

The Basics of ABLE & CalABLE 2023



Disclaimer

The following presentation is meant for education only and does not constitute legal advice nor counsel. Your situation may be unique and require careful attention.

Keep in mind that the information in these slides could become out of date, as the laws and local practices relating to these matters are constantly developing.

What you will learn today

1. ABLE basics
2. CalABLE basics
3. Resources

SSI and Medi-Cal resource limits

SSI: \$2,000/\$3,000

<https://www.ssa.gov/ssi/text-resources-ussi.htm>

Medi-Cal: \$130,000 for an individual and \$65,000 for each additional family member.

<https://www.dhcs.ca.gov/services/medical/eligibility/Pages/Asset-Limit-Changes-for-Non-MAGI-Medi-Cal.aspx>

ABLE basics

Federal legislation in 2014 that allows:

- States to create tax-advantaged savings and investment programs for people with disabilities
- Money in ABLE accounts to not affect eligibility for benefits like SSI or Medi-Cal
- Money in ABLE accounts used to pay for housing, education, food, transportation, and much more.

ABLE basics

State ABLE programs:

Currently, 46 states and the District of Columbia participate in ABLE, and each has its own requirements – there are similarities.

Can open an ABLE account in states that allow out-of-state residents to do so: <http://www.ablenrc.org/select-a-state-program/>

Tool to compare 3 states: <http://www.ablenrc.org/compare-states/>

Search by programs features: <https://www.ablenrc.org/state-plan-search/>

ABLE basics

When comparing state plans consider:

- Documents needed to open an account
- Investments offered
- Maintaining the account and fees
- Other requirements unique to the State

ABLE Eligibility

- **(1)** Disabled before age 26 **AND**
- **(2A)** Receive SSI or SSDI **-or-**
- **(2B)** Self-certification: Has been diagnosed by a qualified physician with a physical or mental disability resulting in marked and severe functional limitations that is expected to last at least one year.
 - Condition is listed in SSA's Blue Book Listings, describing each of the major body systems that cause marked and severe functional limitations:
<https://www.ssa.gov/disability/professionals/bluebook/AdultListings.htm>
 - Also, if your condition is listed on SSA's List of Compassionate Allowances:
<https://www.ssa.gov/compassionateallowances/conditions.htm>

Sample certification letter: <https://www.ablenrc.org/wp-content/uploads/2020/10/spt-able-disability-certification.pdf>

FAQ: <https://www.ablenow.com/save/eligibility/>

ABLE yearly contributions

Annual contribution limits: \$17,000 (\$16,990 for Alaska, 15,630 for Hawaii). Plus, \$13,590 if:

An ABLE account owner who works and does not participate in an employer-sponsored retirement account, may save additional money within ABLE from earnings.

Can contribute whichever is less:

- Amount equal to annual gross salary **OR**
- \$13,590 (FPL) in 2023.

What this means is a potential of savings in ABLE of
 $\$17,000 + \$13,590 = \$30,590$ per year

ABLE contributions

1. Anybody can contribute: family, friends, and the account-holder...
2. States have set limits for total allowable ABLE savings. Limits range from \$235,000 to \$529,000. (CA: \$529,000 contribution + earnings) **BUT** beware if you receive SSI.

ABLE contributions if on SSI

- Up to \$100,000 (contribution + earnings) will NOT affect SSI.
- When an ABLE account exceeds \$100,000 (contribution + earnings), will be treated as a resource—SSI payment is suspended but not terminated.
- Once the ABLE account balance over \$100,000 falls back under the resource limit, SSA will reinstate benefits, even after 12 months of being off SSI.

ABLE contributions if on SSI

Money deposited into the ABLE account by third parties is not counted as income.

ABLE basics

Any amount of ABLE savings will NOT affect the following federal programs:

- Housing Assistance through HUD programs
- Supplemental Nutrition and Assistance Program (SNAP) [CalFresh in CA]
- Free Application for Federal Student Aid (FAFSA)
- Medicare or any type of Medicaid benefit
- SSDI benefits

ABLE investments

- The account balance (principal and income) can be invested through a variety of options offered by state ABLE program.
- ABLE account earnings grow tax-free.

ABLE basics

- Beneficiary is always the account owner
- Only one ABLE account per beneficiary
- Can rollover 529 college savings plan into ABLE without being penalized. There is a \$17,000 rollover limit (less the current tax-year ABLE contributions). The same occurs for Pooled Trusts or Special Needs Trusts.

ABLE Qualified Disability Expenses

What is a Qualified Disability Expense (QDE)?

