



**DON'T PUT YOUR MONEY IN  
YOUR MATTRESS!**  
**Learning different ways to plan  
for your family's future**

# Dreams & Futures



*Building a better economic future  
for Americans with disabilities*





## We all have dreams ...

For millions of Americans, we dream and plan of

- Owning a home
- Having friends
- Going on vacation
- Having reliable transportation
- Getting an education
- Starting or owning a business
- Supporting children
- Saving income from work to retire

# New Reality for People with Disabilities

## Growing Poverty Not Prosperity

- 54 million Americans in poverty
- 18 million children
- People with disabilities 2 to 5 times more likely to experience poverty (She & Livermore, 2009)
- Over half people that report income poverty report disability (Fermstad, 2009)
- Pay higher out of pocket health expenditures \$795 vs. \$256 (Livermore & Hill, 2002)
- 61% increase homelessness since December 2007
- 57% of unemployed receiving unemployment compensation compared to 40% before recession
- 50 m people on Medicaid
- 43 m on food stamps
- 54 million with disabilities
- 18 million taxpayers said they would use free services if they were available
- 40% of people accessing food pantries, shelters and kitchens report receiving SSI, SSA, or SSDI (Feed American, 2011)

## PROFILE AND GAPS - FINANCES

- ❑ 54% earn < \$20,000 compared to 35% without disabilities (Adjusted Gross Income)
- ❑ 22% earn > \$40,000 compared to 42% without disabilities AGI
- ❑ 35% employed full time compared to 66% without disabilities
- ❑ 46% unemployed or on disability compared to 13% without disabilities
- ❑ 42 average age of VITA participant compared to 32 years with no disability
- ❑ 30% of taxpayers with disabilities using free tax preparation (NYC) reported using a checking account compared to 66% without disabilities (Ford Study 2006)
- ❑ 12% of taxpayers using free tax preparation reported having a savings account compared to 44% with no disability (NYC) (Ford Study 2006)

## PROFILE AND GAPS - TECHNOLOGY

- ❑ 2% of people have a disability/illness that makes it harder or impossible to use the internet
- ❑ 39% of Americans without broadband access living with a disability
- ❑ 54% use the internet compared to 81% without a disability
- ❑ 10% use tax prep software compared to 20% with no disability
- ❑ IRS W & I Research recommended IRS and other agencies partner with tax prep software companies to ensure software is disability compatible and accessible

*Pew Internet & American Life Project January 2011*

## Disability & Poverty

“About 44 million Americans – one in seven – lived last year in homes in which the income was below the poverty level, which is about \$22,000 for a family of four. This is the largest number of people since the Census began tracking poverty 51 years ago.”

Washington Post, September 17, 2010

## Disability & Poverty (cont.)

- Millions of working age adults with disabilities are dependent on public benefits for income, health care, food, and housing, and this can become a trap, requiring them to remain poor to stay eligible
- In addition to income, another dimension of poverty is a lack of assets or savings



## Research has documented that having assets

- Improves economic stability
- Increases long term planning
- Leads to greater educational attainment
- Increases civic engagement
- Impacts mental and physical health
- Impacts positively self-concept
- Changes status with other community stakeholders
- Directly impacts quality of life

## **New Tools and Strategies**

- Increase access to health care through enrollment in the Medicaid Buy-In (Hawaii is one of a few states without this)
- Increase access and benefit from the Earned Income Tax Credit (EITC) and other favorable tax provisions
- Qualify for an Individual Development Account (IDA) to achieve an asset goal through matched savings
- Increase use of Social Security Work Incentives
- Benefit from financial education and affordable financial services
- Set savings and asset goals as part of peer-support strategies
- Consider the possibilities of self-employment

# ABLE Accounts



*Building a better economic future  
for Americans with disabilities*

## What is ABLE?

The Stephen Beck Jr. Achieving a Better Life Experience (ABLE) Act became law on December 19, 2014

- Created a new option for certain people with disabilities and their families to save money for the future in a tax-exempt account
- That money may be used for qualified disability expenses while still keeping their eligibility for federal public expenses

To learn more about the programs available in 32 states and the District of Columbia, visit: [www.ablenrc.org/state-review](http://www.ablenrc.org/state-review)

## Why ABLE Accounts Matter

Before the **ABLE Act**, there were limited ways to save money without the risk of losing means-tested payments.

With an ABLE account you have the ability to improve your financial stability and gain:

- An improved economic future
- Improved physical and mental health as a result of reduced financial stress
- Better choices of where to live
- Greater levels of social, civic, and economic participation

## Who Is Eligible for an ABLE Account?

To be eligible, individuals must meet 2 requirements:

1. Age requirement:
  - Had an onset of disability prior to 26<sup>th</sup> birthday
  
2. Severity of disability:
  - Determined to meet the disability requirements for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) *or*
  - Obtained a disability certification, including a physician's diagnosis, that the individual meets certain severity of disability criteria

## What Is a Disability Certification?

A disability certification is a physician's note stating that your disability creates "marked and severe functional limitations" or blindness.

