

Comparison Guide: Special Needs Trust and ABLE Account



Ardent Community Trust of Pennsylvania
Formerly - The Arc Community Trust of Pennsylvania

Enhance



Protect



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As a trustee for Special Needs Trusts, ACT helps individuals with disabilities and families navigate through the options to protect their futures and enhance their lives.

The Achieving a Better Life Experience (ABLE) Act allows individuals with disabilities to save for qualified disability related expenses. ABLE creates a new provision under the current IRS code §529 education savings plan to establish these accounts.

Without a Special Needs Trust or ABLE Account, an individual who receives certain government benefits, such as Supplemental Security Income (SSI), Social Security Disability Income (SSDI) and Medicaid, would only be allowed to have \$2,000 in financial resources before losing government benefits; ABLE accounts allow for up to \$100,000.

DIFFERENCES BETWEEN A SPECIAL NEEDS TRUST AND AN ABLE ACCOUNT

| | SPECIAL NEED TRUSTS | ABLE ACCOUNTS |
|------------------------------|--|--|
| Contributions | No contribution limit. | Only \$15,000 in total from all sources each year. |
| Contributors | Contributors depend on what type of trust. | Any person, including beneficiary, may contribute. |
| Maximum Account Value | No maximum account value. | <ul style="list-style-type: none"> • \$100,000 to retain SSI. • Otherwise, max 529 account amount per state (Pennsylvania max \$511,758). |
| Number of Accounts | An individual may have more than one type of Special Needs Trust. | One ABLE account per individual. |
| Benefit Eligibility | SSI, Medicaid and Waiver eligibility will not be impacted if properly drafted. | <ul style="list-style-type: none"> • SSI payments will be suspended if account value is more than \$100,000. • Medicaid and Waiver not impacted. |
| Disability Onset | Onset age is not a factor. | Disability must occur before age 26. |
| Eligibility | Meets the Social Security Administration's definition of disabled, generally. | Receiving SSI/SSDI benefits or submit disability certification. |
| Uses | Can be used for the supplemental needs and sole benefit of the beneficiary. | For "qualified disability expenses" as defined by federal and state regulations. |
| Remaining Funds | Use of remaining funds depends on the type of trust. | Federal law requires funds remaining at beneficiary's death to pay back state(s) for Medicaid paid on beneficiary's behalf. Pennsylvania waives Medicaid payback, but there may be Estate Recovery in certain cases. |

You may be wondering which option to choose. Your situation is unique and you may find that it's not an either or proposition, but rather a combination of the two. ACT recommends that you review how to use both to accomplish your goals. Explore this option at, www.ACTPA.org/able-account/ for more details.

Special Needs Trust and ABLE how to maximize your benefits

There are many discussions on what account may work better for a beneficiary. Meaning should you open an ABLE account or start a special needs Trust. From my perspective those are good discussions and question to ask. But what can be more beneficial for and individual and family is; How can I use both to maximize their benefit?

ABLE Account

The ABLE (Achieving a Better Life Experience) Act is a piece of legislation that allows individuals with disabilities to open special savings accounts for disability-related expenses. This legislation, which builds on the already existing 529 college savings accounts, ensures that all funds in this account can grow tax free as long as the funds are used for qualifying expenses such as education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention, and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and any other expenses approved under regulations.

Most importantly, the funds in this account do not count towards the asset/resource limit established by

means-based benefit programs such as Medicaid and Supplemental Security Income. As with the SNT, the funds in these accounts are intended to supplement not supplant, government benefits.

Special Needs Trust (SNT)

Essentially, the Special Needs Trust (SNT) – which is established by placing funds and other assets under the control of a trustee – is a legal document that is designed solely for the financial protection of an individual with a disability. As mentioned, until the ABLE Act became law it was the only legal way to save money without sacrificing eligibility for government benefits. It is also important to note that the funds in the special needs trust supplement but do not supplant government benefits. In other words, the special needs trust is designed to provide financial assistance for any care above and beyond what the government provides.

ABLE, SNT or BOTH?

In general if an individual receives a small settlement, say 13,000 and has no other income it may be a good idea to establish an ABLE Account, or utilize those funds quickly in effort not to have them impact public benefits.

However, let's say the beneficiary has a job and receives that same settlement. An ABLE Account restricts an annual deposit to 15,000 per year. In this case it may be better to establish a SNT and an ABLE Account. It is even more significant if the individual receives a larger settlement with or without other income streams.

Why is this important? Both SNT and ABLE accounts have policies and regulations that guide the beneficiary in ways to minimize impact on benefits. Those regulations are similar but not identical. The accounts (ABLE and SNT) are to supplement benefits not supplant them. However, where a SNT cannot be used specific beneficiary needs without impact benefits, an ABLE account does not have that stipulation. So if an individual has both accounts they may be able to disburse funds from their SNT directly to their ABLE account and from there utilize their funds to address those areas/needs that a SNT is unable to impact.

Links to Information

ABLE - www.actpa.org/ABLE

Third-Party - WWW.ACTPA.ORG/THIRD-PARTY/

Education - WWW.ACTPA.ORG/EDUCATION/

Self-Funded - WWW.ACTPA.ORG/SELF-FUNDED/

Pooled - WWW.ACTPA.ORG/POOLED/

ACT - Ardent Community Trust of Pennsylvania

1012 W. 9th Ave., Suite 215, King of Prussia, PA 19106

T: (610) 265-4788 F: (610) 265-4688 E: info@Arctrust.org

ACTPA.org

1-610-265-4788