



Achieving a Better Life Experience (ABLE) Act Overview

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Learning Objectives

1. Describe the purpose of ABLE accounts
2. Determine who is eligible for an ABLE account
3. State the limitations on contributions to ABLE accounts
4. List types of expenses an ABLE account can pay for
5. Identify benefits that exclude ABLE account funds for eligibility
6. Describe how ABLE accounts interact with public benefits, especially SSI
7. Explain Medicaid payback
8. Describe Michigan's ABLE program (MiABLE)
9. Explain a Benefit to Work Coach's role regarding ABLE accounts

What's the ABLE Act All About?

- ▶ Some means-tested benefits, such as SSI, Medicaid based on disability, and the Food Assistance Program (FAP), have limits on resources (assets).
- ▶ If a person's or family's countable resources exceed the limit for a benefit (often as low as \$2,000), eligibility for the benefit ends.
- ▶ To become more financially self-sufficient, a person or family needs to be able to save money for the future – emergency needs, planned expenditures and retirement.
- ▶ The ABLE Act gives many people with disabilities a great option to save for the future without losing means-tested benefits they receive.

Summary of Some Key Points

1. ABLE accounts let people who were disabled before age 26 save money and receive money from others to pay for expenses to become more independent.
2. Money in ABLE accounts does not affect eligibility for Medicaid, SSI (with some limitations), FAP and other public benefits.
3. Money in ABLE accounts is not taxable (with some restrictions).

Summary of Some Key Points

4. Contributions to an ABLE account are limited to a certain amount each tax year.
5. Money remaining in ABLE accounts after the death of the account owner are subject to Medicaid payback.
6. A person can open an ABLE account in any state that allows it, not just his or her home state. However, a state income tax deduction provides an incentive for Michigan residents to open ABLE accounts in Michigan.

Summary of Some Key Points

7. ABLE accounts may be a better, less expensive option than special needs trusts for many individuals who want to save money without losing essential benefits.
8. New rules in 2018:
 - ▶ Allow even higher contributions from the account owner's earned income,
 - ▶ Permit funds to be transferred from a 529 college savings plan to an ABLE account, and
 - ▶ Enable some account owners to receive a federal tax credit for contributions

Who Is Eligible to Have an ABLE Account?

- ▶ Eligible Individual – must either:
 1. Be entitled to Title II disability or SSI benefits based on disability AND have become disabled before age 26, OR
 2. Have a disability certification filed with the U. S. Internal Revenue Service (IRS) that verifies the person has been disabled since before age 26. Need to provide physician's written diagnosis of disability if IRS requests it

Who Is Eligible to Have an ABLE Account?

- ▶ NOTE: A person's disability must have started before age 26, but the person can be any age when the account is opened. S/he does NOT need to open the account before age 26.
- ▶ A person can have only one ABLE account. To open a new one, the old one must be closed out.

Who Owns an ABLE Account?

- ▶ The person with a disability owns an ABLE account.
- ▶ If the person is not able to manage the account, another person can have “signature authority”.
- ▶ The person with signature authority may be a parent (if the account owner is a minor), a legal guardian or an agent with power of attorney.

Contributions (Deposits) to ABLÉ Accounts

- ▶ Contributions to an ABLÉ account must:
 1. Be in “cash” (check, money order, credit card, electronic transfer, “or similar method”), AND
 2. Not exceed a certain amount in total contributions in any taxable year. In 2019, the amount is \$15,000, BUT

Contributions (Deposits) to ABLE Accounts

3. If the account owner works, s/he can contribute up to \$12,490/year of earned income (in 2019) in addition to the usual \$15,000/year limit, BUT ONLY IF the person does not have a retirement fund with an employer, AND
 4. Not exceed a certain amount of total aggregate contributions. In Michigan, that amount is \$500,000.
- ▶ Contributions may be made by the account owner and/or anyone else – family, friends, organizations, etc.

