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## ABLE Account, Special Needs and Pooled Trust Comparison Chart

Individuals who work and receive Medicaid, Supplemental Security Income (SSI) or other public benefits may find it difficult to save money and still maintain their benefits. This is especially important for “means-tested” benefits, i.e., benefits in which income and countable resources of more than \$2,000 are considered when determining eligibility.

Protected savings accounts make it possible for individuals to have savings / resource limits greater than \$2,000 and still maintain eligibility for benefits such as Medicaid, HUD, SSI and the Supplemental Nutrition Assistance Program (SNAP). This fact sheet provides basic information on three options for establishing protected savings accounts: ABLE, Pooled Trust and Special Needs Trust (first and third party).

ABLE National Resource Center partnered with the Special Needs Alliance to prepare this comparison chart. The chart that follows contains a comparison tool to help determine which option(s) best meet the needs of an individual.

### Achieving a Better Life Experience (ABLE)

ABLE accounts are tax-advantaged savings accounts for individuals with disabilities who had an onset of disability prior to age 26. The beneficiary of the account is the account owner. The individual and their family, friends and employers, may make direct contributions into the account using post-tax dollars up to annual limits. Some states allow for state income tax deductions for contributions made to an ABLE account.

ABLE funds can be spent on Qualified Disability Expenses (QDE) such as costs for maintaining or improving health, independence or quality of life. These include 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.

## Pooled Trust

Pooled trusts are managed by nonprofit organizations that pool the assets of multiple individuals into separate sub-accounts. The agency administrator makes decisions on how to invest and disburse the funds and is responsible for meeting reporting requirements to government agencies including the Social Security Administration (SSA). In consideration of a beneficiary's public benefits, Pooled Trust funds may be authorized directly to purchase a home and to cover expenses that enhance a beneficiary's life such as cable and recreation; pre-paid funeral expenses are allowable.

## Special Needs Trusts (SNT)

A Special Needs Trust also may be used to cover supplemental needs, some of which public benefits may not cover. The trust may be funded by a person with a disability or by a third party.

A First Party account, funded from the person with a disability, comes from sources such as earnings, divorce settlement, inheritance, life insurance, a personal injury award or retirement.

A Third Party account, funded by someone other than the person with a disability (e.g., a parent or grandparent or someone else), comes from sources such as income, life insurance, trust or will.

### ABLE Account, Special Needs and Pooled Trust Comparison Chart

Comparison Criteria	ABLE	Pooled Trust (First or Third Party)	Special Needs Trust (First Party)	Special Needs Trust (Third Party)
<b>Eligibility</b>	Onset of a significant disability prior to age 26.	Disability or moderate impairment.  First Party Account: established before age 65.  Third Party Account: no age limitation.	Disability: established before age 65.	No limitations.
<b>Allowed Accounts</b>	One (1)	May have multiple first and third party accounts.	May have multiple first party accounts.	May have multiple third party accounts.
<b>Account Opened By</b>	Account opened at any age by person with a disability, parent, legal guardian or agent under power of attorney.	First Party: Account set up by any person with authority over funds (including beneficiary).  Third Party: Account set up by anyone other than the beneficiary.	Account set up by the beneficiary, a parent, grandparent, court or legal guardian or by someone with authority to act for the beneficiary (e.g., an agent under a power of attorney).	Account set up by grantor (anyone but the beneficiary).

Comparison Criteria	ABLE	Pooled Trust (First or Third Party)	Special Needs Trust (First Party)	Special Needs Trust (Third Party)
<b>Allowable Use</b>	Qualified disability expenses including housing, education, transportation, employment training and support, assistive technology, personal support services, health care expenses, financial management and administrative services and other expenses determined by beneficiary; assistance by legal guardian or power of attorney allowable.	As determined by trust administrator; food or housing expenses may generate special issues.  Administrator provides oversight and manages funds.	As determined by trustee; food or housing expenses may generate special issues, as may any direct distributions to the beneficiary.	As determined by trustee; no required limitation on food or housing expenses, but may cause reduction in some benefits. Direct distributions to the beneficiary may reduce or eliminate eligibility.
<b>Startup Cost</b>	\$0, but there may be a minimum deposit.	Typically \$200 - \$1,000.	Attorney fees vary, and may include court costs; \$1,000s.	Attorney fees vary \$100s - \$1,000s.
<b>Minimum Contribution</b>	Average \$0 - \$50.	Typically \$2,000 - \$10,000.	No limitation, but costs make it inefficient for smaller trusts.	No limitation.

Comparison Criteria	ABLE	Pooled Trust (First or Third Party)	Special Needs Trust (First Party)	Special Needs Trust (Third Party)
<b>Annual Contribution Limit</b>	\$15,000 total from owner, family, friends, employer and Special Needs Trust. Note: A Pooled Trust or Special Needs Trust may sometimes make contributions into an ABLE account, up to the annual limit.	No limit.	No limit.	No limit.
<b>Additional Contributions Allowed</b>	Additional contributions by ABLE owners are permitted from earnings when the beneficiary or their employer do not contribute into an employer-sponsored retirement account in the calendar year. In those cases, additional amounts may be as much as \$12,140. The increase for residents of Alaska may be up to \$15,180, and	Some pooled accounts allow for beneficiary to contribute earnings.	No third party funds may be added to a first party Special Needs Trust.	Other family members may contribute additional amounts to a third party Special Needs Trust, but no funds of the beneficiary may be added.