- You obtain the note before opening your ABLE account and keep it in your own files.
- You certify under penalty of perjury that you obtained it prior to opening your account.

If you already receive SSI or SSDI and meet the other criteria, you do not need a separate disability certification.

## ABLE Basics

- Each eligible person may only have 1 ABLE account.
- The designated beneficiary is the account owner.
  - Another person such as a parent, a guardian, or a person with power of attorney may be allowed signature authority over the account.
- There is no longer a federal residency requirement related to establishing an ABLE account, unless otherwise established by a given program.



## ABLE Basics *(continued)*

- Total annual contributions may not exceed the federal gift tax contribution, which is currently \$15,000.
  - This may periodically adjust for inflation.
- Anyone, including the beneficiary, their family, friends, and others may make contributions to an ABLE account.
  - Contributions can include Social Security disability benefits, earnings from work, or gifts from family, friends, and others.
- Total lifetime contributions may not exceed the state limit for 529 college savings accounts.

## Using ABLE Account Funds

Distributions from an ABLE account may be made for qualified disability expenses.

Qualified disability expenses:

- Relate to the designated beneficiary's blindness or disability
- Are for the benefit of that designated beneficiary
- Must relate to maintaining or improving his or her health, independence, or quality of life

## Using ABLE Account Funds *(continued)*

The term qualified disability expenses should be broadly understood 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 that provide no benefits to others in addition to the benefit to the eligible individual

## Qualified Expenses Related to Employment

Funds in an ABLE account can be used for employment-related expenses to help an ABLE account owner secure and maintain employment, including:

- Job coaching
- Costs associated with certificates, accreditations and/or job-related trainings
- Interview preparation and resume development
- Employment training and support
- Transportation to and from your place of employment

## Qualified Disability Expenses

Examples of qualified disability expenses may include:

- Assistive technology and personal support services
- Education
- Expenses for oversight and monitoring
- Financial management and administrative services
- Health, prevention, and wellness
- Housing/disability-related housing modifications
- Personal support services
- Transportation

## Additional Examples of Qualified Disability Expenses

- Basic living expenses
- Funeral and burial expenses
- Legal fees
- Any other expenses approved by the Secretary of the Treasury under regulations consistent with the purpose of the program

**Remember: It's important not to misuse ABLE funds for non-qualified expenses. This will help avoid possible penalties, including ineligibility for federal means-tested benefits.**

# ABLE Accounts & Federal Benefits





## How Does ABLE Affect Your SSI?

- The first \$100,000 in an ABLE account will be disregarded.
- SSI payments will be *suspended* if the beneficiary's account balance exceeds \$100,000, but eligibility for SSI will not be terminated.
- Funds above \$100,000 will be treated as a resource and counted along with other resources.
- Housing expenses receive the same treatment as all housing costs paid by outside sources.
  - Social Security instructions treat housing expenses as resources only if distributed in one month and held until the following month.



## How Does ABLE Affect Medicaid Eligibility?

- ABLE assets are disregarded in determining Medicaid eligibility.
- ABLE assets supplement, rather than replace, benefits and services.
  - They may cover gaps in services and supports, enabling some people to maintain Medicaid coverage while saving for future expenses.
- If you receive SSI, Medicaid benefits are not suspended if your ABLE account balance exceeds \$100,000 (that is only applicable to the SSI monthly benefit).

## What Happens to ABLE Funds Upon the Death of a Beneficiary?

### Medicaid:

- If there are funds in an ABLE account when a beneficiary dies, the funds can be used to reimburse a state for Medicaid payments made on behalf of the beneficiary, after the creation of the ABLE account.
- The state has to file a claim for those funds but isn't required to do so.
- In this instance, the state is considered a creditor, not a beneficiary, of the ABLE account.

## How Does ABLE Affect SNAP Eligibility?

Department of Agriculture:

- ABLE funds do not affect Supplemental Nutrition Assistance Program (SNAP) benefits.

