



**Eligibility Operations Memo 17-04**  
**October 1, 2017**

TO: MassHealth Eligibility Operations Staff

FROM: Amy Dybas, Deputy Chief Operating Officer for Member Policy Implementation, Training, and Communications

RE: **Achieving a Better Life Experience (ABLE) Accounts**

## **Background**

The Stephen Beck Jr. “Achieving a Better Life Experience Act” (ABLE Act) was signed into law on December 19, 2014. This federal legislation offers eligible individuals the opportunity to have a tax-deferred savings account, exceeding the asset limit for Medicaid (and other public assistance benefits), without negatively affecting eligibility. The ABLE Act was intended to give its designated beneficiaries the ability to improve their health, attain a better quality of life, and maintain an independent lifestyle.

## **Summary**

An ABLE account will be considered a noncountable asset when determining eligibility for seniors (age 65 and older) and individuals in need of institutional level of care at home or in a long-term care facility. An individual may only have one ABLE account. Generally, contributions to and distributions from these accounts will not be considered countable income. A contribution into the account may be made by any person, trust, estate, association, company, or corporation, but must be for the benefit of the designated beneficiary. Contributions may be made up to a certain annual amount, determined each year by the IRS, and considered a nontaxable gift. Additionally, earnings on the account, such as interest and dividends, will also not be considered countable income. There is a balance limit of \$100,000 for federal Supplemental Security Income (SSI) benefits; however, this balance limit does not apply for Medicaid purposes.

## **Provisions**

- The MassHealth applicant or member must be the designated beneficiary of the ABLE account.
- The designated beneficiary must be blind or disabled by a condition that began before reaching the age of 26 and be entitled to SSA benefits because of that condition.
- The account must be owned and established by the designated beneficiary, unless he or she is a minor child or someone who is otherwise incapable of managing the account. When this is the case, a parent, legal guardian, or power of attorney can be considered a person with signature authority (PSA) and they may establish and control the account for the eligible individual.
- The ABLE account must be clearly identifiable and maintained under a qualified ABLE program.
- The account must be set up to reimburse any state for Medicaid services received upon the death of the designated beneficiary and after payment of any remaining qualified disability expenses.

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### **Provisions (cont.)**

- Distributions must be for the benefit of the designated beneficiary, as the funds are to be used strictly for qualified disability-related expenses (QDEs). The Internal Revenue Service broadly defines QDEs as any expenses related to the eligible individual's blindness or disability that may include, but are not limited to, expenses incurred for education, housing, transportation, employment training and support, and assistive technology. Distributions from ABLE accounts used for expenses that do not qualify as QDEs for the beneficiary will be counted.
- Funds set aside to be spent on QDEs do not have to be spent in the same month of withdrawal and will not be considered part of countable resources as long as the ABLE account remains open and the funds can clearly be identified.

### **Additional Considerations**

- Some ABLE account beneficiaries may also be a beneficiary of a special needs trust (SNT) or pooled trust. Disbursements from an SNT or pooled trust that are deposited into the ABLE account of the SNT or pooled trust beneficiary are not countable as income.
- Beneficiaries of an ABLE account can contribute their own income or assets to their ABLE account. If ABLE account beneficiaries transfer some of their own (otherwise countable) assets to their ABLE account, the effect would be a corresponding reduction in total countable assets. By contrast, if beneficiaries of an ABLE account transfer to their ABLE account some of their income in the month received, the effect would not be a reduction in countable income. Therefore, income contributed to the ABLE account by the MassHealth applicant or member remains countable in his or her eligibility determination.
- The ABLE Act does not provide for any special treatment of contributions made to an ABLE account benefiting another person. For example, a contribution from a grandfather to his grandchild's ABLE account, whether from the grandfather's income or resources, would constitute a transfer of assets from the grandfather to his grandchild's account, which must be evaluated under existing transfer rules if the grandfather subsequently applies for MassHealth seeking institutional level of care.

### **Authorized Massachusetts Plan/Investment Options**

ABLE programs are operated by individual states. Massachusetts now has a qualified ABLE program, referred to as "the Attainable Savings Plan," which is offered through the Massachusetts Educational Financing Authority (MEFA) and is managed by Fidelity Investments. Investment options and fees associated with these accounts will vary by state. Some states that offer this program do not have a residency requirement, which gives individuals and their families more options to consider when deciding where to open the account, regardless of the state in which they live. Therefore, it is acceptable for MassHealth members or applicants to have or to open an account in another state. However, individuals may have no more than one ABLE account.

### **Questions**

If you have any questions about this memo, please have your MEC designee contact the Policy Hotline.