

Program Operations Manual System (POMS)

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SI 01130.740 Achieving a Better Life Experience (ABLE) Accounts

CITATIONS: [Public Law 113–295](#) The Stephen Beck, Jr., Achieving a Better Life Experience Act (ABLE Act) – Enacted December 19, 2014

A. What is an ABLE Account?

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged account that can be used to save funds for the disability-related expenses of the account's designated beneficiary, who must be blind or disabled by a condition that began prior to the individual's 26th birthday.

An ABLE program can be established and maintained by a State or a State agency directly or by contracting with a private company (an instrumentality of the State). An eligible individual can open an ABLE account through the ABLE program of the individual's State of residence. If an eligible individual's State of residence does not have an ABLE program but has contracted with another State, the eligible individual can open an ABLE account through that other State's ABLE program.

An eligible individual can be the designated beneficiary of only one ABLE account, which must be administered by the ABLE program of the State in which he or she lives or, if the designated beneficiary lives in a contracting State, by the ABLE program of the State with which the State of the individual's residence has contracted. If the designated beneficiary of an ABLE account moves to another State, then the individual must transfer his or her ABLE account to the new State of residence or, if the new State of residence is a contracting State, to the ABLE program of the State with which the new State of residence has contracted.

Upon the death of the designated beneficiary, funds remaining in the ABLE account, after payment of any outstanding qualified disability expenses, are used to reimburse

the State(s) for certain Medical Assistance (Medicaid) benefits the designated beneficiary received.

B. Definition of terms

1. Designated beneficiary

The designated beneficiary is the eligible individual who established and is the owner of the ABLÉ account. To be an eligible individual, he or she must be:

- a. eligible for Supplemental Security Income (SSI) based on disability or blindness that began before age 26;
- b. entitled to Disability Insurance Benefits (DIB), Childhood Disability Benefits (CDB), or Disabled Widow's or Widower's Benefits (DWB) based on disability or blindness that began before age 26; or
- c. someone who has certified, or whose parent or guardian has certified, that he or she:
 - o has a medically determinable impairment meeting certain statutorily specified criteria; or,
 - o is blind; and,
 - o the disability or blindness occurred before age 26.

NOTE: No inference regarding disability under the Social Security Act may be drawn from a disability certification.

2. Contributions

A contribution is the deposit of funds into an ABLÉ account. Any person can contribute to an ABLÉ account. (Note that "person," as defined by the Internal Revenue Code, includes an individual, trust, estate, partnership, association, company, or corporation.) However, the Internal Revenue Service (IRS) limits the total annual contributions any ABLÉ account can receive from all sources to the amount of the per-donee gift-tax exclusion in effect for a given calendar year. For 2016, that limit is \$14,000.

3. Distributions

A distribution is the withdrawal or issuance of funds from an ABLÉ account. The designated beneficiary or the person with signature authority determines when

distributions are made. Distributions may be made only to or for the benefit of the designated beneficiary.

4. Person with signature authority

A person with signature authority can establish and control an ABLÉ account for a designated beneficiary who is a minor child or is otherwise incapable of managing the account. The person with signature authority must be the designated beneficiary's parent, legal guardian, or agent acting under power of attorney. For SSI purposes, we always consider the designated beneficiary to be the owner of an ABLÉ account, regardless of whether someone else has signature authority over it.

5. Qualified disability expenses

Qualified disability expenses (QDEs) are expenses related to the blindness or disability of the designated beneficiary and that are for the benefit of the designated beneficiary. In general, a QDE includes, but is not limited to, the following types of expenses:

- 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 ABLÉ account oversight and monitoring;
- Funeral and burial; and,
- Basic living expenses

6. Rollover

A rollover is the distribution of all or some of the funds from one ABLÉ account to the ABLÉ account of a member of the original, designated beneficiary's family. For the

purposes of a rollover, a member of the designated beneficiary's family means a sibling, which includes step-siblings and half-siblings, whether by blood or by adoption.

