

### **Purpose:**

- To encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independent, and quality of life.
- In creating ABLE Accounts, the legislative intent is to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurances, the Medicaid program, the supplemental security income program, the beneficiary's employment, and other sources.

### **Created under Existing 529 Codes for Qualified Tuition Programs:**

- Creates a new subsection (f) ABLE Account within Section 529 of the Internal Revenue Code
- ABLE in the 112<sup>th</sup> Congress has been re-drafted to follow all the requirements and regulations of a traditional 529 qualified tuition program.
  - ❖ Easy to open and available in any state
  - ❖ Same annual contributions apply (After \$13,000 gift tax rules apply)
  - ❖ Same tax-free treatment of account applies (Income earned grows tax-free, withdrawals for qualified disability expenses are tax-free)
  - ❖ Same reporting requirements apply as to a traditional 529
  - ❖ A beneficiary may have either an ABLE account **or** a traditional 529 qualified tuition program. (Multiple ABLE accounts or multiple 529 plans still allowed)
  - ❖ Rollovers allowed from an ABLE account to traditional 529 if beneficiary is no longer deemed disabled. (All other 529 rollovers apply to ABLE accounts)
  - ❖ Rollovers allowed to other family member's ABLE account or their traditional 529

### **Qualified Disability Expenses:**

- **Education**- including tuition for preschool thru post-secondary education, books, supplies, and educational materials related to such education, tutors, and special education 6 services.
- **Housing**- Expenses for a primary residence, including rent, purchase of a primary residence or an interest in a primary residence, mortgage payments, home improvements and modifications, maintenance and repairs, real property taxes, and utility charges.
- **Transportation**- Expenses for transportation, including the use of mass transit, the purchase or modification of vehicles, and moving expenses.
- **Employment Support**- Expenses related to obtaining and maintaining employment, including job-related training, assistive technology, and personal assistance supports.
- **Health Prevention and Wellness**: Expenses for health and wellness, including premiums for health insurance, mental health, medical, vision, and dental expenses, habilitation and rehabilitation services, durable medical equipment, therapy, respite care, long term services and supports, nutritional

management, communication services and devices, adaptive equipment, assistive technology, and personal assistance.

- **Other Approved Expenses-** Any other expenses which are approved by the Secretary under regulations and consistent with the purposes of this section.
- **Assistive Technology and Personal Support-** Expenses for assistive technology and personal support with respect to any item described in clauses (i) through (vi).
- **Miscellaneous Expenses-** Financial management and administrative services, legal fees, expenses for oversight, monitoring, or funeral and burial expenses.

### **How to Qualify for an ABLE Account:**

- Any individual who is receiving, deemed to be, or treated as receiving supplemental security income benefits or disability benefits under Title II of the Social Security Act.

#### **OR**

- Any individual who has a medically determined physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 month or is blind, **and** provides a copy of their diagnosis signed by a physician.
- No one who qualifies for an ABLE account is able to use that eligibility to secure supplemental security income benefits or Medicaid.

### **Federal Treatment of ABLE Account under Supplemental Security Income Program:**

- When the assets in an ABLE account reach \$100,000, if the beneficiary is receiving Supplemental Security Income (SSI) benefits, any monthly SSI benefits will be placed in suspension
- If the assets in the ABLE account drop back below \$100,000, the SSI benefit suspension ceases and any SSI benefit resumes
- The beneficiary will not have to reapply for SSI benefits once the account drops back below the \$100,000 threshold

### **No Impact on Medicaid Eligibility:**

- Under no circumstance will anyone with an ABLE account who is currently receiving Medicaid benefits lose their benefits – **even if their SSI benefits are suspended**
- The beneficiary will never lose their eligibility for Medicaid based on the assets held in their ABLE account

### **Medicaid Payback Provision:**

- In the event the qualified beneficiary dies (or ceases to be an individual with a disability) with remaining assets in an ABLE account:
  - The assets in the ABLE Account are first distributed to any State Medicaid plan that provided medical assistance to the designated beneficiary.
  - The amount of any such Medicaid payback is calculated based on amounts paid by Medicaid after the creation of the ABLE Account.