

# SNT's and ABLE

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**NATIONAL  
DOWN SYNDROME  
CONGRESS**



# SPECIAL NEEDS TRUSTS

# What is a trust?

A trust is a fiduciary arrangement that allows a trustee as a third-party to hold assets on behalf of a beneficiary or beneficiaries. The trust specifies how and when the assets are given to the beneficiaries.

# Special Needs Trusts

## What is the purpose of a Special Needs Trust?

- Helps individuals with disabilities by improving their quality of life while protecting their eligibility for various public assistance (needs-based) and government benefits.
- Receive and distribute assets for the primary benefit of the individual with disabilities who is the beneficiary.

# Public Assistance Programs

Provides income:

- Supplemental Security Income (SSI)
- Social Security Disability Insurance (SSDI)
- Disabled Adult Child-disability benefits based on parent's work history (parent may be retired or disabled)

# Public Assistance Programs

Medical coverage:

- Medicare
- Medicaid
- Medicaid Waiver programs
- Private health insurance (i.e., ACA)

# SSI and Medicaid Eligibility

Depends on:

- Level of care (medical need)
- Resource test that have caps on asset and income levels
- Penalty periods if you transfer assets
- Traditional trusts count as an available resource

# SSI-Related Programs & Coverage Groups – Financial Eligibility Standards: January 2023

PROGRAMS & TYPES OF COVERAGE	INCOME		ASSETS		MAINTENANCE NEEDS STANDARDS / OTHER					
	Individual	Couple	Individual	Couple						
<b>PROGRAMS MANAGED BY SOCIAL SECURITY (eff 01/01/2023)</b>					<b>Disregards:</b> Standard Disregard = \$20 Earned Income Disregard = \$65 + 1/2 Student Earned Income Disregard = \$2,220 monthly, maximum \$8,950 for calendar year  <b>Ineligible Spouse Deeming:</b> 1/2 FBR = \$458 Child Allocation = \$458/child (Difference between the couple and single FBR)  <b>Parent to Disabled Child Deeming:</b> Parent Allocation = \$841  <b>Disability Substantial Gainful Activity (SGA) = \$1,470 non-blind \$2,460 blind Medicare Part B Premium = \$164.90, Part A free for most or \$506</b>  *Interim figures are calculated based on the 2023 8.7 % Cost of Living Adjustment (COLA) until the official Federal Poverty Levels (FPL) are published in the Spring of 2023.  **These Standards change effective April 1 of each year in accordance with federal law					
<b>Supplemental Security Income (SSI)</b> Federal Benefit Rate (FBR) Cash payment of SSI from SSA; Includes Full Medicaid							\$914 <small>(FBR)</small>	\$1,371 <small>(FBR)</small>	\$2,000	\$3,000
<b>Low Income Subsidy (LIS) or Extra Help (150% FPL)</b> Helps with costs associated with Medicare Prescription Drug Plans Automatic with full Medicaid or Medicare Savings Programs (QMB, SLMB, QI1). Income asset limits change annually.							\$1,699	\$2,289	\$ 15,160 <small>(W/ Burial Exc)</small>	\$ 30,240 <small>(W/ Burial Exc)</small>
<b>COVERAGE GROUPS FOR PEOPLE 65+ OR DISABLED (Community Medicaid Programs) (interim 01/01/2023) *</b>										
<b>MEDS-AD (MM S) (88% FPL)</b> Full Community Medicaid					\$1,084	\$1,460	\$5,000	\$6,000		
<b>Medically Needy (No Income Limit)</b> Medically Needy Income Level (MNIL) Full Community Medicaid <b>when</b> Share of Cost is met					Subtract \$180 from gross income	Subtract \$241 from gross income				
