



# ABLE Best Practices and Action Steps for Family Members and Supporters (Circle of Support)

Thursday, August 15, 2019  
2:00 pm – 3:00 pm ET

*The ABLE National Resource Center is funded through a grant from Prudential.*

# The ABLE National Resource Center

The ABLE National Resource Center (ABLE NRC) is the leading, comprehensive source of objective, independent information about federal- and state-related ABLE programs and activities, including guidance on tax-advantaged ABLE savings accounts.

**Our mission** is to educate, promote and support the positive impact ABLE can make on the lives of millions of Americans with disabilities and their families.

Our pioneering work in this area and subject matter expertise makes us the foremost authority on topics related to the Achieving a Better Life Experience (ABLE) Act, ABLE accounts, state ABLE programs, ABLE-related policy developments, and comprehensive integration of ABLE and financial capability strategies for people with disabilities into public service delivery systems.

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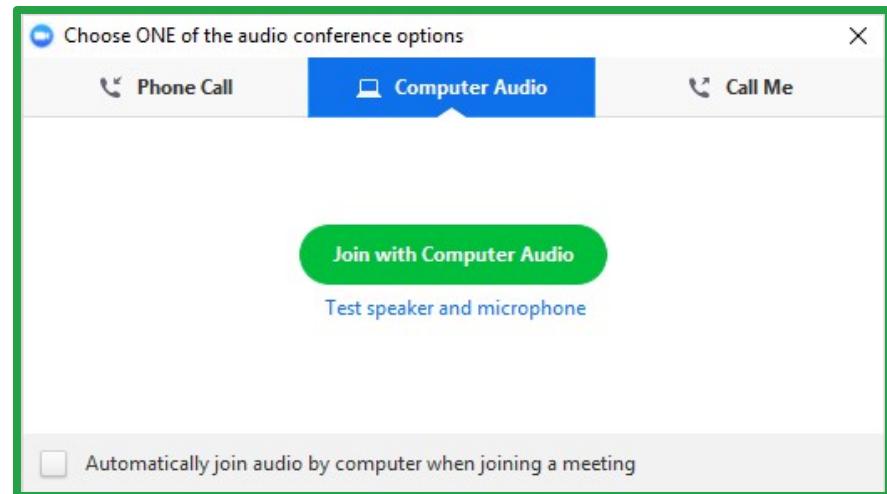
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# Facilitator and Presenters

## Facilitator

- Miranda Kennedy, Director, ABLE National Resource Center

## Presenters

- Marlene Ulisky, Manager Financial Empowerment, National Disability Institute
- 2019 ABLE NRC Ambassadors / ABLE Account Owners and Family Members
  - Davinna Christian, Parent of an ABLE Account Owner
  - Taylor Carty, Student and Working-Age ABLE Account Owner
  - Amy Tessler, Parent of an ABLE Account Owner

# Agenda

- What is #ABLEtoSave Month?
- Using and Tracking Qualified Disability Expenses
- Funding an ABLE account
- ABLE accounts, Special Needs Trusts and Pooled Trusts
- Best practices, next steps and resources



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# What is #ABLEtoSave Month?



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# #ABLEtoSave Month

- #ABLEtoSave month is a nationwide awareness campaign taking place in August.
- The goal is to provide information about Achieving a Better Life Experience (ABLE) accounts, so that individuals with disabilities and their families become knowledgeable and comfortable enough to open an ABLE account through the state program of their choice.
- This year, we promoted our #ABLEtoSave Video Contest in the month of July as part of the national campaign. Our winners will be announced at the end of the month. We will hear their ABLE goals and the top three will receive cash prizes in their ABLE accounts to help them achieve their ABLE goal!



# #ABLEtoSave Month (continued)

- Weekly webinars held every Thursday in August from 2:00-3:00pm ET will provide ABLE information and resources to target audiences, which include eligible individuals who receive benefits along with those who do not receive benefits, family members and their supporters.
  - August 22: ABLE Best Practices for Working-Age Adults ([REGISTER](#))
  - August 29: Celebrating All the Ways You Are ABLE: Announcing Winners from the #ABLEtoSave Video Contest and Next Steps! ([REGISTER](#))
- All webinars are posted within one week of broadcast.
- We are spreading the word via Twitter and Facebook to maximize the nationwide reach of this campaign.

