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NATIONAL RESOURCE CENTER
ACHIEVING A BETTER LIFE EXPERIENCE ACT



Qualified Disability Expense Fundamentals

December 13, 2018



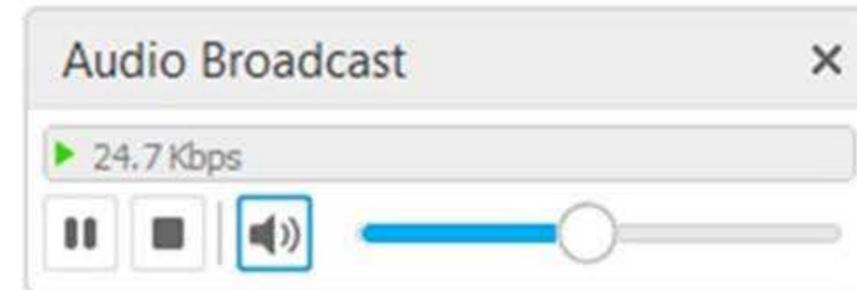
The ABLER National Resource Center

The ABLER National Resource Center (ANRC) is a collaborative whose supporters share the goal of accelerating the design and availability of ABLER 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

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Facilitator and Presenters

Facilitator

- Miranda Kennedy, Co-Director of ABLE National Resource Center

Presenters

- James Sheldon, Supervising Attorney of the Disability Law Unit, Neighborhood Legal Services, Buffalo, New York
- Marlene Ulisky, Disability Benefits Expert, ABLE National Resource Center, Washington, D.C.
- Members of our 2018 ABLE Advisory Team

Advisory Team Presenters

- Larry Angeli, Parent of ABLE Account Owner
 - Farmington Hills, MI
 - MiABLE Program
- Edward Mitchell, ABLE Account Owner
 - Jackson, TN
 - ABLE TN Savings Program
- Katy Oliver, ABLE Account Owner
 - Austin, TX
 - Ohio Stable Account Program

Agenda

- Review: ABLE Road Maps
- Overview: Qualified Disability Expenses (QDE)
- Discussion: What happens if ABLE account disbursements are used for non-qualified purposes
- Review: QDE examples and strategies to consider when deciding whether to use ABLE funds for items or services
- Questions

Review:

ABLE Road Map to Enrollment and Road Map to Independence



Check Out the Videos and Strategies on Our Road Map to Enrollment and Road Map to Independence



<http://ablenrc.org/road-map-enrollment>



<http://ablenrc.org/road-map-independence>

ABLE Fact Sheet and ABLE Road Maps

Click [here](#) for English. Click [here](#) for Spanish.



What is ABLE?

What is an ABLE account?

Achieving a Better Life Experience (ABLE) accounts are tax-advantaged savings accounts for qualified individuals with disabilities and their families. The beneficiary of the ABLE account is the account owner. The account beneficiary, family, friends or the account owner's Special Needs Trust (SNT) may contribute funds into an individual's ABLE account. For example, a person with a disability who receives Supplemental Security Income (SSI) may save up to **\$100,000** and retain eligibility for SSI. A person who receives Medicaid may save **any amount within an ABLE account** and may retain eligibility for Medicaid. An ABLE account owner may also save for their **retirement** within an ABLE account.

Why the need for an ABLE account?

Millions of individuals with disabilities and their families depend on a wide variety of public benefits for income, health care and food and housing assistance. Eligibility for public benefits like SSI, Supplemental Nutrition Assistance Program (SNAP) and Medicaid require meeting a means or resource test that limits eligibility by requiring individuals to report more than \$2,000 in cash savings, retirement funds and other items of significant value. ABLE savings accounts allow eligible individuals and their families to save money without largely affecting their eligibility for SSI, Medicaid and other public benefits.

What is the ABLE NRC?