<b>PROGRAMS FOR PEOPLE WITH MEDICARE (Medicare Savings Programs/Buy-In) (interim 01/01/2023) * not incl. \$20 disregard</b>										
<b>QMB (100% FPL)</b> Pays Medicare A & B premiums, coinsurance & deductibles <b>only</b>					\$1,232	\$ 1,659	\$8,400	\$12,600		
<b>SLMB (120% FPL)</b> Pays for Medicare <b>Part B</b> premium <b>only</b>					\$1,477	\$1,990				
<b>QI1 (135% FPL)</b> Pays for Medicare <b>Part B</b> premium <b>only</b>					\$1,662	\$2,239				
<b>Working Disabled (200% FPL)</b> Qualified Disabled Working Individuals (QDWI) Program Pays for Medicare <b>Part A only</b> . Must have lost SSDI due to employment					\$2,462	\$3,318	\$5,000	\$6,000		
<b>PROGRAMS BASED ON INSTITUTIONAL POLICY – Patient Responsibility and Income Trusts may apply. (eff 01/01/2023)</b>										
					<b>PERSONAL NEEDS ALLOWANCE</b>		SSI Individual \$30 only in NH = \$100 (SPS)			
					<b>Individual</b>		<b>Couple</b>		Transfer of Asset Divisor = \$10,809 (eff 8/2022)	
					\$130		\$260		Community Hospice Allocations: Spouse only = FBR (\$914) Spouse + Dependents or Dependents Only = CNS Standard	
					Community NH \$130		Community NH \$260		Spousal Impoverishment: (eff 07/01/2022) MMMNA = \$2,289 Excess shelter = \$687** Standard Utility Allowance = \$ 376 (eff 10/01/2022) Maximum Income Allowance = \$3,716 Community Spouse Resource Allowance = \$148,620 Family Members Allowance with Spouse = (MMMNA-income) divided by 3 Dependents with no Spouse = CNS Standard Home Equity Interest Limit = \$688,000	
<b>Institutional Care Program (ICP)</b> Pays Nursing Home (NH) room, board & care Pays Medicare A & B premiums, coinsurance & deductibles					\$2,523 <small>(MEDS-AD Institutional Income Limit \$ 1,084)</small>	\$5,046 <small>(MEDS-AD Institutional Income Limit \$ 1,460)</small>	\$2,000 <small>(\$5,000 if MEDS-AD eligible)</small>	\$3,000 <small>(\$6,000 if MEDS-AD eligible)</small>		
<b>Hospice</b> Pays Hospice services related to terminal illness Pays Medicare A & B premiums, coinsurance & deductibles										
<b>Home and Community Based Services (HCBS) Waivers or PACE</b> Pays Medicare A & B premiums, coinsurance & deductibles										
<b>STATE FUNDED PROGRAMS (eff 01/01/2023)</b>										
<b>OPTIONAL STATE SUPPLEMENTAL (OSS) REDESIGN</b> Maximum Payment = \$78.40 single / \$156.80 Couple Assists with paying room & board at alternate living facilities					\$992.40	\$1,911.80	\$2,000	\$3,000		
<b>PROTECTED OSS (Reference OLM 2040.0822)</b> Maximum Payment = \$239 single / \$478 Couple Assists with paying room & board at alternate living facilities					\$1,099	\$2,125				
<b>HOME CARE FOR DISABLED ADULTS (HCDA)</b> Pays small stipend to caregivers of disabled					\$2,742	\$5,484				



# Types of Special Needs Trusts

Ask the question: Whose money is this?

- Third Party: someone other than the beneficiary or beneficiary's spouse (parents, grandparents, etc.)

OR

- Self-Settled: belongs to the beneficiary

# Third Party Special Needs Trusts

Typically set up by a family member for a person with disabilities

- Will with testamentary SNT provisions
- Revocable Trust with Third-Party SNT provisions
- Stand-alone Third Party SNT

No Medicaid payback required

An attorney can draft a special needs trust as part of a Revocable Living Trust or within a Will, which can be funded now or later.