For more [information, visit: www.fns.usda.gov/snap/treatment-able-accounts-determining-snap-eligibility](http://www.fns.usda.gov/snap/treatment-able-accounts-determining-snap-eligibility)



## Tax Treatment of ABLE Accounts

- Contributions are made with post-tax dollars
- ABLE account earnings
  - Grow tax-free
  - Are tax-exempt
- Some states have tax deductions for contributions made by in- state residents:
  - Iowa, Maryland, Michigan, Missouri, Montana, Nebraska, Ohio, Oregon, Pennsylvania, South Carolina, Virginia, Wisconsin (out-of-state), and Utah (credit)
- For more information, visit: [www.ablenrc.org](http://www.ablenrc.org)

## **What Money Can I Save in My ABLE Account?**

- Gifts from family or friends
- Earned Income Tax Credit refunds
- Social Security Disability Insurance benefits
- Distributions from a Special Needs Trust or pooled trust
- Savings from employment
- Bonuses from an employer
- Contributions from an employer

## ABLE to Work Act

- The “ABLE to Work Act” allows ABLE account holders who work and earn income to contribute above the \$15,000 annual contribution limit.
- They may contribute an additional amount from whichever is less:
  - Their gross income for that taxable year
  - or*
  - The amount equal to the federal poverty level for the 48 contiguous states for a one-person household as determined for the calendar year *preceding* the year contributions are made

## **ABLE to Work Act** *(continued)*

- Beneficiary may not be participating in their employer-based retirement fund
- Earnings that are the result of employment are still counted in terms of substantial gainful activity (SGA) or earned income and taken into consideration when determining eligibility for certain public benefits
- Guidance from the U.S. Department of Treasury is expected

## Other Significant 2018 Changes

- Annual contribution limit increase to \$15,000 for 2018
- The ABLE Financial Planning Act allows funds in a 529 college savings account to be rolled over into a 529A account (ABLE account)
  - The funds are subject to the annual contribution limit
- Account owners who contribute their own money into their ABLE account may be eligible for the Retirement Savings Contributions Tax Credit (“Saver’s Credit”)



## Choosing an ABLE Program

Use the ABLE National Resource Center's comparison tool to find the program that meets your needs:

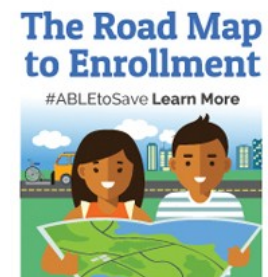
[www.ablenrc.org/state\\_compare](http://www.ablenrc.org/state_compare)

Find answers to questions such as:

- Does your state have an ABLE program? If so, is there a tax deduction?
- Are there annual or monthly fees?
- What is the initial minimum contribution?
- Are there subsequent minimum contributions to the account?
- Is there a debit card available?
- What are the investment options?

## How Do I Set up an ABLE Account?

- Visit [www.ablenrc.org](http://www.ablenrc.org)
- Find informational videos, ask the experts, or view “Friday Fast Facts” on the Road Map to Enrollment at: [www.ablenrc.org/road-map-enrollment](http://www.ablenrc.org/road-map-enrollment)
- Find the State Program Administrator to enroll: [www.ablenrc.org/state-review](http://www.ablenrc.org/state-review)



## **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.
- The ANRC brings together the investment, support and resources of the country's largest and most influential national disability organizations.

## Resources

### ABLE National Resource Center

- Upcoming and archived webinars: [www.ablenrc.org/webinars](http://www.ablenrc.org/webinars)
- Road Map to Enrollment: [ablenrc.org/road-map-enrollment](http://ablenrc.org/road-map-enrollment)
- Join the ABLE NRC Mailing List: <http://bit.ly/2CogYzu>

### National Disability Institute Webinars

- [www.realeconomicimpact.org/resources/webinar-archive](http://www.realeconomicimpact.org/resources/webinar-archive)

# Special Needs Trusts

## Why consider a special needs trust?

- When might an individual receive a large sum of money?
  1. Inheritance,
  2. Personal injury award
  3. Other situations...?
- Special concerns when that individual has a disability:
  1. They may need help managing the funds
  2. They may need to qualify for means tested benefits
  3. You may want to leave specific instructions as to how the trust will be utilized by/for your loved one

## Benefits of a special needs trust?

### Benefit A - Fiduciary Oversight

If you are concerned that your loved one may need help managing funds, a special needs trust (SNT) will put into place a trustee who has responsibility over making sure funds for your loved one are: (among other things)

1. used for their sole benefit,
2. properly managed/invested,
3. spent prudently.



## Benefits (cont.)

### Benefit B - Public Benefits Eligibility

- SNT will make funds available for supplemental needs that will not count as a resource for means tested benefits. SSI and Medicaid are the main benefits that will be protected by a properly drafted and administered SNT.
- To qualify for these benefits, an individual cannot have over \$2,000 in assets. Sometimes, an SNT will also protect access to benefits such as food stamps, subsidized housing, and other similar services.



