen has a developmental disability, and is receiving Supplemental Security Income (SSI)
- James and Janet are Karen's representative payees for her SSI.
- Karen has never developed skills to learn how to make purchases for herself, always relying on her parents.



CalABLE Tied to a SNT as a Tool to Teach Financial Literacy


- James and Janet would like to help Karen to learn how to be as independent as possible and help her learn how to make appropriate purchases for herself.
- James and Janet assist Karen to open a CalABLE account and apply for a CalABLE Prepaid Debit Card so Karen can make purchases from her account.
- Karen retains signature authority over her CalABLE account
- James and Janet initially put \$300 on the CalABLE Prepaid Debit Card, and then replenish the funds as Karen uses them.



CalABLE Tied to a SNT as a Tool to Teach Financial Literacy

- As Karen develops financial literacy skills, James and Janet increase their contribution to Karen's CalABLE Account.
- Karen uses her CalABLE Debit Card to make purchases with guidance from her parents.
- Karen is developing skills in making purchases and budgeting her funds.
- She also is learning how to invest the funds.
- James and Janet would like to ensure that upon their incapacity of death that Karen continue to have access to funds to make purchases.
- They establish a 3rd party special needs trust to hold funds for Karen's needs, with instructions to the trustee of the special needs trust to ensure Karen's CalABLE account is funded as needed and appropriate.





CalABLE, 3rd Party SNTs and Taxes

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[CalABLE, 3rd Party SNTs and Taxes – CLICK THIS LINK - https://www.youtube.com/watch?v=IFqAdz1r-0s&t=93s](https://www.youtube.com/watch?v=IFqAdz1r-0s&t=93s)



Disability and Simple – 2 Words that Seldom Go Together

CalABLE, 3rd Party SNTs and Taxes

CalAble Simple

- Any earnings are tax free as long as they are spent on “Qualified Disability Expenses”
- Investment expenses are very low.
- In most cases there are no management fees
 - In most cases a professional trustee will not be required
 - Since no income is reportable on the CalABLE beneficiaries tax return, less likely that a tax professional will be needed.
- Can only accept cash.
 - Cannot accept an appreciated asset or be beneficiary of a qualified plan (retirement account)

A 3rd Party Supplemental Needs Trust Complex

- Retained income to the trust could be subject to a high tax rate if not managed properly.
 - Receives an annual \$4,300 QDT exemption
 - A properly managed SNT will typically pay no taxes
- Investment fees typically 1%
- If professionally managed may be subject to trustee fees.
- Can hold virtually any property including appreciated assets, real property, and be the remainder beneficiary of a parent’s retirement plan and stretch out the payments over the beneficiary’s lifetime.



Basics of Taxation of a 3rd Party SNT

- When a 3rd party special needs trust becomes irrevocable it can be subject to what is called a “compressed” tax rate.
- Irrevocable trusts hit the top tax rate of 37% with only about \$13,000 of investment income not distributed to the beneficiary.
- Capital gains are taxed at the same rate as individuals if retained by the trust.
- Even so, a 3rd party special needs trust can be a great tax savings tool depending upon how the trust is managed.

Basics of Taxation of a 3rd Party SNT

- Zoe is the beneficiary of ABC special needs trust which has \$200,000 in assets.
- Barbara is a private professional fiduciary and is serving as trustee of Zoe's trust.
- The funds in the trust are invested and get a 8% return on investments or \$16,000.
- The special needs trust qualifies for the \$4,300 Qualified Disability Trust (QDT) exemption and has \$2,000 in management costs.



Basics of Taxation of a 3rd Party SNT

- If nothing were distributed for the benefit of Zoe, then the amount subject to tax at the trust level would be \$9,700. ($\$16,000 - \$4,300(\text{QDT}) - \$2,000 (\text{management cost}) = \$9,700.$)
- If distributions are made for Zoe's benefit from the trust, even in kind, the tax will follow the distribution and be taxable on Zoe's personal tax return without being considered income for benefits purposes.
- Example, if Barbara were to purchase a \$12,000 wheelchair for Zoe's benefits, she would show \$9,700 of taxable income on her tax return.



So What About Zoe's Taxes

- Remember that income for benefit purposes is any cash given to the benefit recipient, so even though Zoe will show taxable income because of the distribution, so long as she does not receive cash directly her benefits should not be affected.
- There would be no income remaining in the trust so it would pay no taxes.
- In most cases Zoe will either pay no taxes at all or a very small amount.