What Kinds of Expenses Can an ABLE Account Be Used to Pay For?

- ▶ Qualified Disability Expenses – any expenses that help maintain or improve health, independence or quality of life, including:
 - ▶ Education
 - ▶ Housing
 - ▶ Transportation
 - ▶ Employment training and support
 - ▶ Assistive technology
 - ▶ Personal support services

What Kinds of Expenses Can an ABLE Account Be Used to Pay For?

- ▶ Qualified Disability Expenses – any expenses that help maintain or improve health, independence or quality of life, including:
 - ▶ Health, prevention and wellness
 - ▶ Financial management and administrative services
 - ▶ Legal fees
 - ▶ Expenses for ABLE account oversight and monitoring
 - ▶ Funeral and burial expenses,
 - ▶ Basic living expenses, and
 - ▶ Other expenses approved by the IRS in the future

What Kinds of Expenses Can an ABLE Account Be Used to Pay For?

- ▶ Expenses don't have to be medically necessary.
- ▶ Expenses may incidentally benefit others in addition to the person with a disability.
- ▶ The account owner needs to track the expenses paid for with the ABLE account, and be prepared to prove that they were qualified disability expenses if the IRS asks.

Which Means-Tested Benefits Are Affected?

- ▶ SSI
- ▶ Medicaid based on disability (e.g., Aged and Disabled Care (AD-Care), and
- ▶ Freedom to Work Medicaid (FTW)
- ▶ Food Assistance Program (FAP)
- ▶ Family Independence Program (FIP)
- ▶ Other programs

Exclusion of ABLE Accounts from Income and Resources

- ▶ The following are excluded from income for means-tested federal programs:
 - ▶ Allowable contributions to ABLE accounts made by parties other than the account owner (within annual limit - \$15,000 in 2019 – and total aggregate contributions under limit - \$500,000 in Michigan in 2019)
 - ▶ Earnings (interest or dividends) on ABLE accounts
 - ▶ Distributions (withdrawals) from ABLE accounts used for qualified disability expenses

Exclusion of ABLE Accounts from Income and Resources

- ▶ Funds in ABLE accounts are also excluded from resources for these programs.
- ▶ **IMPORTANT NOTE:** An ABLE account-owner's earned or unearned income is still included in his/her countable income EVEN IF SHE OR HE CONTRIBUTES THE FUNDS TO THE ABLE ACCOUNT.

Exercises

- ▶ Which of the following individuals would likely be good candidates to use ABLÉ accounts?
 1. Chamomile is 14 years old and receives SSI. Her grandparents would like to contribute money to help her with future college, housing and transportation expenses, but do not want to jeopardize her SSI or Medicaid eligibility. They would like to contribute \$6,000 per year for these expenses.

Exercises

- ▶ Which of the following individuals would likely be good candidates to use ABLÉ accounts?
 1. Chamomile is 14 years old and receives SSI. Her grandparents would like to contribute money to help her with future college, housing and transportation expenses, but do not want to jeopardize her SSI or Medicaid eligibility. They would like to contribute \$6,000 per year for these expenses. **Yes**

Exercises

- ▶ Which of the following individuals would likely be good candidates to use ABLÉ accounts?
- 2. Pekoe is 30 years old and qualified for SSDI and SSI after sustaining a traumatic brain injury in a car accident two years ago. He works part-time and would like to set aside about \$300 a month from his earnings to save for a car. He does not want to lose his Medicaid, which now continues through 1619(b).

