

ABLE ACCOUNTS

Your Path to Success!
Answers To Your Work Questions
From NYS PROMISE

ABLE Accounts

A Way to Save for Future Expenses
to Support Work, Special Needs,
and Independence

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New York State
PROMISE
your Path to Success!

This brochure includes
calculations and numbers that
reflect 2018 standards.

In This Guide

The purpose of this guide is to educate New York youth with disabilities and their families about the new ABLE account. As explained below, the ABLE account is a way to save for future expenses to support, for example, college or training programs, specialized services and equipment, transportation costs, and independent housing costs. Saving and spending from the ABLE account can happen in most cases without any effect on SSI or Medicaid eligibility.

- 1** What is an ABLE Account?
- 1** What is the Disability Requirement?
- 2** Who Can Contribute to an Able Account? How Much Money Can Go into the Account Each Year?
- 3** How Can the ABLE Account Money be Spent?
- 4** Will the SSI Program Count Contributions to the ABLE Account as Income to the Beneficiary?
- 4** Is There a Limit to How Much Money Can Be Saved in an Able Account? Will SSI Count Any Part of Savings in an Able Account?
- 5** Will the SSI Program Count Any of the Distributions Made from the Able Account as Income to the Beneficiary?
- 6** How Will ABLE Accounts and Account Distributions Affect Other Benefits?
- 7** Are There Any Work Incentives That Can Support Work?
- 9** What if I Have Questions About How My Benefits will be Affected by Going to Work?



What is an ABLE Account?

ABLE is the abbreviation for Achieving a Better Life Experience (ABLE) accounts. ABLE accounts are authorized by section 529A of the Internal Revenue Code. The ABLE account offers a person with a disability a way to save for future expenses while keeping Supplemental Security Income (SSI) and Medicaid. The money kept in an ABLE account does not count toward the SSI program's \$2,000 resource limit and payments made from an ABLE account for Qualified Disability Expenses are not counted by SSI as income.

New York State started its ABLE program in August 2017. It is run by the State Comptroller's office. For more specific information about the NY ABLE program, see <https://www.mynyable.org/home.html> or call 1-855-5NY-ABLE between 8:00 a.m. and 8:00 p.m. Readers may also wish to review the website of the National ABLE Resource Center, www.ablenrc.org (see the site's Roadmap to Enrollment, <http://ablenrc.org/road-map-enrollment> (providing a 5-part curriculum for understanding the ABLE program)).

What is the Disability Requirement?

A person can meet the ABLE disability requirement in one of two ways:

- By showing he or she is eligible for Social Security Disability Insurance (SSDI) or SSI disability benefits, based on a disability or blindness that began before age 26; or
- The person, a parent, or a guardian can sign a statement saying that the applicant for the ABLE account has a medical condition meeting certain disability or blindness criteria, and that the disability or blindness occurred before age 26.

Nearly all PROMISE participants receive SSI and will meet the disability criteria for an ABLE account.

Who Can Contribute to an Able Account? How Much Money Can Go into the Account Each Year?

The federal ABLE law says that any “person” can contribute or pay money into an ABLE account. This means that the person with a disability can put money into his or her own account and any family member, including the parents and other relatives, can put money into the account. Also, the federal law allows a trust to put money into the ABLE account.

The NY ABLE program allows you to start an account with as little as \$25. If the person with a disability or family members can deposit more, the law allows for up to \$15,000 in combined contributions per year to be put into the ABLE account.

Example: Donald, age 18, gets SSI benefits of \$858 per month and will soon attend college. He earns \$1,500 at a summer job. Because of the Student Earned Income Exclusion rule (see our publication on the Student Earned Income Exclusion), he can keep his full SSI benefit despite these earnings. Donald decides to start an ABLE account with \$750 of his earnings from the summer job. His mother puts \$100 into the account and his grandparents put \$1,500 into the account as graduation presents. Others give Donald, as graduation presents, checks totaling \$400 made out to his ABLE account.

Under SSI policy, none of the graduation gifts Donald receives as deposits to the ABLE account are counted as income. Also, the SSI program will not count the \$2,750 that is now in the ABLE account toward SSI’s \$2,000 resource limit. Donald can save the ABLE account money to pay for college expenses not covered by the ACCES-VR program or keep it for other Qualified Disability Expenses. Donald or others can deposit more money into the account in the same year so as long as the combined deposits do not exceed \$15,000 in 2019 (that amount may go up in future years).

What if Donald did not have an ABLE account and got \$2,000 in graduation presents? All but \$20 of that money (\$1,980) would be treated as income in the month he received it and he would lose SSI for at least one month. If he had any money left at the end of the month it would count toward SSI’s \$2,000 resource limit in the next month.

Note: SSI does have a policy that will exclude and not count gifts received that are used for educational purposes within 9 months. Since Donald

does not know if he will use the \$2,000 in gifts for education within that time frame, it makes more sense to him to have the money go in his ABLE account. This gives him more flexibility to keep the money for a longer period of time and to spend it to meet many other needs.

