

## 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:

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- 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 ABLE account reaches the \$402,000 cap on ABLE contributions
  - In Kansas, the annual contribution amount is \$15,000 and the cap on contributions is \$402,000
- With an ABLE 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 ABLE 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.

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## 7. Medicaid Payback Provision:

- Also known as the “Clawback Provision.” Medicaid Payback or Clawback is when any assets remaining in the ABLÉ 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 ABLÉ 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 ABLÉ 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 ABLÉ accounts to receive a Kansas income tax deduction for their contribution in line with the Federal Tax Cuts and Jobs Act of 2017 **and**

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- 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: [ks.clientservice@savewithable.com](mailto:ks.clientservice@savewithable.com)
- 3) **Enroll by mail** - Mail to: Kansas ABLE Savings Plan

P.O. Box 219266

Kansas City, MO 6412

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### 12. 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>

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

### References

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2. [Kansas ABLÉ Savings Plan](http://www.savewithable.com/ks/home.html); slides 12, 13;  
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3. [Kansas Governor Colyer Signs ABLÉ Act Enhancement into Law](https://www.stl.news/Kansas-politicalnews-Kansas-governor-colyer-signs-able-act-enhancement-into-law); STL News;  
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