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ACHIEVING A BETTER LIFE EXPERIENCE ACT (ABLE) ACCOUNTS

An Achieving a Better Life Experience Act, (or ABLE) account is another tool that may be useful for protecting an individual's eligibility for benefits such as Medicaid and Supplemental Security Income ("SSI"). While an ABLE account is not a replacement for a Special Needs Trust, it may compliment one when used in the proper manner.

An ABLE account is intended to be a simpler way for an individual with a disability to save money in excess of the asset cap for Medicaid and SSI. Unlike a Special Needs Trust, the individual (also known as the account beneficiary) can control his or her ABLE account and make all decisions regarding its use, so long as that individual is an adult and has the capacity to do so. Thus, an ABLE Account may allow the beneficiary to live more independently. Funds in an ABLE account must be used to pay for "qualified disability expenses" (e.g., education, housing, transportation, employment training and support, assistive technology, health expenses, legal fees, funeral expenses).

So long as the funds in an ABLE account do not exceed \$100,000, the beneficiary remains eligible for SSI. If the account balance exceeds \$100,000, then SSI benefits are suspended, but not terminated, until it returns below \$100,000. Medicaid eligibility remains protected. Unlike a First Party Special Needs Trust, an ABLE account can be funded by individuals other than the beneficiary. Unlike a First Party Special Needs Trust, an ABLE account (at least one established via Virginia's ABLEnow program) does not contain a Medicaid payback provision.

In Virginia, earnings in an ABLEnow account grow free from federal and state taxes. Virginia also offers an annual state income tax deduction of up to \$2,000 per contributor for contributions to an ABLEnow account.

While a Virginia resident may establish an ABLÉ account in many different states, Virginia's ABLÉ program is operated by ABLENow. For more information, visit www.ABLE-now.com or call 1-844-NOW-ABLE.

Comparisons of ABLÉ Accounts & Special Needs Trusts

	ABLE Account	First Party SNT	Third Party SNT
Established by	Beneficiary, Parent, Guardian, Agent	Beneficiary, Parent, Grandparent, Guardian, Court	Third Party
Funded by Assets of	Anyone (including individuals & trusts)	Beneficiary	Third Party
Beneficiary	Disability must have occurred before age 26 and 1) Be receiving SSI/SSDI, or 2) Provide physician certification.	Must meet SSA Definition of "Disabled." ¹	Must meet SSA Definition of "Disabled." ¹
Age Limit?	None	Beneficiary must be under 65	None
Revocable?	No, but funds can be transferred to another beneficiary.	No	Maybe
Medicaid Payback Provision?	No	Yes	No
Can a beneficiary have more than one?	No	Yes	Yes
Restrictions on Contributions?	Annual contributions from any source may not exceed	No	No

	<p>the annual gift tax exclusion amount (\$19,000 in 2025). Working individuals may be able to contribute an additional \$15,560. Virginia's cumulative limit is \$550,000.</p>		
How can funds be used?	Beneficiary's Qualified Disability Expenses ²	Must be for beneficiary's sole benefit. Goods and services that will enrich beneficiary's quality of life while protecting eligibility for Medicaid and SSI. ²	Goods and services that will enrich beneficiary's quality of life while protecting eligibility for Medicaid and SSI. ²
How can Distributions be made?	Beneficiary (or guardian or agent) has account access to make disbursements.	Beneficiary cannot force a distribution. Distributions can only be made to Third Parties on behalf of beneficiary.	Beneficiary cannot force a distribution. Distributions can only be made to Third Parties on behalf of beneficiary.
Is Medicaid protected?	So long as disbursements are for qualified disability expenses and the account balance does not exceed \$500,000 (in Virginia)	So long as all distributions are made to third parties and cash is not distributed directly to beneficiary.	So long as all distributions are made to third parties and cash is not distributed directly to beneficiary.

Is SSI protected?	So long as disbursements are for qualified disability expenses and the account balance remains below \$100,000.	So long as distributions are not made for shelter expenses, which may result in a 1/3 reduction of benefits.	So long as distributions are not made for shelter expenses, which may result in a 1/3 reduction of benefits.
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¹ An adult is considered disabled if he or she suffers from “the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.” A child under age 18 is considered disabled if he or she has “a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months.”

² An ABLE account can be used to pay for shelter expenses without resulting in a 1/3 reduction of SSI benefits.

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