How Can the ABLE Account Money be Spent?

Federal law and policy state that an ABLE account can only be used to pay for Qualified Disability Expenses (QDEs) of the designated beneficiary. QDEs are expected to be related to the blindness or disability of the designated beneficiary. However, some examples of approved QDEs, such as basic housing expenses, are not traditionally linked to having a disability yet clearly approved expenses.

In general, a QDE includes, but is not limited to, the following types of expenses:

- Education, housing, and 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

Basic living expenses (These appear in SSI policy and proposed IRS regulations, but not in federal ABLE law.)

QDEs for housing can include mortgage payments, rent, property insurance, property taxes, heating fuel, gas, electricity, water, sewer, and garbage removal.

Will the SSI Program Count Contributions to the ABLE Account as Income to the Beneficiary?

If the SSI beneficiary puts any part of his or her own monthly income into the ABLE account, SSI will still count that money as the beneficiary's income. However, if anyone else puts money into the account, SSI will not count that money as income to the beneficiary. For example, in the Donald case above when his parents and grandmother put money into his ABLE account the SSI program will not count that money as income to Donald.

Keep in mind that the earnings of an SSI beneficiary who is under age 22 and attends school full time will generally not count because of the Student Earned Income Exclusion. This is true so long as gross earnings are no more than \$1,870 per month, up to a maximum of \$7,550 per year. This creates a perfect opportunity to work, put some of those earnings into an ABLE account, and still get the same SSI payment for the month as was true in Donald's case.

Donald will always want to first take advantage of the Student Earned Income Exclusion so that his SSI payment stays the same when he works the summer job. Donald can then decide whether he wants to put part of his summer earnings into an ABLE account or if he wants to use it for another purpose, keeping in mind that he cannot keep more than \$2,000 in resources and still be eligible for SSI. If Donald needs help in deciding what to do he should contact a benefits adviser. If Donald is a PROMISE participant, he can be referred to a PROMISE-funded benefits adviser. He can also seek services from a Work Incentives Planning and Assistance (WIPA) project (see last page of this brochure).

Is There a Limit to How Much Money Can Be Saved in an Able Account? Will SSI Count Any Part of Savings in an Able Account?

The NY ABLE program allows you to keep up to \$100,000 in your ABLE account. Most states allow for a higher ABLE account limit and New York could increase that limit for future years.

Under SSI policy, up to \$100,000 of the ABLE account balance is excluded and not counted toward SSI's \$2,000 resource limit. Because of the \$15,000 annual limit on combined ABLE account contributions, no SSI beneficiary will have \$100,000 in an ABLE account in the near future. However, this policy does protect SSI recipients when an ABLE account goes to \$5,000, \$10,000, or more in deposits.

Example: Let's go back to Donald's case. When he starts college in the fall of 2019, his grandparents deposit another \$2,000 into his ABLE account, saying this is for college expenses or anything else that can make him more independent in the future. They tell Donald to expect another \$2,000 deposit into the ABLE account each year so long as he keeps his grades up. Donald hopes he can leave these deposits in the ABLE account so that he can buy or make a down payment on a car when he graduates from college. Under SSI policy, Donald can allow his ABLE account to build up like this and still get his monthly SSI payment. Again, this is because ABLE account balances up to \$100,000 do not count toward SSI's \$2,000 resource limit.

What if the balance in an ABLE account is more than \$100,000? Right now, the NY ABLE account would not allow that. However, if higher account balances are allowed in the future, SSI policy states that any amount in the ABLE account above \$100,000 counts toward SSI's \$2,000 resource limit. If ABLE resources then cause the beneficiary to exceed SSI's \$2,000 limit, SSI payments are indefinitely suspended, but not terminated. This is good because the SSI eligible individual will not need to reapply for SSI once the account is back under \$100,000. Instead, if the ABLE account balance goes below \$100,000 in the future, SSI payments could start again even if several years of ineligibility occurred. During the suspension period, Medicaid eligibility will continue.

Will the SSI Program Count Any of the Distributions Made from the Able Account as Income to the Beneficiary?

If the distributions from the ABLE account are to pay for Qualified Disability Expenses (QDEs), the SSI program will not count them as income to the beneficiary. (See the list above of the most common types of QDEs.)

Ordinarily, the payment of housing expenses by a third party or by a trust would be treated as "in-kind income" and could result in up to a \$277 per

month reduction in the SSI payment in 2019. When the same payments are made through an ABLE account the SSI payment is unchanged.

Example: Let's go back to Donald's case. Assume that his grandparents decide to pay for his \$700 per month apartment near the college campus and they deposit this amount in the ABLE account each month. When that money is then paid out by the ABLE account for rent, the SSI program will not count any part of this as income to Donald. This is because rent is considered a QDE and SSI policy states that ABLE distributions to pay for a QDE are not counted as income to the SSI beneficiary. If the same \$700 was paid by the grandparents directly to the landlord, the SSI program would count up to \$277 of that amount as income to Donald and his monthly SSI payment would be reduced by that amount.