ABLE Accounts and Housing for SSI Recipients

TO WATCH A VIDEO OF THIS SEGMENT GO TO

<https://www.youtube.com/watch?v=84CgDu1Eb4w&list=PL5dFwIC642pAR-KnAMN19Pa-Jda56Npk&index=16>



Housing Expenses

Housing expenses for purposes of an ABLE account are similar to household costs for in-kind support and maintenance purposes, with the exception of food.

Housing expenses include expenses for:

- Mortgage (including property insurance required by the mortgage holder);
- Real property taxes;
- Rent;

- Heating fuel;
- Gas;
- Electricity;
- Water;
- Sewer; and
- Garbage removal.



SNT to ABLE for Rent

- Belinda has been disabled from birth, and receives \$931.72 a month in SSI.
- She is a beneficiary of a 3rd party special needs trust managed by the Golden State Pooled Trust .
- She would like to move to a nicer apartment with a friend, and her share of the rent would be \$1,300 a month.
- She will need some assistance in order to make the move



Types of SSI Income

Unearned Income	Earned Income	In-Kind Support & Maintenance
Includes cash gifts, payments from annuities and pensions, alimony & support payments, dividends, interest, rents, awards and payment from other benefit programs.	Consists of wages, royalties, net earnings from self-employment, and any honoraria received for services rendered.	Actual receipt of food or shelter, or something that can be used to get one of these.
Reduces benefits dollar for dollar after the first \$20	Reduces benefits one dollar for every two dollars after the first \$65 earned monthly	Reduces benefits dollar for dollar up to a maximum of \$300.33 (2022)

