

Achieving a Better Life Experience (ABLE) Accounts

The Achieving a Better Life Experience (ABLE) Act of 2014 is a law that allows individuals with disabilities to save money for qualified expenses without jeopardizing their disability benefits. The ABLE Act is modeled after the current 529 Education Savings Plans that help families save for college and may be referred to as a 529A account. Those who receive Supplemental Security Income (SSI) can save up to \$100,000 without risking their eligibility for Social Security and other government benefits, including Medicaid. Recipients of Medical Assistance (MA) only, can save even more. These accounts can help individuals with disabilities work, save money, and create a better financial future. The ABLE account provides the opportunity to supplement, not replace, publicly funded disability benefits to enhance the quality of life for people with disabilities. Many individuals may use ABLE accounts along with other types of trusts or accounts.

The following are frequently asked questions and answers about the federal ABLE Act.

Who is eligible for an ABLE account?

An individual qualifies for an ABLE account if they have a disability present before the age of 26 and one of the following is true:

- They are eligible for SSI or Social Security Disability Insurance (SSDI) because of a disability
- They have blindness, as defined by the Social Security Act (SSA)
- They have a similarly severe disability with a written diagnosis from a licensed physician

An individual must self-certify, verifying that they meet one of the following requirements:

- Blindness as defined by the Social Security Act
- A medically determinable physical or mental impairment with marked or severe functional limitation that has lasted, or is expected to last, at least 12 continuous months or result in death, with a written disability-related diagnosis signed by a physician, dentist, chiropractor or Doctor of Optometry.
- Have a diagnosis listed on the SSA Compassionate Allowance List

Applicants are not required to provide proof of disability at the time of application, but must be able to produce a doctor's note or evidence of eligibility upon request.

Individuals must re-certify annually. Each state program determines how this is done.

What financial advantages does ABLE allow?

Currently, individuals with more than \$2,000 in personal assets are not eligible for SSI. Exemptions to the asset limit include housing, one vehicle, small life insurance policies, burial plots, a small burial fund, household goods and personal effects, property necessary to run a business or hold a job, or money or property set aside under a plan to achieve self-sufficiency. The ABLE Act allows individuals with disabilities to save up to \$100,000 without impacting their SSI cash benefits. In Minnesota, the limit on personal assets is \$3,000.00 for individuals on MA. However, ABLE account balances are not counted as part of that limit. Another advantage is that funds withdrawn from an ABLE account for qualified expenses are not taxable.

What are the contribution limits?

As of 2023, the maximum annual contributions may not exceed \$18,000. This amount increases periodically. A person with a disability who works is allowed to contribute additional funds up to the amount of the poverty level (an additional \$15,060 in 2024) or the amount of earned income, whichever is less. Only working individuals who are not saving funds through a work retirement program are eligible to add additional funds. If the account exceeds \$102,000 (assuming no other assets), the beneficiary's SSI payments will be stopped until the account balance falls below \$102,000, as assets over \$100,000 are not protected.

Who can contribute to an ABLE account?

Anyone can make contributions to an established ABLE account. Contributions can be made by check, through an employer's direct deposit payroll, or directly from another checking or savings account. Earnings on accounts and distributions are tax-deferred or tax free if used for qualified expenses. Excess social security funds may also be deposited, but there is a series of rules that pertain to those funds described here: <https://www.ssa.gov/ssi/spotlights/spot-able.html>.

What expenses are covered under the ABLE Act?

A qualified disability expense means any expense related to the ABLE beneficiary's disability and made for their benefit. Those expenses include:

- Basic living expenses
- Housing
- Education
- Health care
- 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
- Any expense that improves the quality of life for an individual with a disability.

Who keeps track of how ABLE funds are spent?

It is important for the individual, their legal guardian, or person who holds their power of attorney or has signature authority to keep a record of any funds spent from the account and demonstrate that the expenditure meets the criteria for qualified disability expenses. Accounts are subject to audit from either Social Security or the IRS. Spending money on non-allowable items can result in additional taxes, penalties, and loss of benefits, as inappropriately released funds could count as income.

Who can establish an ABLE account?

The individual with a disability, their legal guardian, parent or a person acting on behalf of the individual with power of attorney may open the account. If there are concerns that the owner of the account will require support to manage the funds, you will want to understand the implications of financial oversight in your state. For example, the beneficiary may need to legally execute a power of attorney to give decision making power to another individual. An eligible individual may only have one ABLE account.

