ABLE Act

Achieving a Better Life Experience

How to save money and keep your benefits

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Introduction

In 2014, the United States Congress passed a law called the ABLE Act. It stands for Achieving a Better Life Experience. The purpose of this law is to create a way for people with disabilities to be able to save money easily without losing their public benefits.

In this booklet you will learn the basic information about the ABLE Act. This is an overview only; it is not a comprehensive guide to ABLE accounts. You will find on-line resources in the back that will have more detailed, current information.

If there are words in this booklet that you don't understand, please go to the Glossary on page 25 for a simple definition of the word or term as it relates to the ABLE Act.

All of the amounts of money discussed in this booklet may change in the future. Go to the California State Treasurer's website for the most current information.[1]

The information in this booklet is accurate as of December 2018. Revisions will be made as new information is available.

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[1] www.treasurer.ca.gov/able

Right now

Some people living with disabilities and their families rely on a variety of public benefits provided by state and federal governments to make ends meet. Public benefits include Supplemental Security Income (SSI), Medicaid, CalFresh, Section 8 and other state programs. These programs provide important support for people with disabilities but often do not allow individuals to save more than a total of $2,000, or earn more than $680 a month.

This means that people who have these benefits cannot save money so they stay poor. Instead, people are forced to "spend down" any extra money they have leading to unnecessary purchases of things they don't need or want.

Before the ABLE act was passed, the only method available for saving money without impacting benefits was to set up a special needs trust. Such trusts are useful, but they are expensive, complicated and do not give the beneficiary any control of the money.

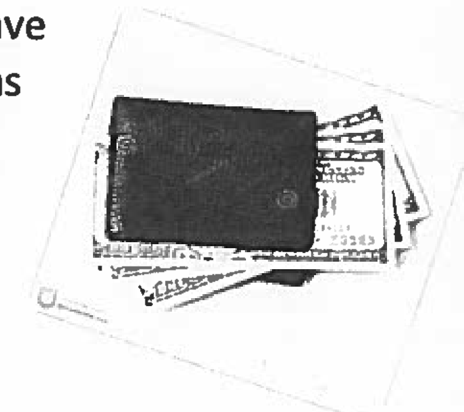
Huge improvement

The ABLE Act gives eligible people a simple way to save without the risk of losing their public benefits. It also permits them to grow their savings through investments without being taxed on that growth.

These accounts are also called 529(A) accounts. They are similar to College Savings Plans called 529 plans. Earnings and distributions are not taxed as long as they are used for qualified expenses.[2]

Within some limits, a person can save money and still receive their full benefits!

In addition to being able to save money, the beneficiary owns the account thus giving them control over their own money.



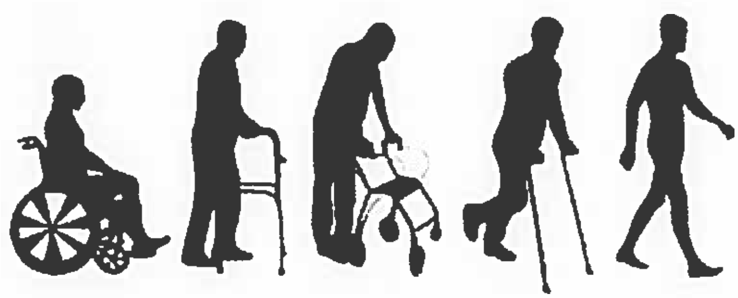
[2] We will discuss qualified expenses later in the handbook.

Eligibility

To be eligible a person must be disabled before the age of 26. You can establish an account if you are older than that, as long as your disability started before age 26.

You are automatically eligible if you receive Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) and meet the age requirement.

You can also be made eligible if you have a disability with "marked and severe" functional limitations that will last at least one year. This will require a physician's certification.



Establishing an account

ABLE account administration will be set up by each state. In California, the CalABLE board, under the auspices of the State Treasurer, is appointed to manage the ABLE account system.