# Qualified Disability Expense Distributions: Using and Tracking Funds

# What are Qualified Disability Expenses (QDEs)?

## (Slide 1 of 2)

QDE's are expenses for items or services that maintain or improve the health, independence or quality of life of a person with a disability.

- A distribution from an ABLE account may be used to pay for QDEs.
- QDEs fall into eleven (11) broad categories.

1. Education
2. Housing
3. Transportation
4. Employment training and support
5. Assistive technology and personal support services
6. Health prevention and wellness
7. Financial management and administrative services
8. Legal fees
9. Expenses for oversight and monitoring
10. Funeral and burial expenses
11. Other expenses which the IRS may identify in regulation or policy

# What are Qualified Disability Expenses (QDEs)?

## (Slide 2 of 2)

- In their proposed regulations, the Treasury Department and the IRS concluded that the term “qualified disability expenses” should be broadly understood to include basic living expenses and should **not** be limited to:
  - Expenses for items for which there is a medical necessity or
  - Expenses which provide no benefits to others outside of the benefit to the eligible individual.
- Neither the law nor proposed regulations insert “disability-related” in front of its list of QDEs, clearly suggesting that expenses like education, transportation and housing should be permitted distributions that are needed, with or without a disability.
  - Example: A smartphone, if it is a safe and effective means of communication or navigation for a child with autism.

# Qualified Disability Expenses (QDE) Distributions

- A “Distribution” is a withdrawal or disbursement of funds from an ABLE account.
- Distributions may only be made by the account holder or by the authorized legal representative or “ALR” (if one has been designated). Examples of an ALR are a parent, a Legal Guardian or someone with Power of Attorney privileges.
- Distributions may be made in a variety of ways from your state ABLE program. Examples include through a debit card, electronic transfer, a check or by completing a form for withdrawal of funds.
- Distributions for QDEs do not need approval.
- You must maintain records for your expenditures and retain documentation. This is needed in case a federal agency, such as the Internal Revenue Service (IRS), asks you to verify a purchase.



# Non-Qualified Disability Expense Distributions

- Using funds for non-QDEs may result in paying income tax on the earnings portion of the distribution plus an additional 10% tax on those funds.
  - Use IRS Form 5329 to figure the tax: <https://www.irs.gov/pub/irs-pdf/f5329.pdf>
- If the distribution is spent within the month of receipt, there is no effect on Supplemental Security Income (SSI) eligibility.
- The distribution is not counted as **income** by SSI, even if it is for a non-qualified purpose.
- A distribution for a non-QDE, or for housing or a housing-related expense, is counted as a resource if **retained or held outside of the ABLE account** beyond the month of distribution.



# Non-Qualified Disability Expense (QDE) Tax Example

- \$5,500 ABLE Balance (\$5000 deposit plus \$500 in earnings on ABLE Account)
- Assumption: \$500 was spent on a non QDE.
- IRS Penalty: 10% tax on the *earnings portion* of the non QDE (\$500) or \$50.
- \$50 Is taxable income and the tax on it depends upon your tax bracket.
  - As an example, if you are in the 15% tax bracket, the additional tax would be:  
\$50 X 15% or \$7.50.
- **Total tax on the \$500 non QDE in this example would be \$57.50.**
- The amount of the non QDE, the amount of ABLE earnings attributable to the non QDE, and your tax bracket will determine your additional tax.



# Reach Out to a Circle of Support or Others

- If you have a difficult time understanding qualified disability expenses (QDEs), managing your money and tracking QDEs, consider a “Circle of Support.”
- A “Circle of Support” is a group of people committed to helping you to achieve a better future and meet your goals. The circle may be small or large and comprised of anyone who you know well and can support you: a family member such as a parent or sibling, a representative payee, friend, professional, clergy, employer or others.
- When building a circle, the most important thing is trust.
- It’s also important to be cautious when sharing financial information with individuals you do not know well or those you have only known for a short time.

