

ABLE Accounts and Special Needs Trusts



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Representing people with disabilities and their families since 1974

The Achieving a Better Life Experience (“ABLE”) created a way to save funds for individuals with disabilities without jeopardizing means tested government benefits like Medicaid and in some cases Supplemental Security Income (“SSI”)



Who Can Have an ABLE Account?

- Individuals with significant disabilities providing the condition developed before the individual turned 26 years of age*
- If the individual meets the SSI/SSDI criteria and the age criteria – the individual qualifies
- If the individual doesn't receive SSI/SSDI, but the disability developed before the individual turned 26, then the individual must show that:
 - The condition is severe
 - The condition lasted at least 12 months
 - The condition prevented the individual from earning substantial and gainful income

*The ABLE age adjustment act is proposed legislation to raise the age to 46 (S.651 an H.R. 1814)

Benefits of ABLE Accounts

- Funds saved in an ABLE account do NOT affect Medicaid eligibility
- Funds saved in an ABLE account up to \$100,000 will NOT affect SSI eligibility
- Funds in an ABLE account can be used for housing

Limitations of ABLE Accounts

- Maximum annual deposit into an ABLE Account is \$15,000
 - If an individual is working, he/she can contribute additional funds from their employment income
 - Then, the maximum annual deposit increases to \$27,140
- Funds remaining in the account at the death of the individual with a disability must be used to repay government liens
 - If the individual was receiving Medicaid benefits there is likely an outstanding government lien
- In some cases, SSI Eligibility will be jeopardized



Roll Over Contributions

- 2017 Tax Cuts and Jobs Act allows roll over contributions from a 529 College Savings Plan to an ABLE account
- The Beneficiary on the 529 and the ABLE account must be the same
- The maximum amount of the roll over is limited to \$15,000 per year and counts toward the annual limit for an ABLE account



Roll over and over and over.

Qualified Disability Expenses

- The Social Security Administration has defined Qualified Disability Expenses as expenses related to:
 - education, housing, transportation, employment training and support, assistive technology and related services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for ABLE account oversight and monitoring, funeral and burial, and basic living expenses

Does the way the funds are used make a difference?

- Funds spent from an ABLE account for housing do not affect Medicaid eligibility
 - Funds spent from an ABLE account for housing can affect SSI eligibility if families are not aware of timing issues- distributions for housing are “counted as a resource” if not spent in the month of the distribution
- “Housing Expenses” include mortgage, property taxes, rent, heating fuel, gas, electric, water, sewer, and garbage removal



Special Needs Trusts (generally)

- Funds are not counted as a resource for purposes of benefits
- No limitation on the amount which can be deposited at one time
- Funds can only be used for the sole benefit of the beneficiary of the trust
- Funds cannot be used for food, clothing and shelter
- Funds can be used for therapies, trips, recreation, supports, transportation, etc.

There Are Two Types of Special Needs Trusts

- First Party (sometimes referred to as a “payback” Trust)
- Third Party

First Party Trust

- Holds Funds belonging to the individual with a disability
- At the death of the beneficiary, the funds must first be used to satisfy any Medicaid lien
- New Jersey regulations require, among other things:
 - Annual accountings
 - 45 day notice prior to any expenditure greater than \$5,000