Thus, even ABLE account distributions that pay for rent, mortgage payments, utilities, or other housing expenses will not be treated by the SSI program as income.

How Will ABLE Accounts and Account Distributions Affect Other Benefits?

Medicaid: SSI beneficiaries in New York get Medicaid automatically. If SSI continues despite the ABLE account and ABLE distributions for QDEs, Medicaid will continue as well. If a beneficiary qualifies for Medicaid through the 1619(b) program, having lost SSI through work and countable wages, 1619(b) eligibility will not be affected by money held in the ABLE account. Also, distributions from the account for QDEs will not count as income in determining 1619(b) eligibility.

Some individuals will get Medicaid through the medically needy or spend down program. Others will get Medicaid through the Medicaid Buy-In for Working People with Disabilities program. Both programs are required to apply SSI rules for deciding what to count as income or a resource. Since ABLE account balances and distributions for QDEs will not be counted as resources or income by the SSI program, they will not count as resources or income in determining eligibility for the spend down or Buy-In programs. (For more information about 1619(b) or the Medicaid Buy-In, see our publications on those topics.)

The SNAP (Food Stamp) Program: The SNAP program is operated through the County Departments of Social Services, or the Human Resources

Administration in New York City. The U.S. Department of Agriculture's 2019 regulations provide that assets that are kept in an ABLÉ account are considered by the SNAP program as excluded resources. As this is written, New York State SNAP beneficiaries with disabilities do not have to meet an assets or resource eligibility test. However, should New York implement a resource eligibility test for persons with disabilities in SNAP, any money that is in the ABLÉ account will be exempt.

The ACCES-VR or Commission for the Blind Programs: ACCES-VR and the Commission for the Blind are state vocational rehabilitation agencies. They can provide support and funding to eligible individuals with disabilities to help them achieve vocational or work goals. Services they will pay for include, for example, college or community college tuition, books, and fees; and transportation to and from the site where the services take place. Typically, support for these and many other services is subject to a financial needs test, taking into account the income and resources of the individual seeking the service (and sometimes those of the parent or parents).

A person who receives SSI or SSDI payments is exempt from the financial need requirements for ACCES-VR or the Commission for the Blind. Even if the SSI or SSDI beneficiary has substantial funds in an ABLÉ account, the ABLÉ account resources will have no impact on the agency's financial need criteria. So long as the person gets an SSI or SSDI payment they do not have to separately meet the financial needs test.

Are There Any Work Incentives That Can Support Work?

The SSI program has many work incentives available that act as income exclusions or disregards. These work incentives can be deducted from gross monthly earnings as part of Social Security's calculation in determining the amount of your adjusted SSI cash payment. A brief description of each follows:

The \$65/\$85 Plus 50 Percent of Remaining Earnings Exclusion allows the SSI beneficiary to reduce their countable gross monthly earnings by \$65 (or \$85 if no unearned income) plus another 50 percent of the remaining earned income.

Impairment Related Work Expenses (IRWE) are work expenses related to a disability, or medical condition for which they receive treatment, that are needed to work and are paid for by the individual.

Blind Work Expenses (BWE) are any ordinary and necessary expenses related to the earning of income for an individual who is blind and are paid for by that individual.

Plan to Achieve Self Support (PASS) allows an individual to set aside their own income and/or resources in a special account, not counted for SSI purposes, with the money to be used for expenses that will support their long-term work goal.

Student Earned Income Exclusion (SEIE) helps students under the age of 22 who regularly attend school, receive SSI, and work to exclude up to \$1,870 per month up to a maximum of \$7,550 per year in 2019. These figures change each year.

These are all SSI work incentives and can positively affect the amount of an individual's SSI cash benefit. The impact of each is determined by the placement of the exclusion in the SSI calculation. Note that other guides on these work incentives will be available to provide more detailed information on how they work.

What if I Have Questions About How My Benefits will be Affected by Going to Work?

If you have questions about how your benefits will be affected by going to work, you can contact specialists to assist you toll-free at **1-888-224-3272**. The hotline is available during business hours Monday through Friday, except on holidays. Every effort is made to return calls the same day or within one business day.

Additionally, SSA has contracted with local organizations to provide work incentives counseling services for SSDI and SSI beneficiaries. The Work Incentive Planning Assistance (WIPA) agencies have people who have been specially trained to help individuals with disabilities who are considering going to work or who are working. You can get a list of the WIPAs in New York at: <https://choosework.ssa.gov/findhelp> (search by state or zipcode). If you are involved in the PROMISE project, you are entitled to the benefits advisement service which includes work incentives counseling. If you do not have a benefits adviser assigned to you, ask your PROMISE case manager to refer you for this service.

Questions about how earnings
impact your disability benefits?
Call us toll-free at 1-888-224-3272

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