7. ABLE Program

An ABLE program is the program established and maintained by a State (or agency or instrumentality thereof) through which the residents of that State, or the residents of a contracting State, can open ABLE accounts.

8. Qualified disability expense (QDE) for housing

Housing expenses for purposes of an ABLE account are the same as they are for in-kind support and maintenance purposes, except that they do not include food. QDEs for housing are payments for:

- Mortgage (including property insurance required by the mortgage holder);
- Real property taxes;
- Rent;
- Heating fuel;
- Gas;
- Electricity;
- Water;
- Sewer; or
- Garbage removal.

C. When to exclude ABLE account contributions, balances, earnings, and distributions

1. Exclude contributions

Exclude contributions to an ABLE account from the income of the designated beneficiary. This includes rollovers from a family member's ABLE account to an SSI recipient's ABLE account.

NOTE: Do not deduct contributions from the countable income of the person who makes the contribution. The fact that a person uses his or her income to contribute to an ABLE account does not mean that income is not countable for SSI purposes. For

example, a recipient or deemor can have contributions automatically deducted from his or her paycheck and deposited into an ABLE account. In this case, include the income used to make the ABLE-account contribution in the recipient or deemor's gross wages.

2. Exclude ABLE account earnings

The funds in an ABLE account are invested and can accrue interest, earn dividends, and otherwise appreciate in value. Such earnings increase the account's balance. Exclude any earnings an ABLE account receives from the income of the designated beneficiary.

3. Exclude up to and including \$100,000 of balance

Exclude up to and including \$100,000 of the balance of funds in an ABLE account from the resources of the designated beneficiary.

4. Do not count ABLE account distributions as income

A distribution from an ABLE account is not income but is a conversion of a resource from one form to another. See [SI 01110.600B.4](#). Do not count distributions from an ABLE account as income of the designated beneficiary, regardless of whether the distributions are for non-housing QDEs, housing QDEs, or non-qualified expenses.

5. Exclude retained distributions for non-housing related qualified disability expenses (QDE)

Exclude from the designated beneficiary's countable resources a distribution for a QDE other than housing if it is retained beyond the month received.

This exclusion applies for as long as:

- the designated beneficiary maintains, makes contributions to, or receives distributions from the ABLE account;
- the distribution is unspent; and
- the distribution is identifiable. (**NOTE:** Excludable funds commingled with non-excludable funds must be identifiable to be excluded. See [SI 01130.700A.](#))

NOTE : Apply normal SSI resource counting rules and exclusions to assets or other items purchased with funds from an ABLE account.

a. Example of an excluded distribution

Eric takes a distribution of \$500 from his ABLE account in June 2016 to pay for a health-related QDE. His health-related expense is not due until September, so Eric deposits the distribution into his checking account in June. The distribution is not income in June. Eric maintains his ABLE account at all relevant times, and the distribution is both unspent and identifiable until Eric pays his health-related expense in September. We therefore exclude the \$500 from Eric's countable resources in July, August, and September. See [SI 01130.700](#) for instructions on identifying when excluded funds have been commingled with non-excluded funds.

b. Example of an excluded QDE purchase

Fred takes a distribution of \$1,500 from his ABLE account in September 2016 to buy a QDE - a wheelchair. The wheelchair is an excluded resource in October and continuing, because it is an individual's personal property required for a medical condition. See [SI 01130.430](#) for instructions on household goods, personal effects, and other personal property.

D. When to count ABLE account balances and distributions

1. Count ABLE account balance amounts over \$100,000

Count the amount by which an ABLE account balance exceeds \$100,000 as a countable resource of the designated beneficiary.

a. Rule for indefinite benefit suspension and continuing eligibility for Medicaid during periods of excess resources attributable to an ABLE account

A special rule applies when the balance of an SSI recipient's ABLE account exceeds \$100,000 by an amount that causes the recipient to exceed the SSI resource limit-- whether alone or in combination with other resources. When this happens, the recipient is put into a special SSI suspension period where:

- we suspend the recipient's SSI benefits without time limit (as long as he or she remains otherwise eligible);
- the recipient retains continued eligibility for Medical Assistance (Medicaid); and
- the individual's eligibility does not terminate after 12 continuous months of suspension.

