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NATIONAL RESOURCE CENTER
ACHIEVING A BETTER LIFE EXPERIENCE ACT



#ABLEtoSave Webinar Series

“ABLE Eligibility and Interplay with Federal Benefits”

Presented by

Chris Rodriguez, Director, ABLE National Resource Center



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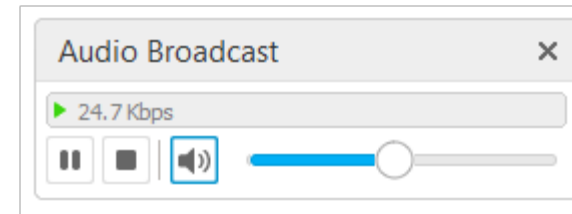
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Presenters and Guests

- Presenters
 - Chris Rodriguez, Director, ABLE National Resource Center
 - Marty Ford, Senior Executive Officer, Public Policy, The Arc of the United States
- Facilitator
 - Michael Morris, J.D., Executive Director, National Disability Institute
- Guest Panelists
 - Kathleen McGrath, Former Pennsylvania State ABLE Program Director
 - Rob Percival, Sr. Vice President | Strategic Products, Ascensus College Savings,

Agenda

- ABLÉ National Resource Center
- #ABLEtoSave Campaign
- ABLÉ Basics
- Eligibility
 - Program Eligibility
 - Benefits Eligibility
- Examples
- Question and Answers

ABLE National Resource Center

The ABLE National Resource Center

The ABLE National Resource Center (ANRC) is a collaborative whose supporters share the goal of accelerating the design and availability of ABLE accounts for the benefit of individuals with disabilities and their families. We bring together the investment, support and resources of the country's largest and most influential national disability organizations.

www.ablenrc.org

#ABLEtoSave



#ABLEtoSave Campaign Description

#ABLEtoSave is a month-long marketing and informational campaign taking place throughout August. This national campaign is spearheaded by the ABLE National Resource Center (“the Center”), in collaboration with the Center’s 25+ national disability organizational members, state ABLE programs, financial institutions, and other ABLE related stakeholders. #ABLEtoSave will strive to blanket the country with widespread information concerning all things ABLE, with the aim to significantly accelerate the opening of ABLE accounts by eligible individuals with disabilities and their families.

#ABLEtoSave Campaign Goal

The primary goal of #ABLEtoSave is to increase awareness and education about ABLE accounts and to accelerate the opening of ABLE accounts nationwide in the short- and long-term.

#ABLEtoSave Campaign Outline

#ABLEtoSave will take place in the month of August and will be broken down into 5 individual weeks of education, information and marketing. Each week will focus on a different aspect of ABLE, with the aim to provide potential ABLE account owners, and their families, with comprehensive education and motivation to feel comfortable enrolling in an ABLE program of their choice.

- WEEK 1 (July 30 – 5): BASIC OVERVIEW OF ABLE
- WEEK 2 (August 6 – 12): ELIGIBILITY
- WEEK 3 (August 13-19): QUALIFIED DISABILITY EXPENSES
- WEEK 4 (August 20-26): FINANCIAL LITERACY
- WEEK 5 (August 27 – September 2): ENROLLMENT

The campaign is national in scale and will utilize a diverse set of tools in order to maximize reach. These tools include, but are not limited to, social media, national webinars, short videos, twitter chats, virtual town halls, email blasts and the utilization of the Center's website.

ABLE Basics



What is ABLE?

The Stephen Beck, Jr. Achieving a Better Life Experience (ABLE) Act (PL 113-295) amends the federal tax code to add Section 529A in order to:

*create a new option for eligible people with disabilities
to save money in a tax-exempt account
that may be used for qualified disability expenses
while still keeping their eligibility for federal public benefits.*

Basic Characteristics

- There are eligibility requirements related to opening an ABLE account that speak to the age in which the individual first experienced his/her disability and related to the severity of such disability
- An eligible individual is not obligated to enroll in their state of residence
- The “Designated beneficiary” is the account owner (although another person such as a parent, guardian, or person with power of attorney may be allowed signature authority over the account).
- Funds in the account may be used for “qualified disability related expenses”
- Assets in, and distributions for qualified disability related expenses, will be disregarded or given special treatment when determining eligibility for *most* federal means-tested benefits (including Social Security and Medicaid)
- Multiple individuals may contribute to an individual’s ABLE account
- There is a \$14,000 annual contribution limit (all contributors combined)

Eligibility

Who is eligible to be an ABLÉ account beneficiary?

To be eligible, individuals must meet two requirements:

- 1) Age requirement: must be disabled before age 26; **AND**
 - 2) Severity of disability:
 - Have been determined to meet the disability requirements for Supplemental Security Income (SSI) or Social Security disability benefits (Title XVI or Title II of the Social Security Act) and are receiving those benefits,
- OR**
- Submit a “disability certification” assuring that the individual holds documentation of a physician’s diagnosis and signature, and confirming that the individual meets the functional disability criteria in the ABLÉ Act (related to the severity of disability described in Title XVI or Title II of the Social Security Act).