# Self-Settled (d4a) Special Needs Trusts

Medicaid payback required

Must be irrevocable

Must be the funds of the person with a disability  
(age 65 and below)

- Inheritance
- Personal Injury Award
- Earnings and Savings

# Pooled Trust (d4c) Special Needs Trust

- By combining your/their funds with other people with disabilities (pooling their assets), administrative costs are typically lower and “minimum fees” can be avoided
- Some pooled trusts have one-time enrollment fees as low as \$500
- Many pooled trusts do not have minimum monthly or annual fees
- Non-profit organizations also administer trusts
- Requires signing a Joinder Agreement (to join the Pooled Trust)

# Who Can Create a Special Needs Trust?

Parent

Grandparent

Court  
Appointed  
Guardian

Court

Individual  
with a  
Disability



# Who Gets the Remaining Money in the Trust After the Person with a Disability's Lifetime?

Depends on the type of SNT:

THIRD PARTY SNT: goes to heirs chosen by Grantor (other children, grandchildren, charity, etc.)

FIRST PARTY SNT: after very specific expenses paid, then Medicaid is paid back for expenses paid by Medicaid during lifetime of disabled person.

--only if anything left after that, do heirs receive \$

# What Happens if There is a Settlement or Unexpected Inheritance?

Who has legal authority over the funds?

Does the person with a disability already have control of the funds directly or through a guardian?

- If an individual with a disability has control of the funds
  - requires a first-party (payback) SNT
- Other People's Money still held by PR/Trustee:
  - May be able to reform the Will/Trust and use a third-party SNT (no payback)

# In Case of a Settlement or Unplanned Inheritance

The question is should you do an SNT or not?

- Impact on government/other benefits
- Penalties
- Professional fees
- Exclusions



# In Case of a Settlement or Unplanned Inheritance

- Options
  - Retain \$2,000 maximum in checking/savings account
  - Fund the Florida ABLE United account if eligible to the maximum
  - Is a “spend down” appropriate or helpful?

# In Case of a Settlement or Unplanned Inheritance

- Spend-down plans
  - Reduce debt (i.e., medical, credit card, etc.)
  - Preserve/improve existing exempt resources
    - Home repairs, car repairs, etc.
  - Purchase new exempt resources (home, car, items for the home, etc.)
  - Prepaid living expenses
  - Legally transfer wealth
  - Prepaid funeral expense

# SNTs: Advantages of Self-Settled SNTs

## Advantages:

- Protect government benefits;
- Keep your money; and
- Trust provides for supplemental needs

# SNTs: Disadvantages of Self-Settled SNTs

## Disadvantages:

- Use of money in trust restricted by rules of trust
- Challenges related to selecting and working with trustee
- Remaining trust assets subject to Medicaid claim on death

# FAQ's

	ABLE	Self-Settled Trust (d4a)	Pooled Trust (d4c)	Third Party SNT
Can be Established by Beneficiary Directly	√	√	√	
Can be controlled by Beneficiary Directly	√			
No Limited Annual Contributions		√	√	√
Funds Grow Tax Free	√			
Low Fees	√		Depends	Depends
No Lifetime Limits on Account Size		√	√	√
Can be Used to Pay for Food/Shelter for SSI Recipient Without Impacting Benefits	√			
Broader Distribution Standard Than Just Sole Benefit of Beneficiary	√			√
Exempt From Creditors Claims	√	Depends	Depends	√
Allows For Limited Disbursements After Death	√			√
No Medicaid Payback upon Death	Depends			√

# ABLE Accounts

Expanding Financial Empowerment  
and Community Inclusion for People  
With Disabilities



# MEET AMANDA & DALTON



**AMANDA**  
13 YEARS OLD

Amanda has a physical disability and will utilize Medicaid services throughout her life. Amanda's parents are saving for her to go to college. They are concerned about who will support and care for Amanda when they are gone. Amanda's parents want to plan for the future.

**DALTON**  
34 YEARS OLD

Dalton has a developmental disability and is employed. Dalton receives SSI, which he uses for his monthly rent payments. He wants to purchase his own home one day, but because of SSI limits, Dalton cannot save up money for a down payment. Dalton wants to plan for his future and keep his benefits.

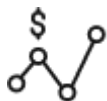


# Imagine

## If People with Disabilities Could...



Save money in their own names –  
and more than just \$2,000



Accumulate wealth without losing  
their eligibility for benefits



Work without having to “spend  
down” their current or future  
income

Move from a  
**monthly**  
financial plan to a  
lifetime  
**financial plan**

ABLE ACCOUNTS MAKE THESE CHOICES POSSIBLE



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# What is an ABLE Account?

