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Special Needs Trusts | Elder Law | Long Term Care Planning | Medicaid | Probate | Wills & Trusts
Incapacity Planning | Guardianship | Developmental Disabilities | Veteran's Benefits

ABLE Accounts - What You Need to Know

ABLE United is Florida's ABLE program and opened for business on July 1, 2016. www.ableunited.com Florida's ABLE program is administered under the Prepaid College Board. The ABLE law is in §529A of the Internal Revenue Code.

The Achieving a Better Life Experience (ABLE) Act allows individuals with disabilities and their family and friends to deposit funds into and thus maintain funds in an ABLE account while maintaining government benefits.

ABLE accounts (not "Trusts") can be very helpful and a powerful tool for certain individuals with disabilities. To use an ABLE account the disability has to have occurred prior to age 26, so the eligible candidates will be limited. If a person can qualify, ABLE United allows for the account to be opened online in about 15 minutes at their website. Contributions will initially be limited to a total of \$14,000 per year and adjusts with the annual gift tax exclusion.

An individual can have up to \$100,000 in their ABLE account before the account starts counting for SSI (Supplemental Security Income). For Medicaid they can have up to \$418,000 (Florida's limit for 529 Educational Savings Plans). The ABLE account grows tax free provided the funds are used for qualified disability expenses. Florida Medicaid has a lien on Florida ABLE accounts upon the death of an ABLE beneficiary, similar to a Special Needs Trust.

Qualified Disability Expenses include:

Education, housing, transportation, employment training and support, assistive technology and related services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for ABLE account oversight and monitoring, funeral and burial, and basic living expenses, and anything added by Secretary of the Treasury

A popular question is how Special Needs Trust (SNT's) compare to ABLE accounts. There are a lot of similarities and differences. The attached chart illustrates some of these comparisons.

ABLE Accounts – Q & A from ABLE United Website

A. What is the ABLE Act?

The Stephen Beck, Jr. *Achieving a Better Life Experience* (ABLE) Act, a federal law enacted in December 2014, authorizes each state to establish a program that offers tax-free savings and investment options to encourage individuals with a disability and their families to save private funds to support health, independence, and quality of life. Money contributed to an account in one of these programs is generally disregarded when determining eligibility for federal benefit programs, such as Supplemental Security Income (SSI) and Medicaid.

B. What is an ABLE Account?

An ABLE account is a tax-free savings and investment account established to support qualified disability expenses for an individual with a disability, including living expenses. Money in an ABLE account is generally disregarded when determining eligibility for federal benefit programs, such as Supplemental Security Income (SSI) and Medicaid.

The ABLE United Program is the qualified ABLE program offered by the state of Florida. ABLE accounts in the ABLE United Program are referred to as ABLE United accounts.

C. What is the ABLE United program?

The ABLE United Program is the qualified ABLE program offered by the state of Florida. The Program is administered by Florida ABLE, Inc. (d/b/a ABLE United), a direct-support organization of the Florida Prepaid College Board (Board). The Board, established in 1987, oversees more than \$10 billion in collective investments in the Stanley G. Tate Florida Prepaid College Program and the Florida 529 Savings Program.

D. What Does 529A mean?

“529A” refers to Section 529A of the Internal Revenue Code. This is the legal framework for many of the specific rules of an ABLE United account. In addition, Section 529A provides for the federal income tax exemption for earnings in an ABLE United account.

E. Do I have to receive disability benefits to be eligible?

No. ABLE United accounts allow individuals with a disability and their family to save private funds tax-free, much like a Roth IRA (Individual Retirement Account) or 529 college savings account. Money in an ABLE United account is generally disregarded when determining eligibility for government benefit programs but an individual need not receive disability benefits to be eligible to open an ABLE United account.

F. How will an ABLE account affect my federal benefits?

An ABLE United account is disregarded when determining federal benefit eligibility with the following two exceptions for individuals receiving Supplemental Security Income (SSI):

CAUTION: For the purposes of determining **eligibility for SSI**, money in an ABLÉ United account in excess of \$100,000 is considered an asset to the individual with a disability and may cause SSI benefits to be reduced or suspended. **An account balance up to and including \$100,000 is disregarded.** A withdrawal that will be used for a housing expense but that is not spent in the same month will be considered an asset of the individual with a disability and may cause SSI benefits to be reduced or suspended.

There is **no impact on Medicaid benefits**, regardless of how much money is in the ABLÉ United account, even if SSI benefits are reduced or suspended due to the ABLÉ United account.

