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E-600 Achieving a Better Life Experience (ABLE) Program

MS Manual ~~10~~12/01/~~17~~ 19

POMS SI 01130.740

An Achieving a Better Life Experience (ABLE) account is a tax-advantaged account that an eligible individual can use to save funds for the disability-related expenses of the account's designated beneficiary. The designated beneficiary must be blind or disabled by a condition that began before the individual's 26th birthday.

An ABLE program can be established and maintained by a State or a State agency directly or by the State contracting with a private company. An eligible individual can open an ABLE account through the ABLE program in any State. The Arkansas ABLE program is established and maintained through a collaboration of the Department of Human Services, Arkansas Rehabilitative Services and the State Treasurer.

An eligible individual can be the designated beneficiary of only one ABLE account, which must be administered by a qualified ABLE program. A person with signature authority can establish and control an ABLE account for a designated beneficiary who is a minor child or is otherwise incapable of managing the account. The person with signature authority must be the designated beneficiary's parent, legal guardian, or agent acting under power of attorney. The designated beneficiary is considered to be the owner of the ABLE account regardless of whether someone else has signature authority over it.

Upon the death of the designated beneficiary, funds remaining in the ABLE account, after payment of any outstanding, qualified disability expenses, may be transferred to the estate of the designated beneficiary, or an account for another eligible individual specified by the designated beneficiary. An ABLE account is not subject to estate recovery upon the death of the designated beneficiary~~will be used to reimburse the State(s) for Medicaid benefits that the designated beneficiary received~~.

E-630 Contributions

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A contribution is the deposit of cash funds into an ABLE account. Any person can contribute to an ABLE account. A contributing "person" may be an individual, trust, estate, partnership, association, company, or corporation. However, the Internal Revenue Service (IRS) limits the total annual contributions that any ABLE account can receive from all sources to the amount of the per-donee gift-tax exclusion in effect for a given calendar year. The amount of the gift-tax exclusion can be found in IRS Publication 559. ~~For 2017, the annual exclusion limit is $14,000~~ (MS Appendix R)

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1076

By: Representatives J. Mayberry, Watson
By: Senator Maloch

For An Act To Be Entitled

AN ACT TO AMEND THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM ACT; TO AUTHORIZE THE TRANSFER OF ABLE ACCOUNT ASSETS FOLLOWING THE DEATH OF A DESIGNATED BENEFICIARY; TO PROHIBIT THE STATE FROM SEEKING PAYMENT FROM THE ABLE ACCOUNT; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM ACT; TO AUTHORIZE TRANSFER OF ABLE ACCOUNT ASSETS FOLLOWING DEATH OF DESIGNATED BENEFICIARY; AND TO PROHIBIT THE STATE FROM SEEKING PAYMENT FROM ABLE ACCOUNT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-3-109, concerning the naming of designated beneficiaries and the transfer of accounts within the Achieving a Better Life Experience Program Act, is amended to add an additional subsection to read as follows:

<u>(c)(1) Unless prohibited by federal law, upon the death of a designated beneficiary, proceeds from an account may be transferred to:</u>

<u>(A) The estate of a designated beneficiary; or</u>

<u>(B) An account for another eligible individual specified by the designated beneficiary or the estate of the designated beneficiary.</u>

(2) An agency or instrumentality of the state shall not seek payment under 26 U.S.C. § 529A(f), as in effect on January 1, 2019, from the account or its proceeds for benefits provided to a designated beneficiary.

APPROVED: 2/4/19