ABLE accounts are savings and investment tools, built specifically for people with disabilities, that allow individuals to save money **without impacting public benefits**. ABLE accounts are offered under Section 529A of the U.S. Tax Code.

# By the Numbers

Accounts are offered through state-run ABLE programs

46 states + DC operate ABLE programs

137,000+ Total Accounts

Over \$1.25 Billion in Nationwide ABLE accounts

# Key Benefits

## Multiple Functions

- Short-term spending and long-term savings

## Opportunity

- Financial empowerment and community inclusion

## Spend Down Alternative

## Ownership

- ABLE accounts are owned by the person with the disability

## Easy to Use

- Easy to open, close, and use- similar to a regular bank account

## Tax Benefits

- Tax-free earnings and state tax deductions/credits



# Who is Eligible?

- Disability began before age 26
  - Eligible individuals can open an ABLÉ account at ANY age.
- Long-Term
  - More than 12 months and must cause “marked and severe functional limitations.”
- Diagnosis
  - Eligible for SSI or SSDI; or a doctor has diagnosed you with a disability (physical or mental).

# How do you open an ABLE account?

- Almost all programs have online enrollment!
- Find your ABLE program
  - See [abletoday.org/able-programs](http://abletoday.org/able-programs)
- Flexible Enrollment
  - The individual with the disability can open and manage their own account, or a support person can oversee account management

# Who can serve as an ABLÉ Account Support Person?

- People with disabilities can open and administrate ABLÉ accounts
- ABLÉ Support Person can be an individual or an organization
- Supporters can manage multiple accounts at once.

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Power of Attorney

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Conservator

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Guardian

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Spouse

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Parent

---

Sibling

---

Grandparent

---

Representative Payee

# How much can you contribute?

**ANNUAL**  
**\$17,000**

Contributions can come from any source including directly from the ABLE account enrollee, family, friends, organizations, nonprofits, and employers

**IF EMPLOYED**  
**\$30,590**

The person with the disability can contribute up to an extra \$13,590 more every year, if they are not contributing to their workplace retirement account

**BALANCE LIMITS**  
**~\$400,000**

Programs also have balance limits that differ by State  
(\$300,000-\$500,000+)

# How Dalton contributed to his ABLE account.

Dalton set up a direct deposit feature with his employer to automatically contribute part of his paycheck into his ABLE account every month.



## Annual Basis

Dalton can contribute up to \$13,590 (depending on how much income he earns).

## e-gifting

Dalton uses this feature and receives \$5,000 annually from family and friends.

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## Before ABLE...

Dalton's resource limit was \$2,000 a month.

## Now...

With an ABLE Account he has saved \$18,590.



# Annual Costs

## Annual Account Fees

Ranges  
**\$0 to \$60**

## Asset-Based Fees:

Ranges  
**0% to 0.9%**

# Investment Options

- Most ABLÉ accounts offer multiple places to put your money.
- You can pick one option or spread your money across multiple options
- Choose from:
  - Checking and savings options
    - FDIC insured
  - Market-based investment options
    - Stocks, bonds, etc.

# Spending Your Funds

A “Qualified Disability Expense” (QDEs) is anything that relates to the disability and helps maintain or improve health, independence, or quality of life

- Housing and Rent
- Assistive Technology
- Basic Living Expenses
- Financial Management
- Transportation
- Health & Wellness
- Education
- Legal Fees

# How to Withdraw Money from ABLE Account

- Checkbooks
- Debit Cards
- Third Party Checks
- Bank Transfer

# Special Benefits Rules

If you  
receive  
SSI:

- Balances over \$100,000 start counting as a resource
- If you withdraw money to use for housing, you must use it within the same calendar month

If you  
receive  
Medicaid:

- Medicaid does not have a balance limit
- Medicaid payback still applies to ABLE, just as it would apply with other accounts- check with your state to confirm



# SNTs and ABLE: Working together

# Funding an ABLE Account with a SNT

Distributions may be made from ABLE account for food and shelter and will not cause a reduction in SSI benefit



# SI01120.201.I.1.c

re: Disbursements that are NOT Income

**Funds transferred from the trust into an account established by the trust beneficiary under the Achieving a Better Life Experience (ABLE) Act are excluded from income to the trust beneficiary.** For treatment of deposits into an ABLE account, see [SI01130.740](#).