Every person may have only one account at any given time. The account may be set up in any state. However, some states may limit their accounts to their residents only.

More than 40 states have already started permitting people to set up ABLE accounts with over 15,000 accounts opened nation-wide. CalABLE went live in December 2018.

Contributions

Anyone, including the beneficiary, can make contributions to the ABLE account. These are made after taxes are paid. There is no federal tax benefit for most contributors.[3] Beneficiaries may be able to claim a tax credit on contributions as described later in this booklet.

$15,000[4] a year may be contributed to an ABLE account. This is also known as the Annual Limit. However a beneficiary who works may be able to contribute more as described on the next page.

The maximum amount you can have in an account at any time is decided by the state. California's limit will be $529,000[5].

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[3] Some states have state tax benefits for contributors. Tax benefits are based on the state of residence of the contributor, not where the ABLE account is established.
[4] This amount may be adjusted in the future.
[5] This amount may be adjusted in the future.

Working Beneficiaries

If a beneficiary works, they may contribute <u>more</u> to their account than the Annual Limit of $15,000. They can contribute either the amount of their gross yearly income or $12,140, whichever is less. There are a couple of rules about this:

1. Only the beneficiary may make this extra contribution out of their earnings.
2. There must be no employer-based retirement account set up for the beneficiary, even if only the employer contributes to it.

Regular annual contribution	$15,000
Contribution from earnings +	$12,140
Total annual amount =	**$27,140**

Rollovers

529 College Savings Plans

If the beneficiary or a family member has a 529 college savings account, that money can be rolled over into the beneficiary's ABLE account. This amount counts towards the $15,000 annual contribution limit.

Other 529(A) ABLE Accounts

You can rollover funds from a 529(A) into another 529(A) from one sibling to another eligible sibling. This rollover does not count towards the $15,000 annual contribution limit.

10
Over the limit

If contributions push the account over the annual limit, contributions will be returned to the contributor. The last money put into the account will be the first money returned. The beneficiary will be notified when this happens.

Saver's Credit

When a low or moderate income beneficiary contributes to their own account, they may be able to claim a tax credit, called the Saver's Credit.

To be eligible for this credit, the beneficiary must:

- Not be a full time student
- Not be a dependent
- Contribute to own ABLE account
- Owe taxes
- As a single person, earn no more than $32,000 or, as a married couple, earn no more than $64,000 adjusted gross income per year.

This tax credit is a percentage of the amount the beneficiary contributed to their own ABLE account. That percentage starts at 50% for the lowest income levels and reduces to 10% for those closer to the high income threshold. The maximum credit is $2000. The amount of the credit reduces the amount of taxes owed by the beneficiary. If the credit is greater than the amount of taxes owed, there is no refund of the remaining balance.

Using your money

You can use ABLE funds to pay for Qualified Disability Expenses (**QDE**). QDEs are expenses that are related to one's disability, are for the benefit of the beneficiary and will permit that person to maintain or improve **health**, **independence** or **quality of life**.

The ABLE Act is clear that the requirements on what a QDE is should be applied loosely meaning that most types of expenses should be allowed as QDEs.

You should keep good records of how you use your ABLE funds. It is suggested that you keep every receipt and have a log with a short description of every purchase and how it is a QDE. This will protect you if the Internal Revenue Service audits your ABLE account.

- ABLE account money may be used to pay for basic living expenses
- Expenses <u>do not</u> have to be medically necessary
- Expenses are still qualified even if there is some benefit to others; however expenses that are <u>only</u> for the benefit of another, such as gifts or donations, are not allowable.
- <u>Money used from an ABLE account for QDEs is not taxable</u>

QDEs include.....

- Education
- Housing
- Transportation
- Employment supports and training
- Assistive technology
- Personal supports
- Health
- Financial management
- Legal assistance
- Oversight/monitoring
- Basic living expenses
- Funeral/burial [6]

Non-qualified expenses will be taxed and have an additional penalty of 10% of the amount taken out. They could also impact your eligibility for MediCal or other public benefits.

