



CDSS

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DEPARTMENT OF SOCIAL SERVICES

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EDMUND G. BROWN JR.
GOVERNOR

June 27, 2017

ALL COUNTY LETTER (ACL) NO. 17-61

TO: ALL COUNTY WELFARE DIRECTORS
ALL CALWORKS PROGRAM SPECIALISTS
ALL CALFRESH PROGRAM SPECIALISTS
ALL CONSORTIA PROJECT MANAGERS
ALL TRIBAL TANF ADMINISTRATORS
ALL COUNTY CHILD CARE COORDINATORS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO
KIDS (CalWORKs) AND CALFRESH PROGRAMS: ACHIEVING A
BETTER LIFE EXPERIENCE (ABLE) ACCOUNTS FOR INDIVIDUALS
WITH DISABILITIES IN CALIFORNIA

REFERENCE: [H.R. 647- 113th CONGRESS](#) (2013-2014), ABLE ACT OF 2014;
[PUBLIC LAW \(PL\) 113-295](#), SECTION 103, DIVISION B, TITLE I –
QUALIFIED ABLE PROGRAMS; [TITLE 26 – INTERNAL REVENUE
CODE, §529A](#); [FOOD AND NUTRITION ACT OF 2008](#); SOCIAL
SECURITY PROGRAM OPERATIONS MANUAL SYSTEMS (POMS)
– [SOCIAL SECURITY INCOME \(SI\) 01130.740](#) ACHIEVING A
BETTER LIFE EXPERIENCE (ABLE) ACCOUNTS; [WELFARE AND
INSTITUTIONS CODES \(W&IC\) SECTIONS 4875, 4880, and 4882](#);
[SENATE BILL \(SB\) 324](#) (CHAPTER 796, STATUTES OF 2015); AND
[ASSEMBLY BILL \(AB\) 449](#) (CHAPTER 774, STATUTES OF 2015);
MANUAL OF POLICIES AND PROCEDURES (MPP) [§42-213.2](#),
[§42-213.23](#), [§44-101\(f\)](#), [§44-113.215](#), [§44-133.21](#), and [§82-832.1\(d\)](#)

The purpose of this All County Letter (ACL) is to notify County Welfare Departments (CWDs) of the current law which allows eligible individuals with disabilities to establish a new tax-advantaged savings account for qualified disability expenses.

REASON FOR THIS TRANSMITTAL

- ☒ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

Background

On December 19, 2014, President Obama signed into federal law the Stephen Beck Jr. Achieving a Better Life Experience (ABLE) Act (PL 113-295) which allows individuals with disabilities to open an ABLE Account without losing eligibility to public benefit programs. These accounts were codified by the Tax Increase Prevention Act of 2014 and are included under Section 529A of the Internal Revenue Code of 1986, as amended. The law requires each state to decide whether to offer a qualified ABLE program to its residents.

On October 11, 2015, Governor Brown signed the California ABLE Act into law through SB 324 (Chapter 796, Statutes of 2015) and AB 449 (Chapter 774, Statutes of 2015), which became effective January 1, 2016. The California ABLE Act allows qualified individuals with disabilities to open tax-advantaged ABLE accounts in California. The California ABLE Act Board has been established to administer the CalABLE savings program. The CalABLE accounts are anticipated to be available in Fall 2017. California residents with disabilities are allowed to open an ABLE account in any state offering a national plan. Further information and resources are provided in the CalABLE Resources section of this ACL.

ABLE Account

An ABLE Account is a tax-advantaged savings account that allows individuals with disabilities to save and invest money for disability-related expenses (called Qualified Disability Expenses, or QDEs) without losing eligibility for certain means-tested public benefits programs, such as Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI). In California, under the IRC section §529A (b)(6) as established by the State for its college savings plan (ScholarShare), the designated beneficiary of an ABLE account is able to save up to \$475,000. However, for individuals receiving SSI benefits and/or State or local means-tested benefits, their ABLE accounts must not exceed \$100,000. The maximum yearly contribution limit is \$14,000.

Criteria of Eligible Individuals:

- Eligible for, or currently receiving, SSI or SSDI benefits as a result of their disability and the disability occurred before age 26; OR
- Able to provide a “disability certification” of the individual’s disability, which occurred before age 26, by the individual or his/her parent/guardian, along with a copy of a physician’s diagnosis when opening an ABLE Account

The purpose of an ABLE Account is to help individuals with disabilities maintain or improve their health, independence, and quality of life. ABLE Account earnings are not subject to federal income tax when used for “Qualified Disability Expenses” (QDEs). These expenses are not limited to just medical expenses, but may also include basic living costs, such as the following:

- Education
- Housing
- Transportation
- Employment training and support
- Assistive technology and personal support services
- Health
- Financial management and administrative services
- Legal services
- Funeral and burial expense, and other expenses.

CalWORKs Treatment of Accounts

For CalWORKs eligibility purposes, families must pass both income and asset limit tests. The CalWORKs program has a maximum asset limit of \$2,250 for families who are currently on cash aid and \$3,250 for CalWORKs households that have members who are disabled or age 60 or older. However, CalWORKs families are able to save money with no limit restrictions when retaining a retirement or an education savings account (§42-213.2) or a restricted account for specified purposes (§42-213.23).