1) Age of Onset Requirement

- This requirement states that in order to be eligible to open an ABLE account the individual's disability must have "occurred before the date on which the individual attained age 26".
 - This does NOT mean that the individual with a disability has to be under the age of 26 to open an ABLE account.
 - This does NOT mean that the individual with a disability necessarily had to have a formal diagnosis related to their disability prior to their 26 birthday.
 - The age of onset requirement is 1 of 2 requirements that must be met.

2) Severity Related to Disability

In addition to the age of onset requirement, the individual must also meet additional criteria related to the severity of their disability in order to be determined eligible to open an ABLE account.

The individual can satisfy this requirement in the following ways:

- Being a current beneficiary of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI)
- or**
- Submitting a “disability certification” to the satisfaction of the Secretary of the US Treasury



Disability Certification

If an individual with a disability is not currently a beneficiary of either SSI or SSDI, depending on the severity of their disability, they may still be eligible to open an ABLE account through establishing a “disability certification”.

What is a Disability Certification?

A disability certification with respect to an individual is a certification signed under penalties of perjury by the individual, or by the other individual establishing (or with signature authority over) the ABLE account for the individual, that—

(i) The individual—

(A) Has a medically determinable physical or mental impairment that results in marked and severe functional limitations and that—

(1) Can be expected to result in death; or

(2) Has lasted or can be expected to last for a continuous period of not less than 12 months; **or**

(B) Is blind (within the meaning of section 1614(a)(2) of the Social Security Act);

(ii) Such blindness or disability occurred before the date on which the individual attained age 26 (and, for this purpose, an individual is deemed to attain age 26 on his or her 26th birthday); **and**

(iii) Includes a copy of the individual's diagnosis relating to the individual's relevant impairment or impairments, signed by a physician.

Disability Certification (additional info)

- Conditions listed in the “List of Compassionate Allowances Conditions” maintained by the Social Security Administration (at www.socialsecurity.gov/compassionateallowances/conditions.htm) are deemed to meet the requirements regarding the filing of a disability certification, if the condition was present before the date on which the individual attained age 26.
 - To establish that an individual with such a condition meets the definition of an eligible individual, the individual must identify the condition and certify to the qualified ABLE program both the presence of the condition and its onset prior to age 26, in a manner specified by the qualified ABLE program.
- In most circumstances the disability certification will not need to be filed with the State ABLE Program, the Department of Treasury or the IRS prior to, or during, the establishment of the ABLE account. However, the individual attempting to open the ABLE account, or the person with signature authority, will likely be asked to sign, under penalty of perjury, that they do in fact have the disability certification and should be prepared to submit the document(s) if ever requested.

Additional Eligibility Info

- Whether an individual is an eligible individual is determined for each taxable year, **and that determination applies for the entire year**, however, a qualified ABLE program may choose different methods of ensuring a designated beneficiary's status as an eligible individual and may impose different periodic recertification requirements for different types of impairments.
- No inference may be drawn from a disability certification for purposes of establishing eligibility for benefits under title II, XVI, or XIX of the Social Security Act.

Loss of ABLE Eligibility

- If the ABLE account owner ceases to be an eligible individual, then for each taxable year in which the designated beneficiary is not an eligible individual, the account will continue to be an ABLE account, the designated beneficiary will continue to be the designated beneficiary of the ABLE account, and the ABLE account will not be deemed to have been distributed. However, beginning on the first day of the designated beneficiary's first taxable year for which the designated beneficiary does not satisfy the definition of an eligible individual, additional contributions to the designated beneficiary's ABLE account must not be accepted by the qualified ABLE program. Additionally, no amounts incurred during that year and each subsequent year in which the designated beneficiary does not satisfy the definition of an eligible individual will be qualified disability expenses.
- If the designated beneficiary subsequently again becomes an eligible individual, contributions to the designated beneficiary's ABLE account again may be accepted subject to the contribution limits under section 529A, and expenses incurred that meet the definition of a qualified disability expense will be qualified disability expenses.

Federal Benefits and ABLE Funds



Federal Benefits and ABLF Funds

- ABLF funds are meant to supplement, not supplant, benefits provided through private insurance, the Medicaid program under title XIX of the Social Security Act, the supplemental security income program under title XVI of such Act, the beneficiary's employment, and other sources.
- Funds in an ABLF account are not to be taken into consideration when determining eligibility for federally funded means tested benefits (with one exception related to beneficiaries of Supplemental Security Income (SSI)) and only in the circumstance when the account exceeds \$100,000.

How do ABLÉ account assets impact eligibility for federal benefits?