[6] For a more extensive list, go to the end of this booklet.

Investing your money

Money in an ABLE account will be invested by the account managers contracted by the ABLE Board. In addition to contributions you make, this is how your account can grow. If your account grows through investments, that money is not taxed.

The other side of investment is that there is a risk that your account will lose money. Usually investments do some of both. One month you will see your account increase while another month it might decrease. Over time usually money that is invested increases more than it decreases.

When you have an account, you will be offered choices in how you want your money invested. Some options will have the possibility of a lot of growth; these options also have a higher risk of losing money. Other options will have a low risk of losing money but these also will have lower growth.

How you invest your ABLE account will be an important decision. We cannot cover all of the information you need to know about investing here. Be sure to ask the person who is helping you establish your account what each investment option is so you can decide what you are comfortable with.

Account management

In California, the account manager has set up various investment options for ABLE accounts. If you have your account here, you will be able to select which one suits you for the growth and risk you want. You can change your investment option up to twice a year.

If you choose to set up your account in a different state, you will have to learn the rules for that state's ABLE accounts.

The ABLE account managers will report information about your account to Social Security every month.

ABLE and Social Security

Probably the best feature of ABLE accounts is that account funds will not impact your public benefits. The only public benefit that may be impacted is your SSI cash benefit.

In the case of SSI, you can have up to $100,000 in your account and still get your full SSI check each month. Once you pass that amount of money in your ABLE account, your SSI cash benefit will stop, but you will still remain eligible. If your account goes below $100,000, then you will start getting your SSI checks again.

A note on housing

SSI benefits can be affected if you use ABLE funds for any housing expenses and don't spend the money right away. To avoid any impact to your SSI benefits, be sure to spend housing money within the same calendar month that you withdraw the money. As long as you do not hold housing funds over from one calendar month to the next, the funds will not affect your SSI benefits.

ABLE and Medicaid

ABLE accounts do not affect your eligibility for Medicaid – called MediCal in California. However, if you take distributions that are not qualified expenses, this could affect your eligibility.

18

Whose account is it?

While it is clear in the law that the ABLE account belongs to the beneficiary, there are provisions made for those people that cannot manage an account on their own. These provisions allow a parent of a minor or legal guardian of an adult to establish and manage an ABLE account for the benefit of the person.

It is also possible for someone to manage an account through Power of Attorney.

ABLE vs. Trust

ABLE Accounts offer a different kind of savings possibility from a Special Needs Trust. For the beneficiary and/or family, an ABLE Account gives you more flexibility and control over your money than most trusts. Also, the cost of setting up an ABLE account will be lower making it a good option for people with lower incomes. Even if you have a trust account, it is worthwhile to consider opening an ABLE account for the flexibility and control it offers you.

20
What if the disability subsides?

For disabilities that may come and go such as those due to a chronic illness that flares up then subsides, ABLE accounts are frozen during periods when the person does not have an eligible disability. This means no money can be contributed and no money can be withdrawn.

If the person becomes disabled again and eligibility is reestablished, the account is unfrozen and can be used.

Examples

Example 1: Joe receives SSI and MediCal. Joe needs significant levels of support.

- He currently has no money saved.
- Joe received an inheritance from his grandfather of $18,000.
- He can roll $15,000 into an ABLE account (the annual limit) and "spend down" the remaining $4000 to maintain eligibility for SSI and MediCal.
- Without ABLE Joe can only save $2000 and would be forced to spend the other $16,000 immediately to maintain his benefits.
- With his ABLE account he can use the money to get extra support not covered by his state's disability services. He could use it to purchase equipment such as a computer or hire people to help him do activities he enjoys. He could also choose to save it for future needs.

Example 2: Sarah receives SSI, MediCal and Section 8. She has a part time job where she earns $17,000 a year.

