

## ABLE Savings Plan

### 1. What is the ABLE Savings Plan?

Coming from the ABLE Act, the ABLE savings plan is a tax-free savings plan that allows for more assets without the loss of SSI and Medicaid benefits. It is for qualified persons with a disability.

## 2. What is the ABLE Act?

ABLE or **A**chieving a **B**etter **L**ife **E**xperience Act is the amended section 529 from the federal tax code to allow for the creation of tax-free savings accounts for persons with disabilities. It was passed as a result of a major grass-roots organization in December of 2014.

## 3. Program Eligibility:

**To be eligible for the ABLE Savings Plan, an individual must have a disability (or the symptoms of a disability) present before the age of 26 AND meet the following criteria:**

- You are eligible for SSI or SSDI because of a disability (determined by SSA)
- You experience blindness as determined by the SSA
- You have a similarly severe disability with a written diagnosis from a licensed physician that can be produced if requested (self-certification)

#### 4. What is meant by Self-Certification?

You must self-certify that you have a written disability-related diagnosis signed by a physician **and** one of the following:

- Blindness as defined by the SSA
- A medically determinable physical or mental impairment with marked severe function limitation that has lasted or is expected to last at least 12 continuous months or result in death<sup>1</sup>

#### 5. Asset Guidelines of ABLE:

- ABLE accounts help to ease the financial strains for individuals with a disability by making tax-free savings accounts available to cover **Qualified Disability Expenses**, such as housing, utilities, clothing, transportation, education, and basic living expenses.
- With an ABLE account, the individual can accumulate more than \$2,000 in assets without losing Medicaid.
  - ABLE assets are disregarded in determining Medicaid eligibility

- Medicaid benefits are not suspended, even if the ABLÉ account reaches the \$402,000 cap on ABLÉ contributions
- In Kansas, the annual contribution amount is \$15,000 and the cap on contributions is \$402,000
- With an ABLÉ account, the individual can accumulate up to \$100,000 without losing SSI (Supplemental Security Income).
  - Assets up to \$100,000 not counted against beneficiary for SSI eligibility or payments
  - After \$100,000, SSI checks stop and eligibility is suspended but not terminated
- The cap on contributions is \$402,000<sup>2</sup>

## **6. Who Controls the ABLÉ Account?**

- Only eligible beneficiary or legal guardian/Power of Attorney can open and control the account.<sup>1</sup>
- The eligible beneficiary is the account owner. They can appoint an agent to control the account if they have capacity.

- If they do not have capacity, Kansas law requires court orders granting guardianship to specifically give the guardian control over the ward's finances up to \$10,000. Conservators have legal authority over the ward's finances.

## **7. Medicaid Payback Provision:**

- Also known as the “Clawback Provision.” Medicaid Payback or Clawback is when any assets remaining in the ABLE account when a beneficiary dies can be used to reimburse a state for Medicaid payments made on behalf of the beneficiary after the creation of the ABLE account.
- All outstanding qualified disability expenses will be paid out of the account first.

## **8. Understanding the “Clawback Provision”?**

- House bill No. 2067 reduces the circumstances under which the state Clawback provision applies to ABLE accounts
- Federal law requires Medicaid to “Clawback” if the beneficiary is over 55 years old, and they used their benefits for:

- **Assisted Living**
- **Group Home**
- **Nursing Home**
- Because of this bill, when a **Medicaid beneficiary under the age of 55** dies, the state will **not** claw back any funds
- The state will do so for beneficiaries who die after the age of 55 only when required by federal law.<sup>1</sup>

## **9. What is House Bill No. 2067?**

On May 17, 2018, Governor Colyer signed House Bill No. 2067 at the Down Syndrome Guild of Greater Kansas City in Mission. The bill was designed to enhance the **Achieving a Better Life Experience (ABLE)** program.

This bill:

- Allows individuals with ABLE accounts to receive a Kansas income tax deduction for their contribution in line with the Federal Tax Cuts and Jobs Act of **2017 and**

- Reduces the circumstances under which the state Medicaid Clawback Provision would apply to the accounts.<sup>3</sup>

## **10. How are taxes treated with ABLE?**

- Contributions are made with post-tax dollars
- ABLE account earnings grow tax-free and qualified distributions are tax exempt
- Regarding federal taxation, in general, ABLE programs are exempt from taxation. Distribution from ABLE accounts for “Qualified Disability Expenses” are exempt from taxation
- Regarding state taxation, income is tax-exempt because it is post tax<sup>2</sup>

## **11. How do I apply for the ABLE program?**

- 1) Enroll online or download a printable application** from the [Kansas ABLE website](#).
- 2) You can call or order a form** or request assistance in completing this form at: 1-888-609-8919, or email:

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[ks.clientservice@savewithable.com](mailto:ks.clientservice@savewithable.com)

**3) Enroll by mail** - Mail to: Kansas ABLÉ Savings Plan

P.O. Box 219266

Kansas City, MO 6412

## 1. Who do I contact when I have questions?

- **ABLE Application Assistance** – To call to order a form or request assistance in completing the form. You can call any business day from 8 a.m. to 5 p.m. Central Standard Time.
  - **Phone:** 1 (888) 609-8019
  - **Email:** [ks.clientservice@savewithable.com](mailto:ks.clientservice@savewithable.com)
- **Additional Questions:**
  - **Kansas ABLÉ Website:**  
[www.savewithable.com/ks/home.html](http://www.savewithable.com/ks/home.html)
  - **Phone:** 1 (785) 296-6251
  - **Email:** [ABLE@Treasurer.KS.Gov](mailto:ABLE@Treasurer.KS.Gov) <sup>2</sup>



## KanCare General Information Fact Sheet



This information is provided in cooperation with the Kansas State Treasury.

### References

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<https://www.savewithable.com/ks/home.html>
3. Kansas Governor Colyer Signs ABLE Act Enhancement into Law; STL News;  
<https://www.stl.news/Kansas-politicalnews-Kansas-governor-colyer-signs-able-act-enhancement-into-law>; May 17, 2018