ABLE AT A GLANCE

BENEFITS

- Cost effective.
- Small minimum contribution. Significant protections from creditors.
- Allows more financial independence for capable beneficiaries.
- Can commingle contributions from beneficiary's own money (First-Party money) and contributions from others (Third-Party money).
- Contributions grow tax free.
- No court approval required to establish.

LIMITATIONS

- Should only be used for "qualified disability expenses" to keep tax-free.
- Limited annual contributions (currently $15,000 max/year from all sources).
- Individual must be disabled before age 26. Only one account per beneficiary.
- Limited to cash equivalent contributions only. Cannot hold other types of property (ex. a house).
- No federal income tax deduction for contributions.
- State payback requirements—Funds remaining in an account after the beneficiary's death and final expenses will first be paid back to the state for Medicaid expenses.
- An unsophisticated beneficiary may make withdrawals for unauthorized expenses without understanding the consequences of doing so.

WHEN TO USE AN ABLE ACCOUNT

- Competent beneficiary wants to be able to direct more of his/her financial decisions.
- Beneficiary needs to spend-down small amounts of money (i.e., less than $14,000) to remain below SSI/Medicaid asset limits.
- Beneficiary wants to save for a larger (over $2,000 purchase).
- As part of a more comprehensive special needs plan or estate plan.
- To avoid the 1/3 ISM reduction in the beneficiary's SSI check.

WHEN NOT TO USE AN ABLE ACCOUNT

- When receiving an inheritance or settlement of more than $14,000 (or applicable annual gift-tax exclusion).
- As part of an estate plan for a loved one without first considering a special needs trust.
- As the beneficiary of life insurance or retirement proceeds over $15,000 (or applicable annual contribution limit).
- Disability did not occur before age 26.
- A vulnerable beneficiary who is susceptible to exploitation.
- As sole means of special needs planning or estate planning.

See a video by Enable at this link: https://player.vimeo.com/video/146124112

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10 THINGS YOU NEED TO KNOW

about ABLE ACCOUNTS

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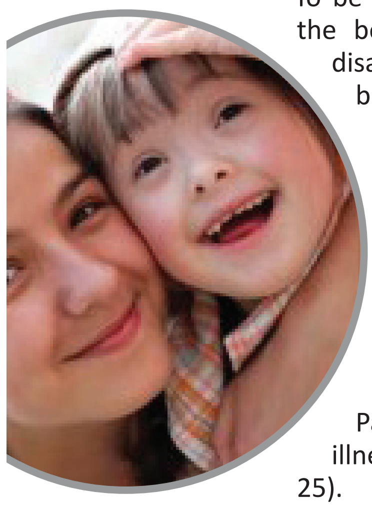
1. What is an ABLE Account?

Much like a 529 college savings plan, an Achieving a Better Life Experience (ABLE) or 529A account is a type of tax-advantaged account that can be used to save funds for qualified disability expenses of the account's owner while allowing that individual to preserve eligibility for public benefits.

2. Who can use an ABLE Account?



To be eligible for an ABLE account, the beneficiary must be blind or disabled from a condition that began prior to age 26. This means an ABLE account can be used for someone with a disability that began at birth or in childhood (such as Down Syndrome or autism), but will not be an option for persons with disabilities that develop later in life (such as Multiple Sclerosis, Parkinson's, or an accident or illness that occurred after age 25).

3. Can a person have more than one ABLE Account?

No, an eligible individual can be the designated beneficiary of only one ABLE account. While there are some protections in place so that other well-meaning family members do not open additional accounts, you still need to coordinate with family and friends who are interested in providing for the beneficiary.

TIP: *This differs from traditional special needs planning where any friend or family member can create and fund separate trusts and still exercise control over where any leftover funds would be distributed after the death of the beneficiary.*

4. Who can open an ABLE Account and who can contribute to an ABLE Account?

An ABLE account can be opened by (a) an individual with a disability, (b) a parent of such individual, (c) a guardian/conservator of the individual, or (d) an agent designated through the individual's power of attorney. Regardless of who is responsible for managing the account, it may be advisable to consult a special needs attorney about establishing a power of attorney to avoid interruptions in signature authority during the term of the ABLE account.

Any person, including the beneficiary (i.e., the person with a disability), can contribute to an ABLE account.

TIP: *This makes an ABLE account a cost-effective tool for a beneficiary who struggles to keep assets below $2,000.00 (the current asset limit for SSI and Medicaid for a single person). Excess funds can be saved in an ABLE account for a larger purchase or just to keep the person eligible for benefits.*

5. How much can you contribute to an ABLE account?

The Internal Revenue Service (IRS) limits the total annual contribution that an ABLE account can receive from all sources to the amount of the gift-tax exclusion in effect for a given calendar year. For 2018, that limit is $15,000.00.

