

ABLE Webinar: Questions and Answers

These questions were asked by individuals during the webinar, and the answers have been provided by Stuart Spielman, Senior Policy Advisor and Counsel at Autism Speaks.

The responses are provided as general information. For personal guidance, please speak with your attorney or financial advisor.

For additional resources and assistance, you may contact Autism Speaks' Family Services at familyservices@autismspeaks.org.

QUALIFYING FOR AN ABLE ACCOUNT

Question: Do ABLE accounts make sense for high-functioning children who may be able to work? Are they even eligible?

Answer: Individuals and families should consider their investment goals in determining whether an ABLE account is the right choice. The ability to work is not a factor in determining eligibility for an ABLE account.

Question: I am 37, will the able account not work with me?

Answer: Assuming you are eligible for an ABLE account, the decision on whether the account will work for you depends on your investment goals.

Question: Is there a minimum age to open? I assume the individual does not have to be 18.

Answer: There is no minimum age for the designated beneficiary of an ABLE account.

Question: Would having the child denied for SSI just for income reasons be sufficient to qualify?

Answer: A child who does not qualify for SSI may still qualify for an ABLE account. Please review the eligibility criteria noted in the webinar.

Question: I was able to "self-certify disability" of my child without the need for Physician documentation. Did I miss something?

Answer: Self-certification is permitted, but an individual will need to provide the required documentation upon request.

Question: Is there a form somewhere that parents can take to their child's doctor to get a certified statement?

Answer: There is no single form. Please check the requirements for the state where you are thinking of opening an account.

Question: Do you have any examples of a physician's certification letter for ASD you can provide?

Answer: No, but each state has instructions on the documentation required to open an account.

WHAT CAN AN ABLE ACCOUNT BE USED FOR?

Question: How much can be used for education expenses if a disabled person goes to a charter school that focuses on their disability? Can they use the ABLE account or a 529 to pay for that tuition? Or both?

Answer: It is possible some education expenses may be permissible for both ABLE accounts and 529 accounts. Please review the definition of "qualified disability expenses."

Question: Would expenses for an annual camp for families with disabilities be eligible?

Answer: That's entirely possible. Keep in mind that the full range of qualified disability expenses has not been clarified by the IRS. When in doubt, consult with the ABLE program in which you have or are considering investing.

Question: Is there a list or a book given to parents of what is considered qualifying expenses?

Answer: No, there is no book. The definition of qualified disability expenses is broad, however.

Question: Qualified disability expenses: Do you need to submit receipts or provide proof of expense?

Answer: As with any tax-related expense, you should keep good records in case the purchase is questioned.

Question: Would this be a good option to pay for therapy services?

Answer: Perhaps. It depends on your financial circumstances and investment goals.

Question: What about vacation? Vacations are important for mental health and well-being.

Answer: One could certainly argue that vacations are important for health and well-being. The IRS has yet to issue definitive guidance on qualified disability expenses.

Question: Can payments from ABLE accounts pay for cable tv or recreational activities?

Answer: Do these expenses relate to the designated beneficiary's disability? The IRS has yet to issue definitive guidance on qualified disability expenses.

Question: I have a 3-year-old son, diagnosed with ASD Level 3. He is doing great with therapy and we have high hopes for the future. However, we are unsure if we should open up a 529 savings plan or an ABLE account, given the long-term uncertainty of his diagnosis and early age. Can contributions into the ABLE account be transferred into a 529 plan? Can ABLE account funds pay for standard future college and university costs?

Answer: Contributions to an ABLE account cannot be directly transferred into a 529 savings plan. ABLE accounts can, however, be used to pay for college tuition.

529s AND ABLE ACCOUNTS

Question: Can you transfer money from a 529 Plan to an ABLE Account without penalty?

Answer: Money in a 529 account cannot be directly rolled over into an ABLE account.

Question: I started a 529 for my son when he was born, but I did not find out he was autistic until he was 2. Are we able to rollover his 529 into an ABLE account?

Answer: No, direct rollovers are not allowed.

Question: Can funds from my daughter's 529 college fund be rolled over to an ABLE account for my son if she does not use all the money in the college fund?