Exercises

- ▶ Which of the following individuals would likely be good candidates to use ABLÉ accounts?
- 2. Pekoe is 30 years old and qualified for SSDI and SSI after sustaining a traumatic brain injury in a car accident two years ago. He works part-time and would like to set aside about \$300 a month from his earnings to save for a car. He does not want to lose his Medicaid, which now continues through 1619(b). **No, because Pekoe's disability began after age 26. However, Pekoe may be a candidate to use a Plan to Achieve Self Support (PASS).**

Exercises

- ▶ Which of the following individuals would likely be good candidates to use ABLÉ accounts?
- 3. Sassafras is 42 and works full-time. She has multiple sclerosis, which began when she was 24 and has significantly affected her ability to perform activities of daily living ever since she was diagnosed. She has never received SSI or SSDI because she has been earning above SGA since before she turned 18. She is enrolled in Freedom to Work. Sassafras's physical condition is deteriorating and she expects she will need more attendant services within the next several years. She now receives Medicaid-funded attendant care and does not expect she will qualify for more. Her parents would like to contribute about \$12,000 a year to supplement her attendant services when she eventually needs more.

Exercises

- ▶ Which of the following individuals would likely be good candidates to use ABLE accounts?
- 3. Sassafras is 42 and works full-time. She has cerebral palsy, which began at birth and has always significantly affected her ability to perform activities of daily living. She has never received SSI or SSDI because she has been earning above SGA since before she turned 18. She is enrolled in Freedom to Work. Sassafras's physical condition is deteriorating and she expects she will need more attendant services within the next several years. She now receives Medicaid-funded attendant care and does not expect she will qualify for more. Her parents would like to contribute about \$12,000 a year to supplement her attendant services when she eventually needs more. **Yes**

Exercises

- ▶ Which of the following individuals would likely be good candidates to use ABLÉ accounts?
- 4. Earl Gray is 51 years old and receives SSI for paraplegia, which he sustained when he was a teenager. His great aunt is drawing up her will and would like to leave \$150,000 to Earl Gray to help him secure better housing, but does not want to affect his SSI or Medicaid.

Exercises

- ▶ Which of the following individuals would likely be good candidates to use ABLE accounts?
- 4. Earl Gray is 51 years old and receives SSI for paraplegia, which he sustained when he was a teenager. His great aunt is drawing up her will and would like to leave \$150,000 to Earl Gray to help him secure better housing, but does not want to affect his SSI or Medicaid. **No, because of the \$15,000 annual contribution limit for ABLE accounts. Other options: a special needs trust, or the great aunt can make a huge down payment on a home for Earl Gray to buy and live in.**

Special Rules for SSI

1. A distribution from an ABLE account does not count as income for SSI purposes, even if it is used for a non-qualified expense or for housing.
2. A distribution from an ABLE account that will be used for housing or a non-qualified expense, and that is still not spent after the month it is received, counts as a resource for SSI purposes.
3. Any amount (including interest or dividends) in an ABLE account that exceeds \$100,000 counts as a resource for SSI purposes.

Special Rules for SSI

- ▶ However, if ABLÉ account funds in excess of \$100,000 cause a person to exceed the SSI resource limit, SSI is only suspended, not terminated.
- ▶ The suspension may continue indefinitely, not just for 12 months.
- ▶ If SSI benefits **(including 1619(b) eligibility)** are suspended due to excess resources from an ABLÉ account, and the person would otherwise still be eligible for SSI, then Medicaid eligibility continues.

Special Rules for SSI

- ▶ If the person is ineligible for SSI for any reason other than the amount in his or her ABLÉ account (such as more than \$2,000 in other resources), then the usual SSI rules apply – benefits are suspended for up to 12 months, then terminated.
- ▶ Contributions to an ABLÉ account are NOT deducted from the countable income of the contributor.
- ▶ Payments for shelter from an ABLÉ account will NOT reduce the individual's SSI payments.

Special Rules for SSI

- ▶ Another person can indirectly help pay for a SSI recipient's shelter costs, without reducing the SSI payments, by contributing to the recipient's ABLE account, then having those funds used to pay for shelter.
- ▶ Funds may also be transferred from a special needs trust into an ABLE account, then spent on shelter costs, without reducing SSI.