How can an individual open an ABLÉ account?

Minnesota currently has an ABLÉ investment account and a checking account option with a debit card managed by Fifth Third Bank. Individuals can sign up online at <https://savewithable.com/mn/home.html> or call 1-888-609-8872 for assistance. For additional information, call PACER Center at (952) 838-9000 and ask for the Health Information Center.

Am I required to sign up for an ABLÉ account in the state where I live?

No, many state programs allow an individual to find the plan that best meets their needs. There may be tax advantages for opening an ABLÉ account in the state where the individual lives. For more information, and to compare plans, visit the ABLÉ National Resource Center at <https://www.ablenc.org/compare-states>.

Are there differences in ABLÉ accounts from different states?

Yes. Individuals should compare plans to find the one that best fits their situation. For instance, some accounts require a minimum contribution to open the account or an annual contribution to keep it open. Other considerations include investment options, annual fees, rollover fees, and tax advantages. Some programs offer a debit card for easier withdrawal of funds. There may also be a limit to the number of disbursements allowed each year.

Are there tax benefits to having an ABLÉ account?

In some states, the money in an ABLÉ account grows tax free and contributors may also have a tax write off. PACER suggests you consult with an accountant, attorney, financial planner, your state program, the ABLÉ National Resource Center, or the individual who established the account to understand the specifics of your individual situation.

What happens to funds remaining in the account when the beneficiary dies?

At this time, any funds remaining in an ABLÉ account must be paid back to Medicaid for expenses paid since the date of opening the account, unless the beneficiary is not receiving Medicaid services during the time that the ABLÉ account is open. This rule is being revised in many states to eliminate the payback requirement. Minnesota may consider this change, but as of May 2023, the payback requirement remains in force. A beneficiary should be designated to receive residual funds; if there is not a designated beneficiary, any remaining funds will be returned to the state.

Can 529 (college saving account) funds be rolled over to an ABLÉ (529A savings plan) account?

A rollover from a 529 College Savings Account may be done annually into a 529A savings plan account; total contributions from all sources may not exceed annual contribution limits. Funds deposited within 60 days of distribution into a qualified 529A account are not taxed; however, this provision ends on January 1, 2026. At that time, 529 College Savings Account funds will count as assets of the individual whose name they are in, potentially affecting their ability to receive public benefits.

What are the advantages of an ABLÉ account compared to a special needs or supplemental needs trust?

ABLÉ accounts are easy to set up through a bank and do not require an attorney. They are inexpensive to set up and maintain, and a good source of protection when the amount of money deposited is within the annual limit of \$18,000 per year and total limit of \$100,000 for SSI recipients (or more for those who receive only Medical Assistance). For larger sums of money, like a court settlement or an inheritance, other financial vehicles such as a special needs trust or supplemental needs trust are more appropriate. If the rule requiring repayment to Medicaid at the end of the beneficiary's life is removed from ABLÉ accounts, this would be an advantage over a special needs trust, which mandates payback. Another advantage is the ability to roll

over 529 college funds without penalty. One of the best advantages of an ABLE account is that it allows individuals with disabilities the opportunity to learn fiscal responsibility, how to save for the future, plan for expenditures and have control over their finances. ABLE provides the opportunity for an enriched life and improved self-esteem.

This handout is intended to provide an overview and to briefly address some of the questions most frequently asked by families. It does not constitute legal or financial advice.

For more in-depth information and to check for updates go to:

- **The ABLE National Resource Center (ABLE NRC)** is a nongovernment agency that provides comprehensive information to educate and support individuals with disabilities as well as to states in setting up ABLE programs. Resources include newsletters, webinars, toolkits, updates on policies and responses to inquiries.
 - ABLE NRC - FAQ's: <https://www.ablenrc.org/frequently-asked-questions>
 - ALBE NRC - State Plan Search: <https://www.ablenrc.org/state-plan-search>
 - ALBE NRC - Comparison Chart: <https://www.ablenrc.org/able-account-special-needs-and-pooled-trust-comparison-chart>
- Information specific to Minnesota ABLE accounts: <https://savewithable.com/mn/home.html>
- The Disability Hub provides more in-depth information about Minnesota accounts as well as disability benefits in Minnesota: <https://disabilityhubmn.org/your-options/money>
- For individual assistance in finding the information you need based on your situation, contact PACER Center's Health Information Center at (952) 838-9000 or PACER@PACER.org, or consult with a qualified legal or financial advisor.