# Meet ABLE Account Owner Dushon Christian's mom, Davinna, and hear Dushon's ABLE Story

Dushon's ABLE Goals:

- A communications device
- Durable medical equipment
- An accessible vehicle

*"ABLE helped us solve five of the six most pressing problems that we faced. It has allowed me to relax and not worry about how saving money will impact the benefits Dushon needs. His ABLE account will take care of whatever needs he has. I can relax and take a breath. That is real..." - Davinna*



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# Best Practices – Qualified Disability Expenses (QDE)

## (Slide 1 of 2)

- Make responsible decisions about QDEs and exercise good judgement.
- Use ABLE funds for items or services which clearly fall:
  - Within one of the QDE Categories
  - Under those recommended by a healthcare provider, or
  - Under those which most people would view as a “basic living expense” necessity.
- Always ask yourself whether the QDE will maintain or improve the health, independence or quality of life of the person with a disability.
- Use ABLE funds in the month of the disbursement.
- Recurring payments for housing expenses should be handled by automatic debits from the ABLE account, if the State program can do this.



# Best Practices – Qualified Disability Expenses (QDE) (Slide 2 of 2)

## Recordkeeping

- The ABLE account owner must always be prepared to substantiate how they spent withdrawals from the ABLE account, to answer questions from Social Security, the State or the Internal Revenue Service and prove that the expenditures were for QDEs.
  - Records must be maintained for all account distributions along with receipts for purchases.
  - The State ABLE programs share data with Social Security on a monthly basis.
  - For SSI recipients, timing withdrawals for housing and housing-related expenses is critical.

# Checklist of Things to Consider

- ✓ Have I investigated all potential **no-cost** funding sources before I considered using ABLE funds for services or supports?
- ✓ Do I have a Special Needs Trust and does it currently pay for my rent?
- ✓ Is the expense something my current benefit payment can fund?
- ✓ Can I set up an automatic debit to pay for recurring expenses?
- ✓ Have I retained a receipt for the QDE expense?
- ✓ Do I need help with my record keeping?
- ✓ If I am retaining the disbursement beyond the month of withdrawal, what am I retaining the disbursement for and will it have an impact on my benefits?

# ABLE Account Owner Taylor Carty

## Taylor's ABLE Goals:

- Medical School Tuition
- To save for a house
- To save for a comfortable retirement
- To save for emergencies



*Taylor shared that when she gets discouraged, her mom quotes Henry Ford “If you think you can, you can...”, and “My dad makes me laugh and my siblings stoically volunteer to test me on bio and chemistry material that bores them to death.. Through it all, I know that they will always be there for me”.*



# Funding an ABLE account



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# Identify Potential Sources of Income for an ABLE Account

- Anyone can make a contribution into an ABLE account:
  - Individual with a disability
  - Family
  - Friends
  - Employer
  - A special needs trust, pooled trust, estate or others
- The total annual contribution limit, which may not exceed the federal gift tax contribution limit, is currently \$15,000.
- An employed individual with a disability may contribute more.
  - Register for next week's #ABLEtoSave webinar "Best Practices for Working-Age Adults! [REGISTER](#)
- Total lifetime contributions may not exceed the state limit for 529 college savings accounts. State programs aggregate contributions range from \$100,000 to \$529,000.



# Third-Party Contributions

- Third-party contributions are contributions made by persons other than the designated beneficiary with funds that do not belong, or are not otherwise due, to the designated beneficiary.
- A special needs trust is defined as a “person” under IRS policy and may contribute to an ABLE account.

Examples of third-party contributions may include:

- Contributions from family or friends
- Contribution from an employer
- 529 rollover from a family member’s ABLE account
- 529 rollover from a college savings account
- Distribution from a special needs trust or pooled trust
- Bequest from a will
- Gift of Independence
- Gifts from others for birthdays, holidays or milestones

# Beneficiary Contributions (Slide 1 of 2)

- A contribution of earnings, or other income received by the account holder and deposited into the ABLE account, is still counted as income to that individual.
  - Examples of payments that might be deposited into an ABLE account, but still count as income are monies payable to the account holder, which may include:
    - Earnings
    - Other income due to the beneficiary such as:
      - Alimony
      - Child support payments
      - Pensions and annuities
      - Veterans Administration (VA) compensation, etc.
  - Direct deposit cannot be used to avoid income counting rules.