G. How will having an ABLÉ account affect my state benefits?

In general, ABLÉ accounts are *expected* to be disregarded from consideration by state benefit programs, with the exceptions addressed in “Will an ABLÉ United account affect my federal benefits?” To determine whether your specific state benefits may be impacted, *please contact your provider.*

For the purposes of organizing information on this site, Medicaid is considered a federal benefit by the ABLÉ United Program. All assets, without limitation, in an ABLÉ United account are disregarded when determining eligibility for Medicaid.

H. Does having an ABLÉ account help me qualify for disability benefits?

Qualifying for and opening an ABLÉ United account does not, by itself, allow an individual to qualify for any disability benefit program. However, since funds in an ABLÉ United account are generally disregarded when determining eligibility for disability benefit programs, contributing money into an ABLÉ United account will reduce countable assets considered for benefit eligibility and may help an individual qualify for a program that they were otherwise not qualified for based on countable assets.

In addition, family and friends may contribute to an ABLÉ United account. Contributions from a third party made directly to an ABLÉ account are not considered income to, or assets of, the individual with a disability when determining eligibility for federal disability benefit programs. This means that family and friends can provide financial assistance without jeopardizing eligibility for federal disability benefits.

I. How will items (or assets) purchased from an ABLÉ account affect benefits?

Generally, withdrawals from an ABLÉ United account will not affect disability benefit programs as long as they are *living and disability expenses*. Normal resource counting rules and exclusions will apply to assets and other items purchased with money from an ABLÉ United account.

J. What is Medicaid repayment?

Federal law requires that each state recover Medicaid expenditures from a Medicaid recipient’s estate. *Federal law also allows for a state to recover Medicaid expenditures from an ABLÉ United account.* There are certain limitations to Medicaid recovery (also called repayment) from an ABLÉ United account:

A state cannot recover funds from an ABLE United account prior to the death of the individual with a disability.

A state may only request reimbursement for Medicaid benefits paid, less premiums paid to a Medicaid Buy-in program, since the date of establishment of the ABLE United account. State recovery of Medicaid premiums from an ABLE United account occurs after payment of all outstanding Qualified Disability Expenses for the individual with a disability, *including funeral and burial expenses.*

For the purposes of Medicaid recovery, the state is a creditor of an ABLE United account, and not a beneficiary.

K. How does an ABLE account work with my special needs trust?

An ABLE United account may be used as a complement, or alternative, to a Special Needs Trust.

In general, an ABLE United account is less expensive than an Special Needs Trust. By comparison, in an ABLE United account there is a *monthly account fee* of \$2.50 (\$30 annually) and an *investment management fee* of up to 0.29% of the account balance annually. A Special Needs Trust can cost \$500 to \$5,000 to establish and 1-2% of assets annually.

An ABLE United account allows for *direct access to funds for authorized individuals* unlike a Special Needs Trust which may require withdrawal requests to be approved by a trustee. An ABLE United account provides *tax-free earnings* unlike a Special Needs Trust where earnings are taxed at trust rates.

L. Who may open an ABLE account?

There are three eligibility criteria for opening an ABLE United account:

- Florida Residency

The individual must be a Florida resident at the time of application.

- Disability Severity Criteria

The individual must be blind or have a disability that meets the disability and severity requirements for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

- Disability Onset

The onset of blindness or disability must have occurred before the individual's 26th birthday.

M. What are the disability severity requirements for SSI/SSDI?

For the purposes of ABLE United account eligibility, the disability and severity requirements refer to the Social Security Administration's definition for a child with a disability and blindness – regardless of the current age of the individual opening an ABLE United account.

Disability (Child under 18): A medically determinable physical or mental impairment that results in marked and severe functional limitation(s), and which can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months.

Blindness: vision, with use of a correcting lens, which is 20/200 or less in the better eye or tunnel vision of 20 degrees or less.

N. What conditions qualify for an ABLE account?

The Internal Revenue Service categorizes eligible disabilities as follows:

Developmental Disorders: Autistic Spectrum Disorder, Asperger's Disorder, Developmental delays and learning disabilities,

Intellectual Disability: May be reported as mild, moderate, or severe intellectual disability

Psychiatric Disorders: Schizophrenia, Major depressive disorder, Post-Traumatic Stress Disorder (PTSD), Anorexia Nervosa, Attention Deficit/Hyperactivity Disorder (AD/HD), Bipolar Disorder

Nervous Disorders: Blindness, Deafness, Cerebral Palsy, Muscular Dystrophy, Spina Bifida, Juvenile-onset Huntington's Disease, Multiple Sclerosis, Severe sensorineural hearing loss, Congenital cataracts

Congenital Anomalies: Chromosomal abnormalities, including Down Syndrome; Osteogenesis Imperfecta, Xeroderma Pigmentosum, Spinal muscular atrophy, Fragile X Syndrome, Edwards Syndrome

Respiratory Disorders: Cystic Fibrosis

Other: Includes Tetralogy of Fallot, Hypoplastic left heart syndrome, End-stage liver disease, Juvenile-onset rheumatoid arthritis, Sickle cell disease, Hemophilia, and any other disability not listed

O. Does my condition meet the eligibility requirements for an ABLE account?

An individual meets the disability and severity criteria to open an ABLE United account if at least one of the following is true:

- The individual is entitled to Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI)

- The individual has a condition on the List of Compassionate Allowances Conditions maintained by the Social Security Administration.