ABLE assets, and disbursements for qualified expenses, will be disregarded or receive favorable treatment when determining eligibility for *most* federal means-tested benefits:

- ***Supplemental Security Income (SSI)***: For SSI, only the first \$100,000 in ABLÉ account assets will be disregarded.
 - SSI payments (monthly cash benefit) will be ***suspended*** (not terminated) if the beneficiary's account balance exceeds \$100,000, but SSI benefits (eligibility) will not be terminated. *Funds above \$100,000 will be treated as resources.*

Impact on Federal Benefits (cont.)

- **Medicaid:** ABLER assets are disregarded in determining Medicaid eligibility
 - Medicaid benefits are NOT suspended if the ABLER account balance exceeds \$100,000 (that is only applicable to the SSI cash benefit)
 - **Medicaid Payback:** Any assets remaining in the ABLER account when a beneficiary dies, subject to outstanding qualified disability expenses, can be used to reimburse a state for Medicaid payments made on behalf of the beneficiary after the creation of the ABLER account (the state would have to file a claim for those funds)

Examples of ABLE Eligibility



Sample Profile- “Jack”

Jack’s Characteristics

- Jack is 43 years old
- Jack has a diagnosis of Amyotrophic Lateral Sclerosis (ALS or “Lou Gehrig's Disease)
- Jack is a current beneficiary of Social Security Disability Insurance (SSDI)
- Jack first began to experience symptoms of ALS when he when he was 34.

Is Jack Eligible to Open and ABLER Account?

NOT ELIGIBLE

- Because Jack’s disability did not onset before his 26th birthday, he would not be eligible to open an ABLER account.
- The ABLER Age Adjustment Act (HR 1874/ S. 817) would help Jack by raising the eligibility age for onset of disability from 26 to 46.
- If this bill becomes law, then Jack would be eligible to open an ABLER account.

Sample Profile- “Mary”

Mary’s Characteristics

- Mary is 8 years old
- Mary is a person with down syndrome
- Mary is a current beneficiary of Supplemental Security Income (SSI)

Is Mary Eligible to Open and ABLER Account?

ELIGIBLE

- Mary’s disability onset when she was born.
- Since she receives SSI and has a disability which onset before her 26th birthday, she would be eligible to open an ABLER Account.

Sample Profile- “John”

John’s Characteristics

- John is 22 years old
- John has been diagnosed with having Cerebral Palsy (CP)
- Impairments related to his CP have been recognizable since birth.
- John has a job and the amount of income John receives disqualifies him from the SSI program
- John is using a disability certification

Is John Eligible to Open and ABLER Account?

ELIGIBLE

- John’s CP causes “Marked and Severe” functional limitations as signed to by a qualified physician
- John’s disability onset before his 26th birthday.
- Since he meets the age of onset and severity of disability requirements in the ABLER statute, he is eligible to open an ABLER account

Sample Profiles- “Sally and Sue”

- Sally and Sue are identical twins.
- Both Sally and Sue had the same medical history up until their accidents and neither had a disability.
- Unfortunately, Sally and Sue were in two separate car accidents.
 - Sally was paralyzed in a car accident a day prior to her 26th birthday. Sue was paralyzed in a car accident a day following her 26th birthday.
 - Both Sally and Sue have a disability certification signed by a doctor stating how their paralysis caused “Marked and Severe” functional limitations.
 - Since Sally had a disability which onset prior to her 26th birthday, she would be eligible to open an ABLE Account.
 - Since Sue’s disability onset after her 26th birthday, she would not be eligible to open an ABLE Account.
- The ABLE Age Adjustment Act (HR 1874/ S. 817) would help Sue by raising the eligibility age for onset of disability from 26 to 46.
- If this bill becomes law, then Sue would be eligible to open an ABLE account

Sample Profile- “Anna”

- Anna does not have a disability but likes the idea of an ABLE account because her friend has one.
- Since she does not have a disability, she would not be eligible to open an ABLE account.

Pending Eligibility Related Legislation



The ABLE Age Adjustment Act (S. 817/HR 1874)

- The ABLE Age Adjustment Act is a bill pending in the House and Senate that will increase the age of onset for eligibility from 26 to 46, increasing the number of individuals with disabilities who would be eligible to open an ABLE account.
- The ABLE Age Adjustment Act would not change the severity of disability requirement,
- The ABLE Age Adjustment Act is pending in the House and Senate with 20 house cosponsors and 8 senate cosponsors.
- Consider encouraging your Members of Congress to cosponsor the Bill!

Question & Answers



Contact us!

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Upcoming Webinar

Title: “What Can I Use My ABLE Fund For: Understanding “Qualified Disability Expenses”?”

When: Wednesday, August 16th at 2pm Eastern

Description: Funds in an ABLE account cannot be used for just any expense. The purpose of this webinar is to inform and educate potential ABLE account owners about what are appropriate and lawful uses of the funds in an ABLE account. This webinar will go into detail concerning the definition of “qualified disability expense” and the consequences of misusing funds. The webinar will incorporate a panel of ABLE related stakeholders that will be asked to give their perspective on the presentation, including their experience with the given topic.

More info (including how to register) at: www.ablenrc.org.