Comparison Criteria	ABLE	Pooled Trust (First or Third Party)	Special Needs Trust (First Party)	Special Needs Trust (Third Party)
	residents of Hawaii up to \$13,960 (2019).			
<b>Maximum Holdings</b>	Varies by state \$100,000 - \$529,000.	NA	NA	NA
<b>Ongoing Management Fees</b>	Fees vary with each state's ABLE program. Costs are nominal and average \$0 - \$60.	Average \$200+. Enrollment and administration fees are almost always higher than those associated with ABLE accounts, but lower than for-profit businesses that offer trust services.  Management fees for a pooled SNT can be less than 1% on an annual basis. A fee schedule should be available.	Often 1% - 2%. Enrollment and administration fees are likely higher than those associated with ABLE accounts, but are often lower than for-profit businesses that offer trust services. Many first party trusts require court oversight, which may add expenses.	Often 1% - 2%. Trustee's fees and associated costs are almost certainly higher than those associated with ABLE accounts, but may be lower than for-profit businesses that offer trust services.

Comparison Criteria	ABLE	Pooled Trust (First or Third Party)	Special Needs Trust (First Party)	Special Needs Trust (Third Party)
<b>Debit Card or Checks</b>	Availability of prepaid debit cards, checking options and contribution gift cards; fees vary by state plan and option.	Yes – often arranged through TrueLink or similar card.	Yes – often arranged through TrueLink or similar card.	Yes – often arranged through TrueLink or similar card.
<b>Investment Options</b>	Yes, 4 – 7 plans or more. Options vary with each state’s program.	Yes. Trust funds are pooled for investment purposes and an account is maintained in each beneficiary’s sub-account. Pooled Trust administrator decides, often in consultation with beneficiary and/or family.	Yes. The investment options are within the discretion of the trustee / administrator.	Yes. The investment options are within the discretion of the trustee / administrator.
<b>Investment Option Fees</b>	Yes, \$.0 - .94%.	Yes, varying by actual investment product.	Yes, varying by actual investment product.	Yes, varying by actual investment product.
<b>Medicaid Cost Payback Upon Death</b>	Yes, if applicable; funds may be used for funeral, burial and qualified disability expenses prior to Medicaid payback.	First party: Yes, though nonprofit trustee may be permitted to retain some or all of the balance rather than repaying Medicaid	Yes, if applicable; funds may not be used for funeral expenses prior to payback.	No. Remaining funds may be used for funeral or other final expenses, and remaining funds are then distributed to named beneficiaries.

Comparison Criteria	ABLE	Pooled Trust (First or Third Party)	Special Needs Trust (First Party)	Special Needs Trust (Third Party)
	<p>*Several states do not require Medicaid payback for ABLE participants who are residents of their state and enrolled in their state’s plan.</p>	<p>(trustee arrangements vary).  Third party: No payback requirement. Funds may be used for funeral or other last expenses.</p>		
<p><b>SSI Resource</b></p>	<p>If ABLE account balance exceeds \$100,000, either alone or with other resources, which cause the SSI resource limit to be exceeded, SSI benefit is suspended until balance falls under threshold. Otherwise, an ABLE account is not counted as a resource for SSI purposes.</p> <p>Any amount of ABLE savings does not impact Medicaid eligibility.</p>	<p>Depends on date of establishment guidelines and source of trust funds.</p> <p>Third party Pooled Trust: see SNT – third party.</p>	<p>Trust principal is counted as a resource if: (1) a trust beneficiary has legal authority to revoke or terminate the trust and use the funds to meet food or shelter needs; (2) if the trust beneficiary can direct the use of the trust principal for his or her support and maintenance under the terms of the trust; or (3) if the trust beneficiary can sell his or her beneficiary interest in the trust, that interest is a resource.</p>	<p>Trust principal is counted as a resource if: (1) a trust beneficiary has legal authority to revoke or terminate the trust and use the funds to meet food or shelter needs; (2) if the trust beneficiary can direct the use of the trust principal for his or her support and maintenance under the terms of the trust; or (3) if the trust beneficiary can sell his or her beneficiary interest in the trust, that interest is a resource.</p>