In addition to the annual contribution limits, there are limits regarding the maximum amount that can be held by an ABLE account. An ABLE account in excess of $100,000 will cause a "suspension" of SSI benefits. For a person on Medicaid only (not SSI) the maximum amount is tied to the state's limit for 529 college savings accounts (now $360,000 in Alabama).

TIP: *The cap on annual contributions is one of the limitations of ABLE accounts, and hinders its usefulness for larger inheritances and settlements. Special Needs Trusts (which do not have asset caps) are more appropriate planning tools in those situations.*

6. When and where can I set up an ABLE Account?

Like 529 College Savings Plans, you can open up an ABLE account in Alabama or in any other state that accepts out-of-state beneficiaries. Every state's ABLE program has strengths and weaknesses (as well as different fees). You should choose the ABLE program that best meets your needs. Alabama's program is called EnABLE Savings Plan Alabama. Information can be obtained at www.EnableAL.com or by calling 1-866-833-7949. EnABLE Savings Plan Alabama is offered by the State of Alabama, and administered by the Nebraska State Treasurer's office. Also, you can rollover an ABLE account from one state's program to another, so you can switch ABLE programs if you are unhappy with the program you chose.

10 THINGS YOU NEED TO KNOW ABOUT ABLE ACCOUNTS

7. What can funds in an ABLE Account be spent on?

ABLE accounts should be used for "qualified disability expenses" for the designated beneficiary, including the following: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and any other expenses approved under the IRS regulations. Social Security has stated that ABLE distributions can also be used for "basic living expenses" (such as food, rent, utilities) without causing a reduction in SSI. EnABLE Alabama has interpreted "qualified disability expenses" to include expenses that contribute to a better quality of life for the beneficiary (vacations, social outings, sporting events, clothing, furnishings, personal electronics, etc.). A special needs trust is able to pay for these types of expenses too.

If ABLE funds are not used for a qualified distribution expense, the income portion of the distribution will be taxable and subject to a 10% income tax penalty. Because contributions to the account are limited, the income-tax on interest would likely be very small.

TIP: *Because the beneficiary can make withdrawals from ABLE accounts, consider whether there is a significant risk that he or she may make withdrawals for an unauthorized expense without thinking about the consequences. Discuss coordinating deposits and distributions with a special needs planning attorney to be able to maximize SSI.*

8. What if there is money left over after the beneficiary's death?

It's critical to understand that all ABLE accounts have a payback requirement on the death of the beneficiary that dates back to the date the account was established. EnABLE Alabama allows funds remaining in the account at the death of the beneficiary to be used first to pay for final expenses and burial of the beneficiary.

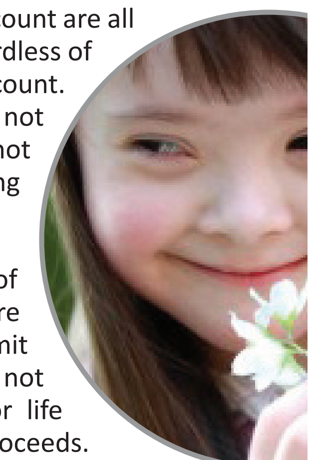
The amount remaining after final expenses must next be used to pay back the State of Alabama for Medicaid services that were incurred by the beneficiary after the ABLE account was established. While this may not be as important when it is the money of the individual with a disability, it can have huge implications when a third-party (e.g., parent or grandparent) is funding the account.

TIP: *When a third-party (parent or grandparent) wants to make a gift, a discretionary special needs trust should always be considered first because there is no payback requirement (and less limitation on the types of distributions that can be made).*

However, a gift to an ABLE account qualifies for the annual gift tax exclusion up to the annual contribution limit, whereas gifts to a special needs trust do not.

9. How is an ABLE account different than a special needs or pooled trust?

The cost of establishing an ABLE account will be less than setting up a Special Needs Trust (SNT) or pooled income trust, such as the Alabama Family Trust. Plus, if the beneficiary is competent, he or she will have the ability to control the funds, whereas an SNT or pooled trusts must be controlled by someone other than the beneficiary or the beneficiary's spouse.



Remember that funds in an ABLE account are all subject to a Medicaid payback, regardless of who contributed the funds to the account. SNTs and pooled trusts that do not contain funds of the beneficiary do not require Medicaid payback, allowing remaining funds to pass to others.

Unless the inheritance or amount of life insurance or retirement funds are under the annual contribution limit of $15,000.00, ABLE accounts are not suited to receive an inheritance or life insurance or retirement account proceeds. Determining which options for long-term planning are the most appropriate for a person with a disability will depend upon individual circumstances. For many families, the ABLE account will be a significant and viable option in addition to, rather than instead of, a Trust.

10. Another estate planning option

While ABLE accounts will be a useful tool in certain situations, the limitations on ABLE accounts do not allow families to replace traditional special needs planning in most cases. See a special needs planning attorney to understand the entire range of special needs planning options that are available and determine which options are best for the situation.