## Benefits (cont.)

### Benefit C - Advocacy/Instructions

A SNT is an opportunity to:

- consider how a loved one's life may change in the future
- give instructions about:
  - care
  - living arrangements
  - other needs

## It's a Whole New Language ...

- **Beneficiary:** the trust is for the benefit of
- **Grantor:** authorizes transfer of funds into the trust
- **Trustee:** person or entity that has fiduciary responsibility. The trustee cannot be the beneficiary
- **Irrevocable:** cannot be revoked. The trust can be amended or terminated only under specific circumstances provided for in the trust itself
- **Remainder:** any funds that are left in the trust when the beneficiary passes away

## 3<sup>rd</sup> Party funded v. Self-funded SNTs

**The basic difference: Whose assets are funding the trust?**

- Example A: A parent wants to establish a trust for their child with a disability that will be funded through a life insurance policy. The parent includes language in the policy to leave funds to the special needs trust for the benefit of their child.
  - Funds belong to the parent: 3<sup>rd</sup> PARTY FUNDED TRUST
  
- Example B: An individual who was disabled due to an accident is receiving funds from a personal injury award settlement.
  - Funds belong to the individual: SELF-FUNDED TRUST

## Third Party Funded SNT

- Must be funded by someone other than the beneficiary
- Often established by the grantor in advance as a planning tool, and funded at some later date (when the grantor passes away, for example)
- Often a gift or inheritance, but the SNT must be recipient,
- not the beneficiary
- The beneficiary can be any age
- There is no Medicaid payback clause required. The remainder beneficiary designation is often made within the trust document

## Self-Funded SNT

- The assets funding the trust are the beneficiary's own assets
- The grantor must be either a parent, grandparent, legal guardian, or the Court
- Self-funded pooled trusts can be established by the beneficiary
- May be subject to Medicaid payback if claims have been paid on the beneficiary's behalf
- Must be irrevocable
- The beneficiary must be younger than 65
- Note: an individual can have both types of SNT

## Choosing a Trustee

- The ideal trustee will:
  - Utilize the funds for the “sole benefit” of the beneficiary
  - Maintain accurate accounting
  - Keep the best interest of the beneficiary in mind
  - Understand public benefits and keep up with changing rules
  - Wisely invest the trust assets and follow fiduciary requirements
  
- Who is right for the job?

## Choosing a Trustee (cont.)

- What may impact this choice?
  - Amount of assets that will fund the SNT
  - Type of assets that will fund the SNT
  - Is a family member or trusted individual willing to serve as trustee, or would a professional trustee be a better choice? Will they be able to serve this function in the long-term?
  
- Who provides professional trustee services?
  - Attorneys
  - Financial institutions
  - Nonprofit pooled trust organizations

## Pooled Trust Option

- A Pooled SNT is operated by a nonprofit organization
- Cross between a traditional SNT and a 401k
- Beneficiaries do not draft their own trust documents, but instead join the trust by completing a Joinder Agreement
- Funds are pooled for investment purposes, but individual accounting is kept for each subaccount
- Benefits of pooled trust:
  - Often have low or no minimum funding requirement and lower administrative fees
  - Staff should be knowledgeable about rules regulating public benefits and stay current on any changes
  - Staff are often sensitive to the needs of individuals with disabilities



## Things to keep in mind ...

- Funds must be kept in a specific account
- Any disbursements must be carefully accounted for
- Any non-exempt expenditures or cash to the beneficiary will be counted as income for SSI benefit calculation
- Advocate(s) designated
- Formal payment requests and evaluation in writing
- Any approved disbursements are processed as a check payable directly to the vendor

## How do ABLE Accounts Differ from SNT?

An ABLE account and a Special Needs Trust (SNT) are both excluded from eligibility determinations for SSI and Medicaid. *You can have both an ABLE account and a SNT.*

### Differences:

- No limitation on contributions to SNTs or number of SNTs
  - ABLE accounts - 1 account, \$15,000 per year
  - \$100,000 total threshold for suspension of SSI
- ABLE accounts grow tax-free
  - Income from SNTs is taxable
- Start up costs for ABLE accounts are minimal
  - Start-up costs for SNTs may be \$1,000's in legal fees

## What now...?

- Consider the future needs of your loved one and their ability to provide for themselves after you are gone
- Is a special needs trust right for your family?
- Determine what resources will fund the trust
- Meet with an estate planning attorney familiar with special needs planning
- Establish a trust, Letter of intent
- Update all beneficiary designations, notify anyone who may leave your loved one an inheritance/monetary gift
- Revisit the trust periodically or if your family situation changes

## Additional Resources

### Special Needs Alliance

- <http://www.specialneedsalliance.org/home>

### Social Security Administration Spotlight on Trusts

- <http://www.socialsecurity.gov/ssi/spotlights/spot-trusts.htm>

# Questions?