<http://policy.ssa.gov/poms.nsf/lnx/0501120201>



# Considerations from Trust to ABLE

There are many factors to consider when determining **IF** a trustee should transfer from Trust to ABLE.

- ABLE can be used for food and shelter with NO impact on the SSI beneficiary.
- What will the remainder beneficiaries say?
- Does the trust document allow for it?
- Amount to transfer to the ABLE account.
- Can the trust beneficiary manage their own ABLE account?

# Resources

- CMS Memo:  
<https://www.medicaid.gov/federal-policy-guidance/downloads/smd17002.pdf>
- POMS SI 01130.740  
[:https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130740](https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130740)
- HUD Memo  
<https://www.hud.gov/sites/dfiles/OC/HCO/documents/2019-09pihn.pdf>
- IRS Memo:  
<https://www.irs.gov/pub/irs-drop/td-9923.pdf>



## Case Study: Vacation Expenses

- Abby has a disability that occurred before the age of 26 and receives SSI and Medicaid benefits.
- Abby has a first-party pooled SNT and an ABLER account
- Abby is going on vacation with her Aunt and a family friend, and she would like to have some money available for food, shopping, etc. but is not sure how much she may need.
- What flexibility exists between her SNT and ABLER Account?
  - Trustee may use something like True Link Card- prepaid debit card.
  - Trustee can make a distribution to her ABLER account





## Case Study: Third Party SNT and Groceries

- Dennis set up a third party SNT for his adult son who receives SSI and Medicaid.
- The onset of his son's disability was before age 26.
- Because of his son's dietary restrictions, his monthly food costs are rather high. Dennis would like to make sure that his son can purchase the food he needs to stay healthy.
- What are his options?
  - Dennis can help his son set up an ABLÉ account
  - Trustee can make a distribution to his ABLÉ account

*Can be used for food without impacting benefits!*

# Overview of ABLE vs. SNT

	ABLE	3 <sup>rd</sup> Party SNTs	1 <sup>st</sup> Party SNTs
<b>Age Limit?</b>	Pre-26	NO	YES
<b>Person with a disability can manage?</b>	YES	NO	NO
<b>Person with disability can fund?</b>	YES	NO	YES
<b>Allow maintenance of public benefits?</b>	YES	YES	YES
<b>Limitations on annual contributions?</b>	YES	NO	NO
<b>Income grows tax-free?</b>	YES	NO	NO
<b>Unlimited number of accounts?</b>	NO	YES	YES
<b>Medicaid payback?</b>	Depends	NO	YES



# Overview of ABLE vs. SNT

	ABLE Account	Standalone SNT	Pooled SNT
<b>Contribution Amount</b>	\$17,000/year Additional \$13,590 from work income	Unlimited	Unlimited
<b>Shelter Payments w/0 SSI reduction</b>	YES	NO	NO
<b>Taxable Income</b>	NO	YES	YES
<b>Beneficiary Eligibility Requirements</b>	Onset of disability must occur before age 26	Federal definition of disability before age 65 (3 <sup>rd</sup> party- any age)	Federal definition of disability before age 65 (3 <sup>rd</sup> party- any age)
<b>Medicaid Recovery</b>	Varies by State! for 1 <sup>st</sup> and 3 <sup>rd</sup> party funds	YES- 1 <sup>st</sup> Party NO- 3 <sup>rd</sup> Party	YES- 1 <sup>st</sup> Party NO- 3 <sup>rd</sup> Party
<b>Disqualification from SSI</b>	Account balance over \$100,000	NONE	NONE
<b>Abuse/Vulnerability</b>	Fraud, coercion, disqualification from benefits	MINIMIZED if administered by professional Trustee	MINIMIZED
<b>Medicaid payback?</b>	Depends	NO	YES

**Thank  
You!**



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