# Beneficiary Contributions (Slide 2 of 2)

- The first \$100,000 in ABLE account savings is disregarded when determining eligibility for most means-tested benefits.
  - If you receive Supplemental Security Income (SSI), when the account balance exceeds \$100,000, either alone or in combination with other resources, the SSI payment is temporarily suspended.
  - Medicaid continues even when the account balance is over \$100,000.
  - SSI benefit may be reinstated at any time.
- If non-ABLE resources alone are over the SSI limit, the special suspension rule does not apply.
- There is no resource limit if you receive benefits under SSDI.

# Best Practices - Contributions

- Make regular, systematic deposits into your ABLE account
- Use automated methods to contribute
  - Electronic funds transfer
  - Payroll deductions
- Invite friends, family and an employer to contribute to your ABLE account.
- Do your homework! Your contributions to an ABLE account are not tax deductible for federal income tax purposes, however there may be state income tax deductions depending upon where you live and where you have established your account. Research your state!

# **ABLE Accounts, Special Needs Trusts and Pooled Trusts**



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# Trusts

- A trust is a legal arrangement regulated by state or tribal law in which one party holds property for the benefit of another. Trusts may contain cash or other liquid assets and real or personal property.
- A Special Needs Trust/pooled trust may be used to cover supplemental needs, some of which public benefits may not cover. The trust may be funded by a person with a disability or by a third party. The trust may also be ‘pooled’ and contain funds of several individuals so that the costs are lower.
- A Special Needs Trust/pooled trust and an ABLE account are both financial planning tools and used for different purposes. They can complement one another. The individual’s financial situation and circumstances will determine which option – or whether **both options** – are most beneficial.

# Supplemental Security Income (SSI) and Trusts

- Trusts are complex legal instruments which may or may not be counted as a resource for SSI or other means-tested benefits depending upon a variety of factors.
- Money paid directly to a beneficiary from a trust reduces SSI benefits.
- Money paid directly from the trust to someone to provide the beneficiary with food or shelter reduces the SSI benefit up to one-third.
- Money paid from a trust directly to someone else to provide items other than food and shelter does not reduce SSI benefits (examples are medical care, educational expenses, telephone bills, entertainment, etc.).
- A Special Needs or Pooled Trust, which is not counted as an SSI resource, may contribute to an ABLE account as a third party. The contributions do not count as income to the SSI program or by means tested federal benefit programs.

# Meet ABLE Account Owner, Scott Tessler's mom, Amy and hear Scott's ABLE Story

## Scott's ABLE Goals:

- Augment his Special Needs Trust
- Maximize means tested benefits (SSI)
- Achieve some financial independence in the future

*"Scott will always need help managing money and paying his bills. It would not be prudent to give him access to a large amount of money, but having the ABLE account will allow him to gain some basic financial skills. In our situation, having both the SNT and an ABLE account is ideal for maximizing his benefits and helping him achieve some financial independence."*



# Medicaid Payback

Upon the death of the account holder:

- Qualified withdrawals may be made to pay:
  - Outstanding Qualified Disability Expenses
  - Funeral and burial expenses
- Medicaid *may* reclaim up to the amount spent by the Medicaid program from the time the account was opened
  - The state would have to file a claim for those funds
  - Remaining funds are transferred to the individual's estate

RESOURCE: Centers for Medicare and Medicaid Services (CMS) Guidance Letter on ABLE accounts: [http://www.ablenrc.org/wp-content/uploads/2019/07/ABLE-CMS-Guidance\\_0.pdf](http://www.ablenrc.org/wp-content/uploads/2019/07/ABLE-CMS-Guidance_0.pdf)