Exercises

1. Octavia receives SSI and owns an ABLÉ account. She earns \$1,300/month gross wages in her job. Her family contributes \$15,000/year into her ABLÉ account. How much of Octavia's earnings would she be allowed to contribute to her ABLÉ account?

Exercises

1. Octavia receives SSI and owns an ABLÉ account. She earns \$1,300/month gross wages in her job. Her family contributes \$15,000/year into her ABLÉ account. How much of Octavia's earnings would she be allowed to contribute to her ABLÉ account? **\$12,490/year**

Exercises

2. If Octavia withdraws money from her ABLÉ account to pay for rent, will this affect the amount of her SSI payments?

Exercises

2. If Octavia withdraws money from her ABLÉ account to pay for rent, will this affect the amount of her SSI payments? **No**

Exercises

3. Eventually, Octavia's ABLE account balance reaches \$101,000. She has no other countable resources. How much of her ABLE account balance will count as a resource for SSI? Will she still meet the resource limit for SSI?

Exercises

3. Eventually, Octavia's ABLE account balance reaches \$101,000. She has no other countable resources. How much of her ABLE account balance will count as a resource for SSI? **\$1,000 – the amount over \$100,000.** Will she still meet the resource limit for SSI? **Yes – her countable resources will be under \$2,000.**

Exercises

4. The next month, Octavia's ABLE account balance reaches \$103,000. How much of her ABLE account balance will count as a resource for SSI? Will she still meet the resource limit for SSI?

Exercises

4. The next month, Octavia's ABLE account balance reaches \$103,000. How much of her ABLE account balance will count as a resource for SSI? **\$3,000**
– **the amount over \$100,000.** Will she still meet the resource limit for SSI? **No**
– **her countable resources will be over \$2,000.**

Exercises

5. Will Octavia's SSI payments continue? Will her Medicaid continue?

Exercises

5. Will Octavia's SSI payments continue? **No; it will be suspended.** Will her Medicaid continue? **Yes, because she would still be eligible for SSI if not for the excess in her ABLE account.**

Medicaid Payback (also known as Medicaid Clawback)

- ▶ If any funds remain in an ABLE account after the account owner's death (other than funds needed for outstanding payments due for qualified disability expenses, such as burial costs):
 - ▶ The state may file a claim to collect the balance
 - ▶ Up to the amount spent on Medicaid expenses for the account owner after the account was created
 - ▶ Minus any Medicaid Buy-In (i.e., Freedom to Work in Michigan) premiums the account owner has paid.

ABLE Accounts and Federal Taxes

- ▶ A contribution to another person's ABLE account is not subject to a gift tax if the contributor's total contributions for the year do not exceed the contribution limit (\$15,000 in 2019).
- ▶ Contributions to ABLE accounts are made with after-tax funds. They are not deducted from income for federal income tax purposes.
- ▶ A distribution (withdrawal) from an ABLE account that is used for "qualified disability expenses" is NOT taxable.
- ▶ If a distribution from an ABLE account is NOT used for qualified disability expenses, the amount is taxable, and there is an extra 10% tax penalty.

Michigan ABLE Program - MiABLE

- <https://www.miable.org/>
- MiABLE offers a state income tax deduction for contributions made to MiABLE accounts by Michigan residents. That includes account owners and any other Michigan residents who contribute to ABLE accounts.
- The deduction is for the full amount of contributions the person makes to all MiABLE accounts, up to \$5,000 per year for a single tax filer, and up to \$10,000 per year for a married couple filing jointly.
- Minimum contribution to account = \$25, or \$15 if enrolled in an Automatic Investment Plan
- No minimum distribution (withdrawal) from account

Michigan ABLE Program - MiABLE

- ▶ Can make contributions through electronic transfers or by check
- ▶ Can withdraw through debit card, electronic transfer, or by check (\$10 fee for withdrawal by check)
- ▶ May make individual contributions or monthly automatic transfers
- ▶ Optional Donate Now page on www.miable.org web site – like GoFundMe

Michigan ABLÉ Program - MiABLE

- Investment Options:
 - Conservative
 - Moderate
 - Balanced
 - Aggressive
 - All Stock Aggressive
- More conservative account options have a low risk that the account will lose money, but the account earnings are limited.
- More aggressive account options have a higher risk that the account will lose money, but the account earnings may be much higher than for more conservative options.