Any expense related to the designated beneficiary as a result of living a life with disabilities that:

- helps maintain or improve your health,
- Independence, or
- quality of life.

ABLE Qualified Disability Expenses

QDEs:

- Housing
- Food
- Transportation
- Employment training and support
- Adaptive equipment
- Health, prevention & wellness
- Vacation
- Financial management and oversight
- “Other Expenses Approved by the Treasury Regulations”

https://www.ablenrc.org/wp-content/uploads/2019/07/Questions_Answers-QDE-Webinar.pdf

<https://www.ablenrc.org/qualified-disability-expense-fundamentals/>

<https://www.ablenrc.org/frequently-asked-questions/#qualified-disability-expenses>

https://www.ablenrc.org/wp-content/uploads/2019/07/4-ABLE-and-Qualified-Disability-Expenses_0.pdf

ABLE Qualified Disability Expenses

Non-QDE: Expense is now subject to regular income taxes, plus a 10% tax penalty on account earnings – and benefits may be at risk (expense may now be considered a resource)

Examples:

- Gambling
- Alcohol
- Expense questionable by the IRS – buy an illegal item
- Gift for someone other than the beneficiary

Decision Guides

Able Resource Center Decision Guides:

<https://www.ablenrc.org/able-account-decision-guide-series/>



CaABLE basics

- Low fees
- Free, easy online enrollment process
- E-Gifting
- CaABLE Visa[®] Prepaid Card

Who can *open* a CalABLE account?

To open a CalABLE account, an individual must:

- (1) Be a U.S. citizen or an individual residing in the United States;
- (2) Be 18 years of age or older with the legal capacity to contract;
- (3) Have a Social Security number or other taxpayer identification number; and
- (4) Have a U.S. permanent address that is not a Post Office Box.

Who can *open* a CalABLE account? (cont.)

If the ABLE-eligible individual is unable to open his or her own ABLE account, the following individuals may:

- Person with legally enforceable power of attorney
- Individual's conservator, legal guardian, spouse, parent, sibling, grandparent, representative payee appointed by the Social Security Administration, in this order.

Who can *manage* the account?

(1) Eligible individual; **OR**

(2) Authorized legal representative (ALR)

NOTE: If there is an ALR, only the ALR may manage the account.

- To be an ALR, the following has to be established:
 - (i) The person is a U.S. Citizen or an individual residing in the U.S.;
 - (ii) The person is at least 18 years of age;
 - (iii) The person has a Social Security Number or other Taxpayer Identification Number;
 - (iv) The person has a U.S. permanent address that is not a P.O. Box; **-and-**
 - (v) The person is any of the following:
 - (a) person selected by the eligible individual; **or**
 - (b) person with a power of attorney; **or**
 - (c) conservator or legal guardian, spouse, parent, sibling, grandparent, or representative payee appointed by SSA (in this order)

CaIABLE basics

What do you need to sign up?

- Taxpayer ID number of account holder (and ALR if assigned)
- \$25 initial deposit
- Routing and account number if you wish to link a bank account in order to transfer money to/from the CaIABLE account

CaABLE basics

Application process: <https://www.calable.ca.gov/open>

- Create user ID and password
- Select delivery options of how you would like to receive your statements and other information
- Choose investment option
- Link to a bank account
- Request a prepaid card



CalABLE basics

How to add money to CalABLE account:

- Login at CalABLE.ca.gov
- Contributions: any time by check, ACH transfer from account connected to the CalABLE account.
- Allow 10 business days for contributions made by check or ACH transfer

See <https://www.calable.org/faq>

CalABLE basics

Distributions:

- Login at CalABLE.ca.gov
- Withdrawals/Distributions can be requested by check (\$5/check fee) and mailed to the desired recipient, or ACH transfer to connected account
- Funds can be also loaded directly from the CalABLE account onto the optional CalABLE Visa[®] Prepaid Card, which can be used everywhere Visa debit cards are accepted
- CalABLE does not track or verify whether a distribution is a QDE so keep records
- Allow 10 business days for distributions made by check or ACH transfer

E gifting

“We offer a gifting tool which allows you to ask friends and family for gifts on holidays, special occasions or to help you reach a financial goal. All you have to do is create an eGift event at any time.”

To set up and eGift event:

- Log into your CalABLE account
- Select the eGift Tab on the CalABLE Menu to set up the event and create a personalized message.
- Share the unique eGift link with as many family and friends as you like

“We will send out an email with a unique link and a personalized message, instructing recipients on how to make an online contribution. The email can be sent to as many friends and family as you like.”