- The individual has a diagnosis from a physician that the individual has a medically determinable physical or mental impairment that results in marked and severe functional limitation(s), and which can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months.

P. I am older than 26 - May I open an ABLE account?

Current age is not considered when opening an ABLE United account – except that the account must be opened by an adult 18 years of age or older. The *onset of the disability* must have occurred *before the individual's 26th birthday*.

Q. For how long must I be a resident of Florida to meet the residency requirement?

While there is no minimum residency period, the individual must be a Florida resident at the time of application for an ABLE United account.

R. What if I move out of Florida?

If the individual moves away from Florida, they may keep his or her ABLE United account and use it as he/she did when he/she was a Florida resident.

S. May I transfer my ABLE United account to an ABLE program in another state?

An individual may transfer his or her ABLE United account to another state program one time in any 12 month period without penalty.

T. May I transfer money in my ABLE account to another *eligible* individual?

Yes, the funds in an ABLE United account may be transferred to another eligible individual without penalty provided that:

- Transfer occurs prior to the death of the transferring individual.
- The receiving individual meets the eligibility requirements for an ABLE account.
- The receiving individual is the **sibling** (brother, sister, stepbrother, stepsister, half-brother, and half-sister) of the transferring individual.

U. How do I open an ABLE United account?

An ABLE United account can be opened quickly and easily online at www.ableunited.com. The individual with a disability may open an account independently if they are over the age of 18. If they individual cannot, or would prefer to have assistance, an individual legally authorized to act on his or her behalf (such as a parent, legal guardian, or person acting under a power of attorney) may open and manage an account.

V. What information and documentation must I provide to open an account?

If a person other than the individual with a disability is opening an account, than the following is required from that person:

- Certification of authority to open the account
- Personal identifying information

For the individual with a disability, the following is required:

- Personal identifying information
- Category of disability with onset before age 26
- Selection of at least one investment option

The following may also be necessary:

- Banking information to make an electronic contribution
- Date of diagnosis with name and address of the treating physician if certifying the individual's disability eligibility pursuant to a physician's diagnosis

To support an efficient enrollment process, source documents are not required.

W. May I have more than 1 ABLE account?

No, an individual will not be allowed to have more than one ABLE account open at any time.

X. Who owns and manages an ABLE account?

The individual with a disability is the owner of the ABLE United account and may manage the account independently. If the individual cannot, or would prefer to have assistance, an individual legally authorized to act on his or her behalf (such as a parent, legal guardian, or person acting under the power of attorney) may open and manage an account.

Y. Is the person who assists the disabled individual a co-owner?

No. The individual with a disability owns all money in the ABLE United account – including money contributed by a third-party. While the individual may have someone assist them, the individual(s) assisting do not have any ownership interest in the account. The account is to be managed exclusively for the benefit of the individual with a disability.

Z. Who may contribute to an ABLE account?

Anyone may contribute to an ABLE United account on behalf of the individual with a disability, including the individual, friends and family. Contributions are considered a completed gift.

AA. Is there a limit to the amount of money that may be contributed to an ABLE account?

The individual with a disability and others contributing on their behalf may contribute up to \$14,000 in total to an ABLE account each year.

Contributions are not allowed if and when the account balance is at, or above, \$418,000.

BB. How can I contribute to an ABLE account?

Contributions may be made to an ABLE United account by check or electronic payment, including automatic withdrawal and payroll deduction.

CC. Do contributions to an ABLE account reduce taxable income?

Contributions do not reduce the taxable income of the contributor. Contributions are made with after-tax dollars, much like a Roth IRA (Individual Retirement Account) or a 529 college savings account.

DD. Are contributions to an ABLE account from family & friends considered “income?”

Contributions made directly to an ABLE United account from a third-party are not considered income to the individual with a disability; rather, contributions are considered completed gifts.

EE. Are contributions to an ABLE account considered an “asset?”

Contributions made to an ABLE United account are generally not considered an asset to the individual with a disability for the purposes of federal means-testing. However, if a third-party provides money to the individual with a disability, rather than a direct contribution to the ABLE United account, that money may be considered an asset of the individual until it is transferred to the ABLE United account.