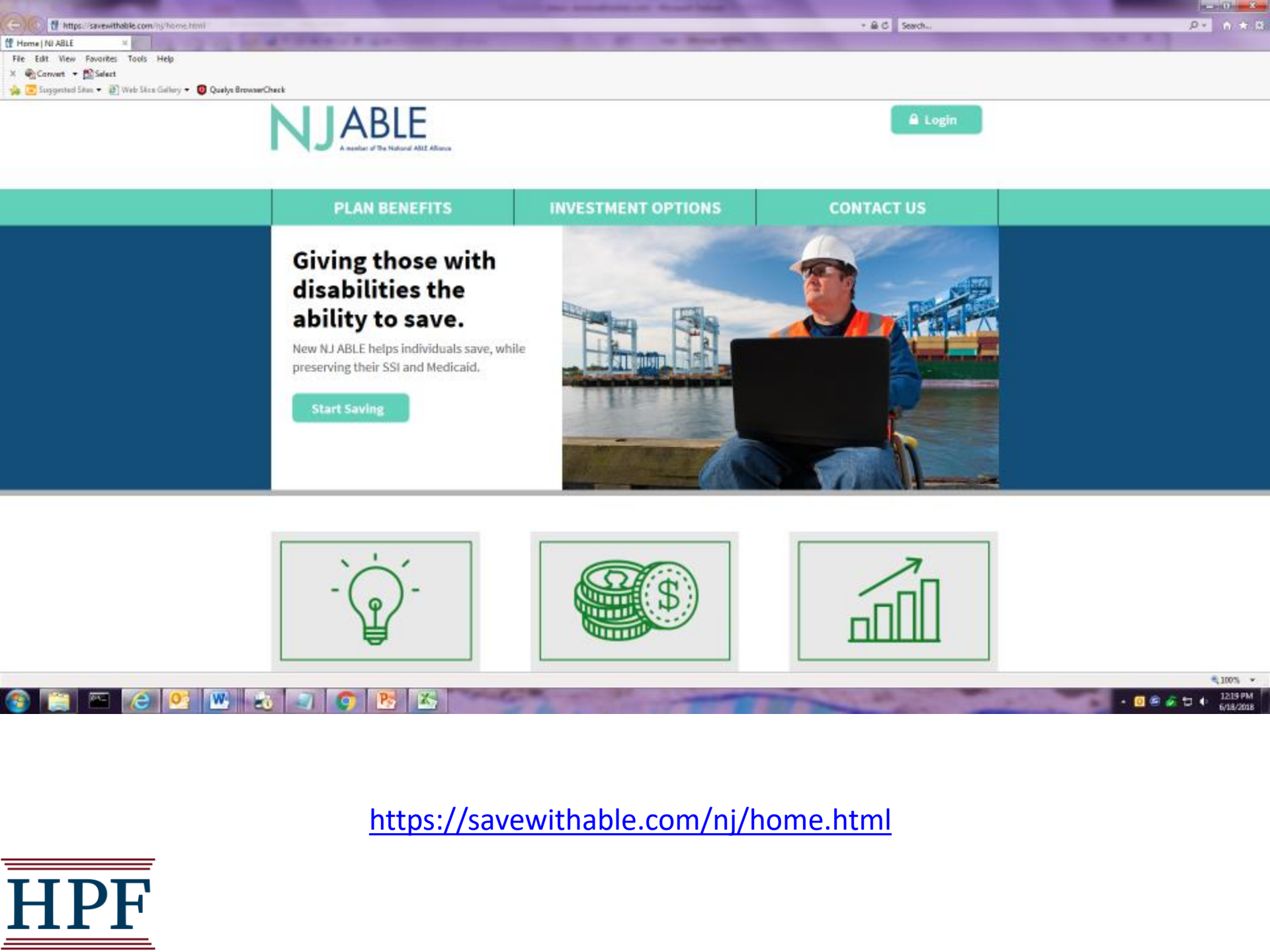
Third Party Trust

- Holds funds belonging to someone other than the individual with the disability
- There is no payback requirement
- At the end of the beneficiary's life, the funds are distributed according to the wishes of the settlor of the trust
- No regulatory oversight

ABLE Accounts and Third Party Special Needs Trusts

- Do I need an ABLE account and a Special Needs Trust?
 - An ABLE account may be part of a comprehensive plan to ensure financial security for an individual with a disability
 - This comprehensive plan may include both a third party special needs trust and an ABLE account, as well as, a first party trust in certain circumstances





PLAN BENEFITS

INVESTMENT OPTIONS

CONTACT US

Giving those with disabilities the ability to save.

New NJ ABLE helps individuals save, while preserving their SSI and Medicaid.

Start Saving



<https://savewithable.com/nj/home.html>

Thank you!

Questions?

- We offer free articles and information
- Free speaking events and workshops
- Locations in New Jersey and Pennsylvania

Please visit our website www.hinkle1.com

Or call

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