The ABLE National Resource Center (ABLENRC.org) is a collaborative that brings together the investment, support and resources of some of the country's largest and most influential national disability organizations in an effort to accelerate the design and availability of ABLE accounts to meet the needs of individuals with disabilities and their families.

Managed by National Disability Institute (NDI), the Center's goal is to provide consistent, reliable information concerning the benefits of an ABLE account. In addition, the Center aims to educate individuals with disabilities and their families, state government and legislatures and financial service companies, including financial planners and attorneys who focus on trust and estate planning, about ABLE's potential impact on an individual's quality of life experience.

What do we provide?

- Educational materials, including free online webinars
- Training and technical assistance activities
- Analysis of ABLE-related public policy and legislation
- Research on ABLE account use and operation of state established ABLE savings programs
- Side-by-side comparisons of different state programs
- Nationwide dissemination networks

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Roadmap to ABLE

#ABLEtoSave



For more information on the ABLE Act and ABLE accounts, visit www.ablenrc.org. Managed by National Disability Institute.

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ABLE Programs

What We're About

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10 Things
You Should Know About
ABLE ACCOUNTS

Join
 **OUR MAILING LIST**
For Important Information

TAKE THE
Pledge
AMERICA Saves
START SMALL. THINK BIG.



Which state has the best program for you?

No matter which state you call home, you can open your ABLE account in any state with an active ABLE program.

SELECT A STATE TO BEGIN →

(Blue indicates active programs.)

You can also use our **TOOL THAT COMPARES STATE PROGRAMS.**



Qualified Disability Expenses and Distributions



ABLE Account Distributions

- You can take distributions from your ABLE account to pay for Qualified Disability Expenses (QDE).
- QDEs are expenses for items or services needed to maintain or improve your health, independence or quality of life.
- QDEs include education, housing, transportation, employment training and support, assistive technology, personal support services, health prevention and wellness, financial management, administrative services, legal fees, expenses for oversight and monitoring and funeral and burial expenses.
- QDEs should be broadly understood and should not be limited to expenses for which there is a medical necessity or expenses that provide no benefits to others (outside of the benefit to the beneficiary).

What if an ABLÉ Account Distribution is Spent for a Non-Qualified Purpose?

- If the distribution is spent for non-qualified purposes, or if the total amount distributed during a year is more than your qualified disability expenses for that year, **the earnings portion** of the distribution is included in your income for that year.
- The tax on any distribution (i.e., earnings portion) included in your taxable income is increased by 10 percent.
- If you spend the distribution within the month of receipt, there is no effect on Supplemental Security Income (SSI) eligibility.
 - A distribution is not counted as income by SSI even if it is for a non-qualified purpose.
- A distribution for a non-qualified purpose, or for housing, is counted as a resource if retained beyond the month of distribution.

Prepaid Debit Cards

- Social Security Administration (SSA) receives information about distributions via a data exchange that shows them when money is loaded onto an ABLÉ prepaid debit card.
- Money distributed onto an ABLÉ prepaid debit card is considered a qualified distribution unless SSA determines otherwise.
 - SSA will ask about the intended use of the funds and exclude the entire alleged value/amount.
- SSA may ask you to verify a distribution only when you retain all or part of the distribution into months following the month of receipt.
- The distribution is material only to determine whether the countable resources exceed the resource limit.

Qualified Disability Expense Categories

- 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
- Other expenses which the IRS may identify in regulation or policy

Basic Living Expenses as a Qualified Disability Expense

The Treasury Department and the IRS concluded in their proposed regulations that the term “qualified disability expenses” should be broadly construed to permit the inclusion of 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 for Education or Employment Training and Support

Examples: Tuition, tutoring, books and fees, laptop computer, work boots, tools or uniforms not provided by an employer but required, costs associated with self-employment etc.

Discussion:

- Related transportation?
- Summer enrichment program for 12-year-old?
- Special horseback riding program?