We will reinstate the recipient's regular SSI eligibility for any month in which the individual's ABLE account balance no longer causes the recipient to exceed the resource limit and he or she is otherwise eligible.

NOTE: Updated instructions will be issued when additional procedures related to this special suspension status are complete. Due to the limitation on contributions described in this section at [SI 01130.740B.2](#), there will be no SSI recipients in this suspension status for several years (until individuals have been able to contribute more than \$100,000 to an ABLE account).

Example — excess resources — recipient is suspended but retains eligibility for Medicaid

Paul is the designated beneficiary of an ABLE account with a balance as of the first of the month of \$101,000. Paul's only other countable resource is a checking account with a balance of \$1,500. Paul's countable resources are \$2,500 and therefore exceed the SSI resource limit. However, since Paul's ABLE account balance is causing him to exceed the resource limit (i.e., his countable resources other than the ABLE account are less than \$2,000), Paul's SSI eligibility is suspended and his cash benefits stop, but he retains eligibility for Medicaid.

b. Ineligibility due to excess resources other than an ABLE account

The special suspension rule does not apply when:

- the balance of an SSI recipient's ABLE account exceeds \$100,000 by an amount that causes the recipient to exceed the SSI resource limit;
- but the resources other than the ABLE account alone would make the individual ineligible for SSI, due to excess resources

When this happens, suspend the recipient's SSI benefits using the payment status code N04. While in N04, the recipient loses eligibility for Medical Assistance (Medicaid) and the individual's SSI eligibility will terminate 12 months later if the suspension continues during this period. Reinstatement the recipient's regular SSI eligibility and Medicaid benefits for any month in which the individual's ABLE account balance and other resources no longer cause the recipient to exceed the resource limit.

Example — combination of resources — recipient loses SSI eligibility

Christine is the designated beneficiary of an ABLE account with a balance as of the first of the month of \$101,000. Christine's only other countable resource is a checking

account with a balance of \$3,000. Christine's countable resources are \$4,000 and therefore exceed the SSI resource limit.

However, because her ABLE account balance is not the cause (i.e., her countable resources other than the ABLE account are more than \$2,000), the special rule does not apply, and Christine is not eligible for SSI because of excess resources. Christine's SSI benefits are suspended using payment status N04, and her Medicaid benefits will stop.

c. Ineligibility for other reasons

If an individual is ineligible for any reason other than excess resources in an ABLE account, the special suspension status does not apply. Suspend the individual's SSI eligibility using normal procedures.

Example – ineligibility for a reason other than excess resources in an ABLE account

In April, Sam has a first of the month resource balance in his ABLE account of \$102,500. However, Sam also has excess deemed income in April and will be N01 despite the excess funds in his ABLE account. Before the end of April, Sam leaves the U.S. and does not return until July 1. Sam will be N03 for May, June and July. If Sam still has excess resources in his ABLE account effective August 1 and is otherwise SSI eligible, he will go into the special ABLE resource suspension status and be eligible for Medicaid.

2. Count as a resource retained distributions for housing-related QDEs or expenses that are not QDEs

A distribution from an ABLE account is not income, but is a conversion of a resource from one form to another. See [SI 01110.600B.4](#).

Count as a resource a distribution for a housing-related QDE or for an expense that is not a QDE if the distribution is retained into the month following the month of receipt. If the distribution is spent within the month of receipt it has no effect on eligibility.

