A Look at ABLE Accounts

Early on, when Denise Gehringer talked with friends about plans for her son, Jacob, who has Down syndrome, she often heard the same refrain.

"From the day Jake was born, people said, 'Don't save anything in his name,'" Gehringer says. They told her if someone with a disability had more than $2,000 in cash or other resources, the person might not be able to qualify for certain government benefit programs, such as payments from the federal Supplemental Security Income (SSI) program and home and community-based services from the joint federal-state Medicaid program.

So, whenever Jake received cash, checks, or other such gifts—on his birthday, for example—the money typically was spent, not saved. Today, the picture is different.

Jake, now 27, is the owner of an Achieving a Better Life Experience (ABLE) account. It's a special type of savings account intended to help individuals with disabilities pay for disability-related expenses—and it does impact the person's ability to qualify for government benefit programs.

In 2014, Congress approved legislation creating ABLE accounts "to encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life," according to the bill.

The bill was also intended to "secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance" as well as through Medicaid, SSI, the beneficiary's employment, and other sources.

The federal law also allowed states to establish their own ABLE programs. The first, in Ohio, launched in 2016. As of September 2023, 46 states and the District of Columbia have ABLE account programs, says Miranda Kennedy, director of the ABLE National Resource Center, which was founded and is managed by the National Disability Institute in Washington, D.C., and serves as an independent clearinghouse for information on ABLE accounts. The exceptions are Idaho, North Dakota, South Dakota, and Wisconsin.

"Having a disability is expensive," Kennedy says. An ABLE account "gives people with disabilities who need public benefits the chance to get out of a life of poverty, to be able to save and grow their money" without jeopardizing those benefits, she says.

Account Basics

An ABLE account can be opened online, usually for a minimum initial investment of $25 or less. Anyone can contribute, including family members, friends, and the account owner.

The person with the disability is the account owner and *designated beneficiary*, although a parent or other authorized person can have signature authority over an account established on someone's behalf, such as a minor.

Investment options, which vary by state, are typically fairly conservative and often include not only mutual funds but also savings and checking accounts backed by the Federal Deposit Insurance Corporation (FDIC), says Stephen Dale, an attorney at The Dale Law Firm, PC, in Pacheco, California. Dale is a disability rights advocate. He works with families that have members with disabilities, focusing mainly on special needs trusts.

ABLE account contributions are not federally tax-deductible, but money invested in an ABLE account grows on a tax-deferred basis, Dale says. This means interest, dividends, and capital gains that are earned inside the account are shielded from federal income tax.

Withdrawals may also avoid tax consequences if they are used for the disabled person's needs. The list of what counts for tax-free treatment includes expenses for education, housing, transportation, employment training and support, assistive technology, personal support services, health, prevention and wellness, financial management, administrative services, legal fees, expenses for oversight and monitoring, and funeral and burial expenses, according to Internal Revenue Service Publication 907, "Tax Highlights for Persons with Disabilities."

Although some programs require the account owner to be a state resident, programs in a majority of states are open to residents and nonresidents alike, Kennedy says.

The ABLE National Resource Center website, *www.ablenrc.org*, includes a tool to compare all the available programs, summarizing features such as tax breaks for in-state residents, investment options, and debit cards or checking accounts for withdrawals.

Congress has made some changes to the law since its enactment. Under one of these changes, some funds now may be rolled into an ABLE account penalty-free from the designated beneficiary's own 529 college-savings plan.

Limitations

ABLE accounts have limits. For example, you're eligible to open one only if you have a significant disability (generally based on Social Security Administration rules) and if the disabling condition arose before you turned 26 (even if you're now older than that).

If you clear those two hurdles and you're already receiving benefits under SSI or Supplemental Security Disability Insurance (SSDI), you're automatically eligible to open an account. If you're not receiving either SSI or SSDI benefits but otherwise meet the guidelines, you can still open an account, but you'll need to obtain a letter of certification from a licensed physician, Kennedy says.

A designated beneficiary can have only one ABLE account, and contributions from all sources are generally limited to $15,000 a year in the aggregate. This limit can increase annually with inflation. Also, an ABLE account owner who has a job typically can contribute an additional sum, within limits, from their work earnings.

There's also an overall cap on the amount that an ABLE account can hold. For California's program, for example, the cumulative balance limit is $529,000; for North Carolina's, it's $450,000, according to the ABLE National Resource Center's state-by-state summary.

Although amounts in an ABLE account—and withdrawals that are used for qualified expenses—are typically disregarded for purposes of Medicaid or certain other government benefit programs, if the account balance exceeds $100,000, the person's SSI benefit will be suspended until the account balance falls beneath that threshold.

As of the last quarter of 2021, there were more than 112,000 ABLE accounts with about $1 billion in assets under management—even though an estimated eight million people are potentially eligible for these types of accounts. The average ABLE account contains about $6,000. "People are certainly learning about [ABLE accounts], but there's a lot of fear" that the rules could change regarding eligibility for benefits programs, Gehringer says.

Special Needs Trust

Another option is a special needs trust, which may be a better fit for some individuals, in part because these trusts can accept and hold significantly larger sums. There's also no annual contribution limit and no limit on the accumulated balance, Dale says. But special needs trusts come with their own requirements, as well as legal costs and other matters, including the appointment of a trustee.

A number of families with whom Dale works have individuals with cognitive challenges, such as autism spectrum disorder, schizophrenia, or a traumatic brain injury. Often, in such situations, "families are looking for some sort of oversight," and a special needs trust may be more appropriate because they offer more control, he says.

Compared with a special needs trust, ABLE accounts are especially useful for making housing payments for the beneficiary. They feature less scrutiny overall when it comes to distributions, provide more autonomy to the beneficiary, and offer the opportunity for the beneficiary to learn financial literacy, Dale says.

But ABLE accounts and special needs trusts aren’t mutually exclusive. “You can have one or the other—or both,” Kennedy says. For a number of families, “the ABLE account is not so much a savings account as a distribution vehicle,” Dale says. For example, the trust can supply a limited amount of funds to the ABLE account, giving the beneficiary the chance to spend a portion of the money with some autonomy. And “If there’s a problem, we can cut it off,” he says.

Jake Gehringer currently lives with his mother, 52, who is executive director of an organization that builds apartment communities for individuals who have intellectual disabilities, and with his father, Jeff, 53, a computer specialist, in Papillion, Nebraska. Jake contributes to his own ABLE account, mainly out of his earnings from a part-time job as an office assistant at a local learning center.

His long-term goal is to live independently in his own apartment.

The money that the family saves in his ABLE account will eventually be used to help pay for furniture, housewares, and other items he’ll need when he moves, his mother says. “The ABLE account is a great tool for him so he can save up for things that are more expensive,” she says. The account also means “having savings for him when we’re no longer here to help him.”