# Checklist of Things to Consider – ABLE or SNT or Both?

- How much money is involved?
- Whose money is it?
- What are the costs involved to establish?
- Are there assets in addition to cash?
- Is the ABLE account owner currently receiving Medicaid?
- Is there a Medicaid payback provision? Does it matter?
- What is the effect of housing expenses paid by an ABLE account vs. a SNT?
- Has there been an unexpected windfall or small litigation settlement which could affect means-tested benefits?
- Are there funds in a “traditional” 529 college savings account which need “rolled over”?
- Does the ABLE account owner and family want him or her to learn money management skills?
- Are there taxation issues in the SNT and distribution of some funds to an ABLE account will minimize taxation at a very high trust income tax rate?
- Does the individual want or need to open an ABLE account in addition to or instead of a trust? Could they benefit from both?



# Next Steps, Best Practices and Resources



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# Best Practices if YOU are a Supporter of an ABLE Account Owner (Slide 1 of 2)

- Help the ABLE account holder explore and prioritize savings and investment goals. Clarify ideas about the future. Talk about those goals often to motivate the individual and to reinforce savings behavior.
- Learn how to ask probing questions regarding the ABLE account holder's goals, dreams and aspirations.
- Discover resources and provide information to assist ABLE account holders in achieving their goals.
- Take the time that is necessary to talk about barriers. Be positive. Work for solutions rather than stay embedded in a problem.



# Best Practices if YOU are a Supporter of an ABLE Account Owner (Slide 2 of 2)

- Celebrate achievements and progress no matter how small or seemingly insignificant. It will provide encouragement and build enthusiasm.
- Help the individual find available community resources that can provide the opportunities and services needed and that will preserve ABLE funds for as long as possible.
- Always remember that the ABLE account owner is in charge and being supported to make decisions and set goals for what they want in life. Provide assurance that you will be there to help as needed.



# For More ABLE Account Owners Stories and Goals: Check out our 2019 ABLE NRC Ambassadors and 2018 Alumni



Link to 2018 ABLE NRC Ambassador Alumni  
Stories: <https://www.ablenrc.org/able-ambassadors/2018/>

Link to 2019 ABLE NRC Ambassador Stories:  
<https://www.ablenrc.org/able-ambassadors/2019/>



# Next Steps

- Start with a goal! Identify your short and long term goals along with known and anticipated Qualified Disability Expenses when setting money aside in an ABLE account.
- Investigate costs and develop a short-term and a long-term budget and a spending and savings plan.
- Always consider whether any other public benefit program can cover the costs.
- Consider other sources of income and how an ABLE account might interact or complement them (are you earning income through employment, are you receiving a cash benefit through SSI or SSDI, do you have a special needs trust?)
- Know that goals are fluid. They will change based on time, situations and/or events.



# Resources

- ABLE National Resource Center: <https://www.ablenrc.org/>
- Qualified Disability Expense Fundamentals: <https://www.ablenrc.org/qualified-disability-expense-fundamentals/>
- ABLE Account, Special Needs and Pooled Trust Comparison Chart:  
<https://www.ablenrc.org/able-account-special-needs-and-pooled-trust-comparison-chart/>
- Making Smart Financial Decisions: <https://www.ablenrc.org/manage-account/making-smart-financial-decisions> (Focus on Tip #3 – Maximizing Savings Opportunities)
- Building a Circle of Support: <https://www.ablenrc.org/manage-account/building-a-circle-of-support>
- A Range of Strategies for Funding an ABLE Account – ABLE Case Summary Series:  
<https://www.ablenrc.org/the-able-case-summary-series/>



# Help Spread the Word!

- Help spread the word! Please share information about ABLE accounts with friends, family and community groups!
- To receive up-to-date information on ABLE, please subscribe to our [AchievABLE](#) newsletter.
- Connect with us on social media: [Facebook](#) and [Twitter](#).
- Participate in all of the #ABLEtoSave webinars and access all of our ABLE National Resource Center webinars at: [ablenrc.org/resources/webinars](#) to stay informed. Today's webinar is recorded and will be posted within one week.
- For answers to all of your questions, visit our Website: [ablenrc.org](#)

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