



## The ABLE Act

SC1044

CRN202112-205820

## Important Disclosure

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The information provided is not written or intended as specific tax or legal advice. MassMutual, its employees and representatives are not authorized to give tax or legal advice. Individuals are encouraged to seek advice from their own tax or legal counsel.

# ABLE Act Overview

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- President Barack Obama signed the Achieving a Better Life Experience, or ABLE Act on December 19, 2014, as part of the Tax Increase Prevention Act of 2014.
- This law will allow eligible individuals with disabilities to have a tax-free savings account; modeled after 529-accounts.
- Legislation is required in each state. For the most up-to-date information on which states have launched the ABLE Act, please visit [www.ablenrc.org](http://www.ablenrc.org)

# Eligibility Requirements For ABLE Account

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- Must be blind or disabled prior to the age of 26.<sup>1</sup>
- Can be >26 when opening account, as long as the disability occurred prior to turning 26.
- If age criteria is met AND individual is already receiving SSI and/or SSDI benefits = automatically eligible.
- If age criteria is met AND individual is NOT receiving SSI and/or SSDI benefits:
  - must meet Social Security's definition and criteria of significant functional limitations, and
  - receive a letter of certification from a licensed physician

Source:

<sup>1</sup> <https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130740>

<sup>2</sup> <http://69.195.107.141/about/what-are-able-accounts>

## ABLE Account Limits

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- Maximum annual contributions - limited to the annual IRS gift tax exclusion amount. (as of 2018, the amount is \$15,000)
- Maximum amount - currently \$100,000 for SSI recipients and up to state's 529-plan amount
- If SSI recipient's ABLE account goes over \$100k, SSI benefit is suspended until the account falls back below \$100k. Does not affect Medicaid.
- Only one ABLE Account allowed per person
- Contributions can be made by anyone (beneficiary, family members, friends, etc.) and must be made in cash

Source: <http://69.195.107.141/about/what-are-able-accounts>

# ABLE Account Manager/Distributions

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- Beneficiary or legal guardian manage the account
- “Qualified Disability Expenses”<sup>1</sup>:
  - 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

Source: <sup>1</sup> Social Security Program Operations Manual System (POMS)- effective 10/19/2016-Present,, SI 01130.740 Achieving a Better Life Experience (ABLE) Accounts, URL: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130740>

# ABLE Account Payback

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ABLE Account requires a Medicaid payback (reimbursement) to the State(s) when the beneficiary dies:

- For all that the State(s) paid for medical assistance after the establishment of the ABLE account
- Including for 3rd party contributions (i.e. parents, grandparents, siblings, etc.), after the account was created

# State's Decision Whether To Adopt ABLE

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- ABLE programs are developed and managed on the state level
- States are not required to establish ABLE Act. Each state will have to make this decision for itself.
- States can decide to contract with another state that has established a plan to administer accounts
- The ABLE Act requires that any state that establishes a plan must provide adequate safeguards to prevent excess contributions
- Individual can enroll in any state's ABLE program, if the state is offering the program and accepting out of state residents



# Opening An ABLE Account

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- Individual can enroll in any state's ABLE program, if the state is offering the program and accepting out of state residents
- State determines the enrollment process.
- Enrollment/maintenance of the account is primarily done through the individual state ABLE program website/online portal. Some allow via mail or fax.
- Depending on the state, there may be a minimum contribution to open the account, as well as an annual maintenance fee.

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

# States Offering ABLÉ Accounts

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[www.ableNRC.org](http://www.ableNRC.org)

# Things To Consider With An ABLE Account

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An ABLE Account may not be the best vehicle if:

- Inheritances, settlements/judgments, or contributions from family/beneficiary are >maximum annual contribution limit
- Beneficiary who incurs disability is older than age 26
- The beneficiary cannot make financial decisions

Another tool may be a Special Needs Trust

# How Does A Special Needs Trust Work?

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- Stipulates how the monies contributed to the Trust are disbursed for the beneficiary
- State specific language is necessary\*
- Names a Trustee who is responsible to carry out terms of the Trust Agreement
- The Trustee is obligated to act both in accordance with these provisions and in the interests of the beneficiary
- There are many ways SNTs can be created to fit the needs of the family.

\*You should employ the services of an attorney who is familiar with the laws and regulations pertaining to Trusts of the appropriate state. Not all lawyers are familiar with complex Medicaid rules.

# How MassMutual Can Help

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- Understand the financial needs of the individual and how the social, medical, and legal needs impact their life care plan
- Provide a financial needs analysis
- Coordinate financial strategies with the attorney and other professionals on the team
- Offer options that make the most sense based on your needs
- Coordinate with an attorney and other professionals to ensure that benefits such as Medicaid\* or Supplemental Security Income\*\* won't unintentionally be jeopardized
- Know the questions to ask about your current and future needs
- Help the caregiver maintain the lifestyle of the special needs individual

\*For more information regarding benefits provided by Medicare or Medicaid (Medi-CAL in California), visit [www.cms.hhs.gov](http://www.cms.hhs.gov). Medicaid guidelines vary by state. Contact your local Medicaid office for details.

\*\*For more information about SSI go to [www.ssa.gov/ssi/](http://www.ssa.gov/ssi/). Information is available by telephone, mail, in person at an office. The toll-free number is 1-800-772-1213.

**Thank You**

