

Special Needs Trusts and ABLE Accounts: Planning for the Future of a Loved One with a Disability

People with disabilities who receive Supplemental Security Income (SSI) and/or Medicaid benefits, often have a hard time saving for the future because they can only have a certain amount of money in their name in order to qualify financially for these means-tested government programs. Special needs trusts (SNT) have traditionally been the most common way to secure the financial future of a loved one with a disability without putting their benefits at risk. ABLE Accounts are a relatively new tool that could also help someone save while protecting that person's eligibility for these vital benefits both now and in the future.

What is the difference between ABLE accounts and SNTs?

An ABLE account is a tax-advantaged savings account that allows people with a disability prior to age 26 to set aside money for qualified disability expenses. The person with a disability can deposit their own funds into an ABLE account or a third party can also put money into the ABLE account to benefit the disabled individual.

A SNT is a special type of trust that allows a person with a disability—that began at any age—to protect funds they are entitled to while preserving their eligibility for Medicaid and/or SSI benefits. A trustee manages the funds for the benefit of the person with a disability, called the trust beneficiary. SNTs can be used to protect an individual's own money or created by someone other than the trust beneficiary who wants to set aside money for a loved one.

Who can set up these accounts?

An ABLE Account can be established by the individual with a disability or by a parent, legal guardian, or agent under power of attorney if the trust beneficiary does not have the capacity to sign a legal document. A SNT can be established by these same parties and also by court order.

What can an ABLE account pay for?

The funds in an ABLE account can pay for qualified disability expenses (QDEs) related to a person's blindness or disability. Some examples of qualified expenses include housing, transportation, education, health and wellness expenses, employment training and support, financial management, legal fees, assistive technology, personal support services, funeral and burial expenses. Distributions from an ABLE account for non-qualified expenses may be taxable.

What can a SNT pay for?

The money in a SNT can be used for most of the same things that an ABLE account can be used for—and much more—as long as the funds are used for the sole benefit of the trust beneficiary and for items that a person's benefits do not provide. For example, if the trust beneficiary receives SSI, distributions from a SNT to pay for food and shelter expenses can reduce a person's SSI benefits. However, the funds in a SNT can be used for life enhancing purchases that may not be considered disability related or a qualified disability expense.

Which option is best?

There is much to consider when choosing the best financial vehicle to protect your loved one and help them secure a better financial future. To help you determine the best option for your loved one, we have put together a comparison chart on the next page outlining the key differences between each program. When possible, SNTs and ABLE accounts can be used in conjunction to maximize the benefit to your loved one.

If you have questions, contact NYSARC Trust Services at 518-439-8323 or visit www.nysarctrustservices.org.



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Special Needs Trust (SNT)	ABLE Accounts
Onset of disability at any age. If a person is over age 65, any new funds must be deposited into a pooled SNT.	Onset of disability must be prior to age 26
There is no limit on how many SNTs a person can have	A person can only have one ABLE account
No limit on how much or how often you can put money into a SNT	Annual contributions capped at \$15,000 from any source (can be higher if a person is working and not contributing to a retirement account)
Funds in a SNT are exempt when determining a person's eligibility for SSI benefits as long as there are no distributions for in-kind support and maintenance (e.g. food and housing expenses)	Any amount of funds in an ABLE account that exceeds \$100,000 is counted as a resource for SSI eligibility
Pooled SNTs are inexpensive to set up and maintain. More expensive to create and administer an individual SNT.	Inexpensive to set up and maintain.
Funds in a SNT can pay for life-enhancing purchases and non-disability related expenses. For SSI recipients, cannot pay for food and housing expenses without reducing SSI benefits.	Funds are intended for "Qualified Disability Expenses". If funds are used for non-qualified expenses, the earnings portion of the withdrawal will be treated as income.
A SNT can protect excess resources and income for benefit eligibility purposes.	Income deposited into an ABLE account is still counted as income for benefit eligibility purposes (e.g. wages, benefit payments, child support, etc.)
<p>A trustee manages the funds and reports to government agencies. Trustee must maintain detailed records of distributions, follow government rules and regulations, and perform trust tax reporting.</p> <p>A professional trustee has a legal obligation to safeguard the funds. Different professional trustees provide different services beyond those listed above.</p>	Promotes independence with greater access to funds, however, the individual account holder is responsible for tracking and substantiating account activity. Best for a capable individual who can manage their own finances independently or with the assistance of a trusted individual. With beneficiary in control, there is risk of mismanagement of funds and the individual may be susceptible to exploitation.
No Medicaid payback on third party funded SNTs, remainder funds are distributed as directed in the trust document. Individual first party SNTs require Medicaid payback and distribute any remaining funds as directed in the trust document. Pooled SNTs, run by non-profit organizations, typically retain funds or a portion of funds at death to support other people with disabilities.	Upon the death of the beneficiary, any funds that remain in an ABLE account are subject to Medicaid payback for services provided during the period that the ABLE account was open, even funds deposited by third parties.
More control and flexibility with investment options because the trustee manages investments and can make changes any time.	Investment options are provided by the State's program and typically limit investment changes to a couple times a year.
Earnings on a SNT may be taxable. Tax implications vary based on the type of trust and source of funding.	Earned interest and qualified distributions are tax-free if used for qualified disability expenses.

References: [Congress.gov - H.R.647 - ABLE Act of 2014](https://www.congress.gov/bills/115/647); IRS, ABLE Accounts - [Tax Benefit for People with Disabilities](#); NY ABLE website, [About NY ABLE](#), [Eligibility](#), [Qualified Expenses](#); Social Security Administration, [Program Operations Manual System \(POMS\)](#)