Comparison Criteria	ABLE	Pooled Trust (First or Third Party)	Special Needs Trust (First Party)	Special Needs Trust (Third Party)
<b>SSI Income</b>	Disbursements may be made for qualified expenses such as shelter expenses like mortgage payments or rent, insurance, taxes and utilities without resulting in a one-third loss of SSI due to unearned income. However, money taken out for rent or housing expenses must be paid in the same month as the distribution or it is counted as a resource.	<p>Cash, including gift cards or certificates paid directly from the trust to the SSI recipient, is unearned income and will reduce SSI.</p> <p>Food or shelter or shelter costs such as rent, mortgage payments, taxes and utilities received as a disbursement by a trustee / administrator to a third party is considered in-kind support for SSI and can reduce SSI benefits, but not necessarily by the amount of the distribution.</p> <p>Some disbursements from the trust that are not cash to the individual, or third party payments that</p>	<p>Cash, including gift cards or certificates paid directly from the trust to the individual, is unearned income.</p> <p>Food or shelter or shelter costs such as rent, mortgage payments, taxes and utilities received as a disbursement by a trustee / administrator to a third party is in-kind support and maintenance under the presumed maximum value rule.</p> <p>Some disbursements from the trust that are not cash to the individual or third party payments that are not in-kind support and maintenance are not countable income.</p> <p>Examples are</p>	<p>When trust principal is not a resource, disbursements from the trust may or may not be income depending on the nature of the disbursement.</p> <p>Cash, including gift cards or certificates paid directly from the trust to the individual, is unearned income.</p> <p>Food or shelter or shelter costs such as rent, mortgage payments, taxes and utilities received as a disbursement by a trustee / administrator to a third party is considered in-kind support for SSI and can reduce SSI benefits unless it is contributed to an ABLE account and</p>

Comparison Criteria	ABLE	Pooled Trust (First or Third Party)	Special Needs Trust (First Party)	Special Needs Trust (Third Party)
		are not in-kind support and maintenance, are not countable income. Examples are educational expenses, therapy, medical services, phone bills, recreation and entertainment.	educational expenses, therapy, medical services, phone bills, recreation and entertainment.	paid from that account.  Some disbursements from the trust that are not cash to the individual or third party payments that are not in-kind support and maintenance are not countable income. Examples are educational expenses, therapy, medical services, phone bills, recreation and entertainment.
<b>State Tax Qualified Contributions</b>	Maybe: depends on the state ABLE program and/or state law.	No	No	No
<b>Federal Tax Deductible Contributions?</b>	Not for federal tax purposes, though employed ABLE owners may qualify for Saver's Credit.	No	No	No

Comparison Criteria	ABLE	Pooled Trust (First or Third Party)	Special Needs Trust (First Party)	Special Needs Trust (Third Party)
<b>Revocable</b>	Yes, revocable. ABLE funds can be transferred to another qualifying individual (sibling, half-sibling or adopted sibling).	No, a first party Pooled Trust is irrevocable.  A third party Pooled Trust can be revocable or irrevocable. If the beneficiary has the power to revoke, public benefits may be jeopardized.	No, the trust is irrevocable.	The trust can be revocable or irrevocable.  If the beneficiary has the power to revoke, public benefits may be jeopardized.
<b>Death of Owner/Trustee</b>	All outstanding qualified disability expenses, funeral and burial expenses are payable from an ABLE account. Remaining funds are subject to state resident rulings regarding Medicaid payback provision. Currently, Arkansas, California, Illinois, Kansas, Maryland, Oregon, Pennsylvania and West Virginia	First party: after repayment of Medicaid (or distribution of a share to the nonprofit trustee), the remaining balance may be payable to family members.  Third party: the trust's terms will control distributions upon death.  Agency may retain a portion of account	After repayment of Medicaid, any remaining balance may be payable to family members or the beneficiary's estate.	The trust's terms will control distributions on death of the beneficiary.

Comparison Criteria	ABLE	Pooled Trust (First or Third Party)	Special Needs Trust (First Party)	Special Needs Trust (Third Party)
	have waived Medicaid payback provisions. Remaining funds are payable to the ABLE beneficiary's estate or, if the plan permits, to a named beneficiary.	balance at the time of beneficiary's death (Trustee arrangements vary).		
<b>Heirs upon Death of ABLE Beneficiary after Medicaid Recovery</b>	Most programs require that the heir is named in the ABLE account owner's estate.	Specific beneficiaries can be designated in the document.	Specific beneficiaries can be designated in the document.	Specific beneficiaries can be designated in the document.

Please remember that individuals may want to make use of more than one, or all, of these protected savings options. For example, funds from Pooled and Special Needs Trusts can often be deposited directly into an ABLE account. This strategy expands options for beneficiaries, empowering them to spend the funds as they choose, within the range of qualified disability expenses. In addition, and equally important, the beneficiary can be in charge of the timing and payment of ordinary living expenses.

Funds spent on items not within allowable guidelines of ABLE, Pooled and Special Needs Trusts may cause the beneficiary to lose eligibility for SSI and Medicaid during the time the funds were determined as countable income or resources. Unapproved payments from an ABLE account may result in very modest income tax liability for the beneficiary.

\*Arkansas, California, Illinois, Kansas, Maryland, Oregon, Pennsylvania and West Virginia have waived Medicaid Payback Provision for in-state residents with in-state ABLE accounts.

**For More Information:**

ABLE National Resource Center: [www.ablenrc.org](http://www.ablenrc.org) Special Needs Alliance: [www.specialneedsalliance.org](http://www.specialneedsalliance.org)