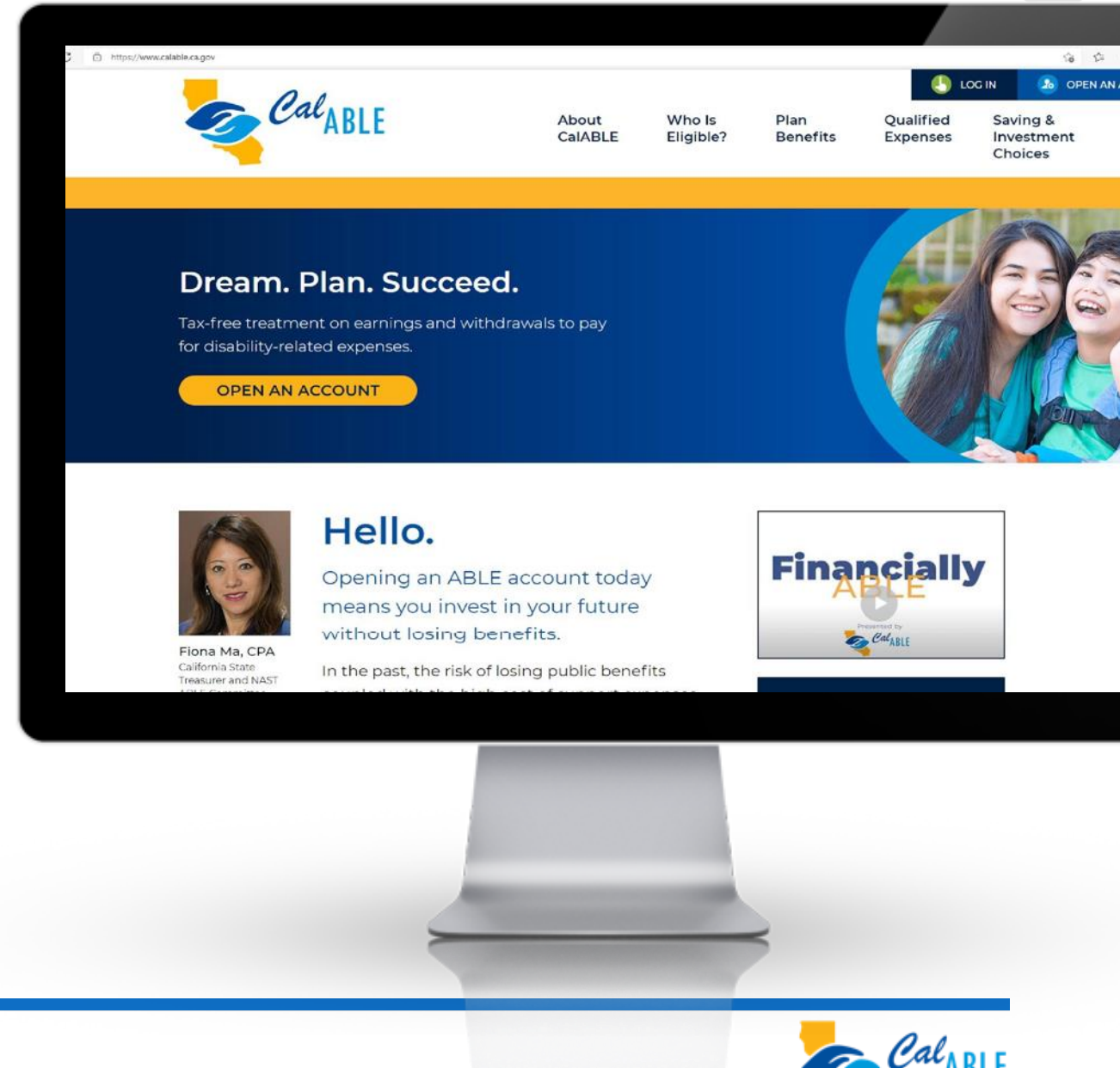


SNT to ABLE for Rent

- If Bob - her trustee were to give her \$1,300 a month directly it would be counted as unearned income and eliminate her SSI completely.
- If Bob were to pay the landlord directly – the payments would count as ISM and her benefits would be reduced by \$300.33.
- If instead Bob were to contribute \$1,300 a month to her CalABLE Account, and in turn the funds from the account were to pay the landlord then there would be no reduction of SSI.

Resources

- A collaboration between NDI and CalABLE:
nationaldisabilityinstitute.org/achievable-corner
- **CalABLE** Resources:
treasurer.ca.gov/able/resources.asp
- **ABLE** National Resource Center: ABLENRC.org
- Disability Benefits 101: DB101.org
- **POMS**:
<https://secure.ssa.gov/poms.nsf/lnx/0501130740>



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Open

9:00 am to 5:00 pm (Pacific Time)
Monday - Friday

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Share your story with us!

- CalABLE account holders have incredible stories about how saving is impacting their financial future
- As we continue to promote this important program, we need your help!
- Stay tuned for an invite soon on how to share your story with us in a testimonial video, interview or on social media

Poll #3

Will you tell three people about CalABLE?

Share your answer in the Zoom poll!



Yes - I'm excited about the value this program offers!



Not yet - I need to learn more about **CalABLE**.



Your To-do List:

- ☑ **Explore** important resources, Disclosure Statement, investment options, and financial education
- ☑ **Open** your CalABLE account
- ☑ Share with **three** other people how CalABLE can help
- ☑ Consider a circle of support of people who can **contribute** to your CalABLE account

December Webinar

CalABLE Year End Contributions

Date: Thursday, December 16, 2021

Time: 2:00pm -4:00pm

Register today:

https://us06web.zoom.us/webinar/register/WN_vOrmOTcBTtqbzhWIkB-zgQ

Submitting Questions

Please use the Q&A box to submit any questions you have. We will try to answer them all.

Additional Resources

- Frequently Asked Questions: treasurer.ca.gov/able/final.pdf
- **CalABLE** YouTube channel: youtube.com/channel/UCk02cbbE8PCkHATlvrsTfIA has additional information on topics such as **CalABLE** 101, Special Needs Trusts, Qualified Disability Expenses, and Rollovers.

Disclaimer

Consider the investment objectives, risks, charges and expenses before investing in the California 529A Qualified ABLE Program (CalABLE Program). Please call toll-free 833-CAL-ABLE for a Disclosure Statement containing this and other information. Read it carefully.

Before investing in any ABLE program, you should consider whether your home state provides its taxpayers with favorable state tax or other benefits that are only available through investment in the home state's ABLE program. You also should consult your financial, tax, or other adviser to learn more about how state-based benefits (or any limitations) would apply to your specific circumstances. You also may wish to directly contact your home state's ABLE program, or any other ABLE program, to learn more about those plans' features, benefits and limitations. State-based benefits should be one of many appropriately weighted factors to be considered when making an investment decision.

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Thank You.