Michigan ABLE Program - MiABLE

- ▶ Fees:
 - ▶ \$45/year account fee
 - ▶ Program management fee = 0.5% of account/year
 - ▶ Annual asset-based fees – 0.50% - 0.78%, depending on investment option
 - ▶ No debit card fee
 - ▶ \$10 fee for having check issued. No other transactional fees.

Exercises

1. Marty opens an ABLÉ account in Michigan, where he and his parents live. His parents (who file a joint tax return) contribute \$10,000 to his account in 2019. How much of his parents' contribution can be deducted from their income for Michigan income tax purposes?

Exercises

1. Marty opens an ABLE account in Michigan, where he and his parents live. His parents (who file a joint tax return) contribute \$10,000 to his account in 2019. How much of his parents' contribution can be deducted from their income for Michigan income tax purposes? **\$10,000**

Exercises

2. If Marty opened his ABLÉ account in another state, would his parents be able to deduct any of their contribution to the account for Michigan tax purposes?

Exercises

2. If Marty opened his ABLÉ account in another state, would his parents be able to deduct any of their contribution to the account for Michigan tax purposes? **No**

Can an ABLÉ Account Be Opened in Another State?

- ▶ Yes.
- ▶ However, contributions by a Michigan resident to an ABLÉ account in another state do NOT qualify for the Michigan state income tax deduction.

Which States Offer ABLE Programs?

- ▶ Over 40 states plus Washington, DC have ABLE programs in operation.
- ▶ The great majority of these states permit residents of other states to open accounts in their programs.
- ▶ See ablenrc.org to compare other states' programs.

ABLE Accounts and 529 College Savings Plans

- ▶ Starting in 2018, funds in a 529 College Savings Plan may be “rolled over” (transferred) to an ABLE account.
- ▶ The ABLE account that receives the funds must be owned by either:
 - ▶ The beneficiary of the college savings account, or
 - ▶ A family member of the beneficiary of the college savings account
- ▶ Rollovers from a college savings account are included in the \$15,000 annual limit on contributions to the ABLE account.

ABLE Accounts and the Savers Credit

- ▶ Starting in 2018, ABLE account owners may qualify for the Retirement Savings Contributions Credit (known as the Saver's Credit).
- ▶ This tax credit gives an incentive to low and moderate income taxpayers to contribute to their retirement accounts (IRA, 401(k), 403(b)).
- ▶ The new rule gives the tax credit to eligible ABLE account owners who contribute to their own ABLE accounts.

Your Role Regarding ABLE Accounts

- ▶ A Benefit to Work Coach should inform individuals who receive benefits with resource limits about the option to save money in ABLE accounts to avoid exceeding resource limits, if they are eligible.
- ▶ Direct individuals to www.ablenrc.org if they would like to compare ABLE programs in different states.
- ▶ Explain that Michigan (MiABLE) ABLE accounts offer a tax deduction for Michigan residents who contribute to ABLE accounts.
- ▶ If you have questions about ABLE accounts, contact a technical assistance provider or Benefit Planner.

Resources

- ▶ ABLÉ Act text (<https://www.congress.gov/113/bills/hr647/BILLS-113hr647eh.xml>)
- ▶ Proposed ABLÉ Act regulations, June 2015 (<https://www.federalregister.gov/articles/2015/06/22/2015-15280/guidance-under-section-529a-qualified-able-programs>)
- ▶ POMS SI 01130.740 (<https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130740>)
- ▶ MiABLE Program (<https://www.miable.org>)
- ▶ ABLÉ National Resource Center web site (ablenrc.org)