However, apply normal SSI resource counting rules and exclusions to assets or other items purchased with funds from an ABLE account

Example – retained housing QDE is a resource

Amy takes a distribution of \$500 from her ABLE account in May to pay her rent for June. She deposits the \$500 into her checking account in May, and withdraws \$500 in cash on June 3rd and pays her landlord. This distribution is a housing-related QDE and part of her checking account balance as of the first of June, which makes it a countable resource for the month of June.

E. How to verify, document, and record ABLÉ account balances

1. Obtain evidence of the ABLÉ account

Whenever a recipient or deemor alleges being the designated beneficiary of an ABLÉ account, obtain evidence that provides the following information:

- the name of the designated beneficiary;
- the State ABLÉ program that is administering the account;
- the name of the person who has signature authority (if different from the designated beneficiary);
- the unique account number assigned by the State to the ABLÉ account;
- the account opened date;
- the first-of-the-month account balance or information sufficient to derive a first-of-the-month balance.

If the available evidence doesn't provide this information, contact the appropriate ABLÉ program to obtain it.

2. Document the evidence

Fax the evidence into the electronic folder (EF) or Non-disability Repository for Evidentiary Documents (NDRéD). If you contact the ABLÉ program directly, document the information you received on a Report of Contact (DROC) in MSSICS or on a Report of Contact (SSA-5002) in non-MSSICS claims.

3. Record the account on a MSSICS "Other Resource" page

Record the account information and balance on a MSSICS Other Resource (ROTH) page. There is an ABLÉ account drop down under "Type." See MS INTRANETSSI 013.032 for instructions on completing this screen.

NOTE: The designated beneficiary of an ABLÉ account is always the owner of the account for SSI purposes.

F. How to verify, document, and record ABLÉ account distributions

1. When to develop

Only verify a distribution when a recipient or deemor alleges retaining, or other evidence indicates he or she retained, all or part of a distribution into months following the month of receipt. Since distributions do not count as income, the distribution is only material in determining whether the recipient's countable resources exceed the limit.

2. Verify the distribution

Obtain evidence showing the amount of any distributions, the dates taken, and who received them (for example, whether it was paid directly to a vendor). Obtain and accept the recipient or deemor's allegation as to whether a distribution was or will be used for:

- a QDE other than housing;
- a housing QDE; or
- an expense that is not a QDE.

3. Exclude retained distributions for QDEs other than housing

Exclude from the designated beneficiary's countable resources any retained distribution or part of a distribution for a QDE other than housing per [SI 01130.740C.5](#) in this section.

Example of a retained QDE other than housing

Elizabeth takes a distribution of \$500 from her ABLÉ account in May to pay for a health-related QDE she expects to pay in September. She deposits the distribution into her checking account in May and withdraws it in September to pay the health-related QDE. We would exclude the \$500 from Elizabeth's countable resources from June through September. Starting in June, the technician documents the deposit on the RFIA page inputting \$500 as the "excluded amount." She selects "Other" as the exclusion reason and inputs "ABLE QDE distribution" as the "other reason."

4. Count retained distributions for housing QDEs and expenses that are not QDEs

Count as a resource any distribution or part of a distribution for a housing QDE or an expense that is not a QDE if it is retained into the month following the month of receipt.

Example of a retained QDE for housing

Amy takes a distribution of \$500 from her ABLÉ account in May to pay her rent for June. She deposits the \$500 into her checking account in May, and withdraws \$500 in cash on June 3rd and pays her landlord. This distribution, which is a housing-related QDE, is part of her checking account balance as of the first of the month in June, which makes it a countable resource for the month of June.

5. Record the amount excluded on the appropriate resource page

ABLE account distributions are the conversion of a resource from one form to another. Accordingly, they continue to be a resource if retained into the month following the month of receipt. A retained QDE distribution is excluded from resources per [SI 01130.740F.3](#) in this section.

Depending on how and where they are retained, record the amount in the "amount excluded" field of the appropriate resource page in MSSICS with a reason of "ABLE QDE distribution."