Strategy:

- Investigate Vocational Rehabilitation Services as a potential funder
- Investigate services an American Job Center provides
- Investigate services an Employment Network under the Ticket to Work Program may provide
- Investigate the Plan to Achieve Self-Support



Qualified Disability Expenses for Transportation

Examples: Vehicle modifications, vehicle, transportation services

Discussion: Limousine for night out on the town?

Strategy:

- Investigate Vocational Rehabilitation services for modifications to a vehicle you need to get to and from work
- Investigate para-transit services
- Investigate faith-based transit services, if available in your community
- Investigate Medicaid Waiver services
- Investigate the Plan to Achieve Self-Support
- If you are working, investigate using impairment-related work expenses if you pay for your transportation



Qualified Disability Expenses for Assistive Technology and Personal Support Services

Examples: Manual or power wheelchair, speech generating device, screen reader

Discussion:

- Personal support assistant to accompany individual to a casino?
- Modified video game controller?



Strategy

- Investigate Medicare, Medicaid, Medicaid Waiver and private insurers first
- If the account holder is a student with a disability, review the student's Individual Education Plan to see what is needed to meet the student's needs under IDEA and Section 504
- The Assistive Technology (AT) Industry Association has a funding resource guide: <https://www.atia.org/at-resources/what-is-at/resources-funding-guide/>.
- Contact your state AT center: <https://www.at3center.net/stateprogram>

Qualified Disability Expenses for Housing

Examples: Down payment for a home, home modifications, roofing or home repairs, rent, real-estate property taxes, heating fuel, gas, electricity, water, sewer, garbage removal

Discussion: Hot tub purchase and installation?

Strategy:

- Investigate Medicaid Waiver for:
 - “environmental modifications”
 - “assistive technology” items or services
- Investigate “assistive technology” services through the waiver
- Investigate housing subsidies and assistance through HUD
- Know the rules for the benefits you receive!
 - Housing costs must be paid in the same month the distribution is made
- Use automatic bill pay or recurring debit payments if you are regularly paying housing-related expenses



Qualified Disability Expenses for Health, Prevention and Wellness

Examples: Traditional medical costs (i.e., bills for healthcare providers, co-pays, health insurance premiums), costs for items or services recommended by a healthcare provider

Discussion:

- Alternative modalities such as massage therapy, chiropractic, acupuncture, biofeedback?
- A gym membership?

Strategy

- Maintain written recommendations for the purchase of an item or services of a medical provider

Qualified Disability Expenses for Food as a Basic Living Expense

Examples: Food necessities

Discussion:

- A diabetic diet?
- A high protein diet for someone receiving dialysis?
- Eating out in restaurants?

Strategy

- Use Supplemental Nutrition Assistance Payments (SNAP)
- Use public benefit payments (if received)

Medicaid Payback

- Any assets remaining in the ABLER account when a beneficiary dies can be used to reimburse a state for Medicaid payments after the creation of the ABLER account.
- This is subject to outstanding qualified disability expenses.
- The state must file a claim for those funds but is not required to do so.

Best Practices

- Maintain records of all account distributions along with receipts for purchases.
- Make responsible decisions about QDEs and exercise good judgement.
- We recommend using ABLE funds for items or services which clearly fall within one of the QDE. categories, recommended by a healthcare provider or which most people would view as a “basic living expense” necessity. These will be the least likely be disputed.
- Investigate all potential **no-cost** funding sources before using ABLE funds for services or supports.
- Educate yourself and keep up-to-date with ABLE. Sign-up for our monthly newsletter and webinars.

Resources

ABLE Act

<https://www.congress.gov/113/bills/hr647/BILLS-113hr647eh.pdf>

Internal Revenue Code, Section 529A Proposed Regulations

<https://www.federalregister.gov/documents/2015/06/22/2015-15280/guidance-under-section-529a-qualified-able-programs>

IRS Tax Highlights for People with Disabilities

<https://www.irs.gov/pub/irs-pdf/p907.pdf>

SSI Policy

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130740>

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Contact Us!

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