

**Statement of Necessity and Rule Summary**  
**Medical Services Policy Manual Sections E-600 and E-630**  
**Achieving a Better Life Experience (ABLE) Program**

**Statement of Necessity**

Acts 2019, No. 59, prohibits an agency from recovering ABLE account proceeds upon the death of a designated beneficiary. Medical Services Policy Manual, Section E-600 Achieving a Better Life Experience (ABLE) Program is being updated to incorporate the changes of Act 59.

Medical Services Policy Manual, Section E-630 Contributions is being updated to move the information on the exclusion limit to the Appendix R because it is for reference.

**Rule Summary**

In the Medical Services Policy Manual, Section E-600 Achieving a Better Life Experience (ABLE) Program, the statement that funds in ABLE accounts are subject to estate recovery to reimburse the State for Medicaid benefits has been removed. In turn, a statement that an ABLE account is not subject to estate recovery upon the death of designated beneficiary has been added. The ABLE account can be transferred to the estate of the designated beneficiary or an account for another individual.

In addition, Medical Services Policy Manual, Section E-630 Contributions is being updated to remove the statement of the annual exclusion limit for contributions and refers to Appendix R for the annual exclusion limit.

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

MS Manual ~~1012~~/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

MS Manual ~~1012~~/01/~~17~~19

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

## MEDICAL SERVICES POLICY MANUAL, SECTION E

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

#### E-630 Contributions

exclusion can be found in IRS Publication 559. ~~For 2017, the annual exclusion limit is \$14,000~~  
(MS Appendix R)