About qualified disability expenses

Regarding housing expenses: SSI benefits can be affected if you use CalABLE funds for any housing expenses and don't spend the money in the same month you took the money from your CalABLE account. Make sure to spend housing money within the same calendar month that you withdraw the money.

In-kind support and maintenance (ISM): distributions from the ABLE account for food and/or shelter does not reduce the SSI monthly payment.

For general information on ISM see: <https://justiceinaging.org/kind-support-maintenance-ssi-program/>

CaABLE basics

Four investment choices:

FDIC-Insured Portfolio: “Seeks a stable, conservative return by investing in a low risk, interest bearing deposit account.” 100% interest-bearing account.

Conservative Portfolio: “Seeks a conservative to moderate long-term total return by investing primarily in bond funds, with smaller allocations to stock funds and a funding agreement.” 20% Stocks 55% Bonds 25% Funding Agreement.

Moderate Portfolio: “Seeks a moderate long-term total return by investing in stock funds, bond funds, and a funding agreement.” 50% Stocks 45% Bonds 5% Funding Agreement.

Aggressive Growth Portfolio: “Seeks aggressive growth and long-term total returns by investing primarily in stock funds.” 80% Stocks 20% Bonds.

See: <https://www.calable.ca.gov/invest>

CalABLE Fees & Expenses

“An annual fee of \$37 per year is deducted in monthly installments from each CalABLE account. There are also low fees on the underlying investment options plus a state administrative fee. Additional fees apply if you choose not to use certain online features, such as receiving paper statements.”

See <https://www.calable.ca.gov/fees>

Medi-Cal and CalABLE

Medi-Cal, California's Medicaid Program, provides health care services including medical, dental, mental health, substance use treatment, long-term care services and support for low-income adults, children, seniors, pregnant women, and persons with disabilities.

At time of the account holder's death, any outstanding QDEs, including funeral and legal expenses, may be paid using ABLE funds. The account is then transferred into the deceased individual's estate.

Medi-Cal estate recovery (SB 833)

Medi-Cal will only attempt recovery if (ALL must apply):

- (1) The deceased was age 55 or older;
- (2) The individual was a user of nursing facility services or home and community-based services, including related hospital and prescription drug services;
- (3) The individual's estate is required to go into formal probate (estate of \$184,500 or more); **and**
- (4) The member is not survived by a spouse or registered domestic partner, child under 21 years of age, or disabled child of any age.

Recipients of the estate may also apply for a hardship waiver.

Recovery is limited to the amount of payments made for the services listed above (including managed care premiums) or the value of the estate, whichever is less.

CalABLE basics

- Up to \$100,000 is exempt from money judgments from general creditors. (WIC 4880).
- Account protection only applies to California residents with a CalABLE account .

See <https://www.treasurer.ca.gov/able/>

See <https://www.treasurer.ca.gov/able/resources/factsheets/medi-cal-program-fact-sheet.pdf> (note that this link has the maximum ABLE contribution for 2022. For 2023, it is \$17,000)

ABLE v. Special Needs Trust

CalABLE

- Can open by yourself online in 20 minutes or less.
- Individual with a disability is the owner. They, or an Authorized Legal Representative, can manage and spend the money.
- Broad range of allowable uses, including food and housing.
- Cost: State Administrative Fee

Special Needs Trust

- Generally, need to work with an attorney to create.
- A Trustee manages the Trust and has sole discretion over spending.
- Broad range of allowable uses, but not food or housing.
- Cost Varies; anywhere from a few hundred to a few thousand to start, plus ongoing costs.

ABLE v. Special Needs Trust (cont.)

CaABLE

- Free to open. Fees start at just \$37 a year. Some investment choices have additional fees.
- Tax-free withdrawals for qualified expenses.

SNT

- Contributors are limited (may not include Beneficiary). No deposit limits.
- Earnings are taxed.

Spread the word!

In 2022, the U.S. Congress passed the ABLE Age Adjustment Act.

Increases the eligibility age of beneficiaries of ABLE accounts from the onset of disability before age 26 to onset before age 46—beginning January 1, 2026.

Resources (cont.)

ABLE National Resource Center:
<https://www.ablenrc.org/>

CalABLE: <https://www.calable.ca.gov/>

FAQ: <https://www.calable.ca.gov/faq>

Resources (cont.)

Sign up to receive CalABLE information:

<https://app.e2ma.net/app2/audience/signup/1864790/1809089.90961601/>

State Treasurer resource:

<https://www.treasurer.ca.gov/able/resources.asp>

Quarterly newsletters:

<https://www.treasurer.ca.gov/able/resources/newsletter/index.asp>

Social Security Program Operations Manual System (POMS), SI 01130.740:

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

Questions?