The ABLE/CalABLE accounts are beneficial to recipients of Social Security Disability Insurance (SSDI) and other disability benefits, where disability-based unearned income [§44-101(f)] is counted after the \$225 disregard (§44-113.215) when determining the individual’s CalWORKs eligibility and the amount of cash aid that a family receives. These qualified individuals may reduce their unearned income by making contributions to an ABLE/CalABLE account.

Examples of those disability benefits include:

- State Disability insurance benefits
- Private disability insurance benefits
- Temporary Worker’s Compensation Benefits
- Social Security Disability Benefits
- Veteran’s Disability Compensation (VDC) benefits

Individuals will need to prove their disability began before age 26 and have their disability certified before opening an ABLE account. Please review the eligibility requirements for qualified individuals to open an ABLE/CalABLE account.

Additionally, CalWORKs regulations related to a disabled individual receiving Supplemental Security Income/State Supplement Program (SSI/SSP) state that the disabled family member is excluded from the CalWORKs assistance unit (AU) [§82-832.1(d)] and their SSI/SSP income is not counted when determining the family's grant amount (§44-133.21). The Social Security Administration (SSA) has already established guidance (SI 01130.740) for qualified SSI/SSP individuals under the ABLE Act who have ABLE accounts to use towards qualified medical expenses.

Impact of ABLE/CalABLE Accounts on CalWORKs

AB 449 added Section 4880 to the W&IC, which provides that the moneys in, contributions to, and any distribution of up to \$100,000 for qualified expenses from an ABLE/CalABLE account shall not count toward determining eligibility for any state or local means-tested program, such as CalWORKs. For CalWORKs eligibility determination, any amount up to \$100,000 in these accounts is not considered as a resource and any withdrawals used towards QDEs shall not be counted as income. Contributions made by family members, friends, or the beneficiary themselves are limited to \$14,000 a year. Qualified persons may reduce their unearned income by making contributions to the ABLE/CalABLE account to maintain their CalWORKs eligibility. Additionally, the accumulated earnings of the ABLE/CalABLE accounts are tax-free, including the withdrawals to be used for QDEs.

If a CWD becomes aware of any case in which any amount up to \$100,000 in an ABLE/CalABLE account is incorrectly treated as income or a resource when determining eligibility for a qualified applicant or when calculating a cash grant for a recipient, the CWD must take corrective action to re-evaluate the eligibility and recalculate prior cash grants excluding the money up to \$100,000 in those accounts. In cases where an underpayment has occurred, or an applicant was denied due to money in the ABLE/CalABLE account, the CWD shall restore any aid that the applicant or recipient was entitled to, after offsetting any existing overpayments for the case.

Impact of ABLE/CalABLE Accounts on CalFresh

For CalFresh eligibility purposes, ABLE/CalABLE accounts should be excluded as both income and resources.

Per section 103(a) of the Tax Increase Prevention Act of 2014 under PL 113-295, titled Account Funds Disregarded for Purposes of Certain Other Means-Tested Federal Programs, any amount in the ABLE account and any distribution for qualified expenses shall be disregarded. As Supplemental Nutrition Assistance Program (SNAP) is a means-tested Federal program, the Food and Nutrition Service (FNS) has determined that funds in ABLE accounts should be excluded as both income and resources.

This is consistent with Section 5(d)(10) of the Food and Nutrition Act of 2008 (the Act), as this section excludes income that has specifically been excluded from SNAP eligibility determinations by another Federal Law. Any withdrawals used toward qualifying expenses shall not be counted as income. Section 5(g)(8)(A) of the Act excludes from resources the value of educational accounts in section 529 of the Internal Revenue Code of 1986. In Section 5(g)(8)(B), the Act further provides a discretionary exclusion for the value of other financial accounts, as determined by the Secretary. FNS has determined that due to similarities between 529 educational accounts and 529A ABLE accounts, any amount in the ABLE account shall be excluded as a resource.

Client Notification

The CWDs are strongly encouraged to inform eligible CalWORKs and CalFresh recipients and applicants with disabilities that they will be able to retain an ABLE/CalABLE account (in the case of CalWORKs, up to \$100,000), so they do not have to "spend down" their savings to maintain eligibility.

CalABLE Outreach and Publications

The CalABLE Act Board is currently conducting marketing and outreach efforts to raise more awareness among all Californians regarding California's own ABLE accounts. Families and friends can contribute toward the account on behalf of the qualified disabled individual. The CWDs are strongly encouraged to inform eligible individuals about the benefits of having an ABLE/CalABLE account.

CalABLE Resources

The CWDs are encouraged to share information and materials about CalABLE in publicly accessible areas. Please find below a list of CalABLE resources that CWDs can utilize to further assist individuals with disabilities in the CalWORKs and CalFresh programs and their families.

- [California State Treasurer, John Chiang](#) website has comprehensive information about CalABLE, including Fact Sheets in multiple languages and links to additional resources.
- [ABLE National Resource Center](#) offers an online tool to compare ABLE programs between states.

[This ACL and other CDSS Letters and Notices](http://www.cdss.ca.gov/inforesources/Letters-and-Notices) are available on the internet at: <http://www.cdss.ca.gov/inforesources/Letters-and-Notices>.

If CWDs have questions regarding this ACL, please contact the CalWORKs Eligibility Bureau at (916) 654-1322.

Sincerely,

Original Document Signed By:

TODD R. BLAND
Deputy Director
Welfare to Work Division