FF. May I transfer funds from a Special Needs Trust to an ABLE account?

Yes; and transferring funds from a Special Needs Trust to an ABLE United account may be beneficial. When compared to a Special Needs Trust, an ABLE United account: is less expensive, allows for direct access to funds for authorized individuals, and provides tax-free earnings.

GG. May I roll-over funds from a 529 College Savings Plan to an ABLE account?

No. Federal law does not currently allow for a rollover between a 529 college savings plan and an ABLE United account. Please consult your tax adviser to discuss your specific situation and options.

HH. How are funds in an ABLE account invested?

The ABLE United Program offers multiple savings and investment options with varying degrees of investment risk. An individual with a disability, or an authorized person acting on their behalf, *may choose the most appropriate option(s)*. The underlying savings and investment products for each investment option are managed by professional investment management firms selected by the ABLE United Program based on investment philosophy and strategy; performance history; and organizational experience and financial stability.

II. What are my savings/investment options in the ABLE United program?

ABLE United offers seven professionally managed investment options designed to meet the needs of most investors. These include predesigned portfolios and individual funds from which a custom portfolio may be built by allocating funds to one or more options.

Predesigned Portfolios:	Fund Options:
Conservative Portfolio	Money Market (Florida PRIME)
Moderate Portfolio	U.S. Bond Fund (Vanguard)
Growth Portfolio	U.S. Stock Fund (Vanguard)
	International Stock Fund (BlackRock)

JJ. May I change or update my investment options?

The distribution of money between investment options is called an allocation. For new contributions, you may change the allocation at any time. For money that is already in an ABLE United account, the allocation of the account balance may be modified up to two times per calendar year.

KK. Which savings or investment option should I choose?

The ABLE United Program cannot provide tax or investment advice. The U.S Securities and Exchange Commission provides general investment guidance which includes:

- Have a financial plan.
- Understand your risk tolerance.
- Diversify your investments.
- Start saving early.

For more information visit: www.investor.gov/investing-basics.

Please consult your investment adviser to discuss your specific situation and options.

LL. How do I access funds in an ABLE account?

Money in an ABLE United account may be withdrawn at any time and for any reason via electronic transfer or check. ***If** the money is spent on one of the following Qualified Disability Expenses, which are intended to include “living expenses” and are not required to be medically necessary, the earnings on the money withdrawn is tax-free:*

Health
 Education
 Housing
 Transportation
 Legal Fees
 Financial Management
 Employment Training and Support
 Assistive Technology and Personal Support Services
 Oversight and Monitoring
 Funeral and Burial
 Other expenses approved by the Secretary of the U.S. Treasury

MM. Do withdrawals require approval from the ABLE account program?

No. The ABLE United Program does not approve withdrawals from an ABLE United account. Money may be withdrawn from an ABLE United account at any time and for any reason.

NN. Who determines whether my expense is a Qualified Disability Expense?

Each year, the ABLE United Program will report the total amount of distributions to the Internal Revenue Service (IRS) as part of our annual tax reporting. The IRS may investigate the distributions from an ABLE United account to determine whether a withdrawal was for a Qualified Disability Expense.

In addition, each month, the ABLE United Program will report the date and amount of each distribution from an ABLE United account to the Social Security Administration. If the individual with a disability receives Supplemental Security Income (SSI) or Medicaid, the Social Security Administration may investigate any distribution to determine whether the withdrawal was for a Qualified Disability Expense.

In general, we recommend that documents and information adequate to justify each expense as qualified be retained by the individual or person administering the ABLE United account on their behalf.

OO. What if my expense is not a Qualified Disability Expense?

If money is withdrawn from an ABLE United account to pay a non-qualified expense, the earnings portion of the withdrawal (only the earnings) will be considered income to the individual with a disability, taxed at the individual's federal income tax rate, and will be assessed an additional 10%.

In addition, the funds withdrawn will be considered an asset to the individual with a disability. The treatment of the withdrawal as an asset and the earnings as income may result in a reduction or suspension of federal disability benefits.

ABLE United

Please contact us if you have any questions regarding setting up or managing your ABLE United account.

Phone
888-524-ABLE (2253)

For account assistance, our Account Specialists will be available:
Monday – Friday, 9 am – 6 pm, ET

The Florida Relay Service provides communications assistance to individuals with hearing, speech or vision disabilities. Dial 711.

E-mail: You can email us at customerservice@ableunited.com

ABLE United cannot accept changes to your account, including a change of address, via email. We also cannot provide account specific information via email.

Mail: Please send your correspondence and contributions to the address below.

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