- She has already saved the maximum amount of money, $2000, and still maintain eligibility for these benefits
- She opens an ABLE account.
- Her grandparents contribute $300 each month to her ABLE account, for a total of $3,600 a year.
- Because she works, her annual contribution cap is higher, up to $27,140.
- She puts $15,000 into her account out of her earnings.
- She ends up saving $18,600 each year in her ABLE account.
- At tax time, using the Saver's Credit, she is can deduct $2000 from the federal taxes she owes. She puts that savings back into her ABLE account.
- She can use her ABLE account to pay for her day to day expenses as well as to save up for an accessible van or other big ticket item she really needs.

What now?

The Federal law was passed in Dec. 2014. Since then states have been working on passing their own laws in order to enact ABLE accounts within their state.

California's program, CalABLE was launched December 18, 2018. To learn how to establish a CalABLE account, go to www.calable.org.

At least 40 states are operational; most are accepting out of state account holders. You can find the current list and compare programs at the ABLE National Resource Center.

Whether you want to establish an ABLE account out-of-state or in California, it is a good idea to explore the ways in which saving money through an ABLE account could be useful in planning your financial future. Think about how to build this account and set goals for how it might be used to help you establish or maintain your independence throughout your adult life.

Compare programs

If you are considering opening an account, make sure to compare the programs offered by different states. Questions you should get answers to include:

- How does one enroll?
- Is there a minimum deposit to open it?
- Are there any fees for maintaining the account?
- Does the cost differ for in-state and out-of-state residents?
- What are the limits on contributions?
- Are there any limits on withdrawals? Can you withdraw using a debit card?
- Regarding investments, can you choose the level of risk you are willing to live with?
- When can you change your investment options?

Go the National ABLE Resource Center to compare programs and get your questions answered. [7]

CalABLE has one significant advantage for California residents vs. establishing an account in a different state. If the beneficiary has a CalABLE account, when he or she passes away, California's Medicaid program (MediCal) will not make a claim for reimbursement from the remaining ABLE funds. If the account is in another state, MediCal may file such a claim.

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[7] www.ablenrc.org

Glossary of terms

529 – A college savings plan

529(A) – ABLE account

Account Limit – the maximum contribution limit to an ABLE account

Beneficiary – a person who is eligible for and has opened an ABLE account

Contribution – money that is put into an ABLE account

> <u>Annual Contribution</u> – the total amount that can be put into an ABLE account each year
>
> <u>Aggregate Account Limit</u> – the total amount that can be in your account at any time

Distributions/withdrawals – money that is paid out of an ABLE account

Earnings/growth – money that is added to an ABLE account through investments

Functional limitations – Activities that a person cannot do because of their disability

Power of Attorney - the authority to act for another person in legal or financial matters

Public benefits – money set aside by government from taxpayer funds that are used to assist people who need extra support to live. Examples include Social Security, Section 8 housing, food stamps, in-home support services, regional center services etc.

Qualified Disability Expense (QDE) – Any expenditure made from an ABLE account that is permitted under the ABLE act

Rollover – Moving money from one account to another account without incurring a tax liability

Special needs trust – a legal process used to set aside money in a special account for a person with a disability

Spend down – the process of spending money in order to reduce the amount of cash you have

SSI/SSDI – Social security programs established specifically for people with disabilities

Examples of Qualified Disability Expenses

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

Education

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

Housing

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

As long as you spend the housing funds within the same calendar month that you withdraw the money, the housing payments will not affect your SSI benefits.

Transportation

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

Employment Support

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

Health, Prevention and Wellness

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

Assistive Technology and Personal Support

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

Miscellaneous Expenses

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

Resources

CalABLE: www.calable.org

ABLE National Resource Center: www.ablenrc.org

www.realeconomicimpact.org

Federal law: www.federalregister.gov

Information on Special Needs Trusts:
www.specialneedsanswers.com/what-is-a-special-needs-trust-13601