Answer: No. Even if the college fund belonged to your son, amounts in the fund could not be rolled over into an ABLE account.

Question: What happens if you set up an ABLE account but your child does not end up going to college....What happens to that money? My son is only 4 so predicting what his future will look like is tough.

Answer: An ABLE account can be used for qualified disability expenses, including but not limited to college expenses.

Question: What is the benefit of rolling over a 529 plan to an ABLE account?

Answer: Amounts in a 529 account cannot be rolled over into an ABLE account.

FUNDING AN ABLE ACCOUNT

Question: Do they have to be parentally funded or can they be self-funded by the child with their money?

Answer: Anyone can contribute to an ABLE account.

Question: Is the ABLE account held in a bank? How do we contribute in cash?

Answer: Contributions are made online to an account with the state ABLE program.

Question: Is there a place we can see the max amounts for each state?

Answer: One place to look is [here](#).

Question: Can you rollover a UTMA to an ABLE account?

Answer: Money can be transferred from a UTMA account into an ABLE account.

Question: Can you put a large amount such as inherited monies, ex. \$30,000? Or does this fall under the annual contribution limit.

Answer: The annual contribution limit restricts investments.

Question: Regarding the gift tax exclusion, would that mean that anyone including parents would need to limit contributions to an individual ABLE account to no more than \$14,000 per person per year if wanting to avoid taxing of the contribution?

Answer: Total contributions to an ABLE account from all sources cannot exceed the annual contributions limit.

Question: Please further explain how the twice yearly directing of investments in the ABLE account works. What is meant by to what degree under what conditions investments may be made?

Answer: ABLE accounts offer different investment choices. Those options can be changed twice per year.

Question: Can you have your disabled adult's paycheck direct deposited into ABLE? Is that considered cash?

Answer: Please check with your state ABLE program. States in the National ABLE Alliance (Alaska, Colorado, DC, Illinois, Iowa, Indiana, Kansas, Minnesota, Montana, Nevada, North Carolina, Pennsylvania, and Rhode Island) allow direct deposit.

Question: Could you clarify, if a child works and makes more than they could qualify for SSI, could they put that income into the ABLE account as they earn it (have the employer direct deposit into Able account) and then possibly qualify for SSI?

Answer: ABLE accounts and SSI have different eligibility criteria. For more information about ABLE accounts and SSI, see this [guidance](#) from the Social Security Administration.

Question: Can a SSI check be deposited into an ABLE account for a month where the total SSI check is not spent?

Answer: Contributions to an ABLE account may be made from any source. Specific deposit rules may be found on state ABLE websites.

Question: Can you review the Medicaid payback provision of Able Act?

Answer: The short answer is that under certain circumstances a state may file a claim against an ABLE account of a deceased designated beneficiary for medical assistance paid. For more information, see pages 6-7 of this [guidance](#).

Question: I'd like to ask a follow up question to the Medicaid payback provision. Is it only if they are actively on it when they pass? Or is it if they were ever on it at all?

Answer: See the previous answer. A claim can be made based on medical assistance paid after the ABLE account was opened.

STATE ABLE ACCOUNTS

Question: How do we find out if our state offers it? Is there a list of states that has an ABLE program?

Answer: The ABLE Alliance for Financial Empowerment offers a [comparison chart](#).

Question: Is there a summary table available that describes the 26 existing ABLE programs and their features?

Answer: The ABLE Alliance for Financial Empowerment offers a [comparison chart](#).

Question: Some state 529's perform better than others. How do you know how your state's ABLE accounts compare to others in terms of management and returns?

Answer: The [comparison chart](#) provided by the ABLE Alliance for Financial Empowerment may be a helpful starting point.

OTHER

Question: What are state-tested programs?

Answer: Are you asking about means-tested programs? These are programs that look at a person's financial resources in determining some benefit.

Question: How is an ABLE account different than a special needs trust?

Answer: There are a number of differences, so it's difficult to single out one or even a few. ABLE accounts are especially easy to establish; special needs trusts offer a high degree of individuation.

Question: Can a child have both an ABLE account AND a special needs trust?

Answer: Yes, the use of one does not preclude the use of the other.