

Special Needs Trusts and ABLE Accounts

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- ❖ You can find all the fact sheets we link to here at WashingtonLawHelp.org.
 - ❖ We wrote this information for people who live in Washington State. Some **but not all** of this information also applies if you live in a different state.
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How can Special Needs Trusts or ABLE Accounts help me if I get Medicaid or SSI?

If you get Supplemental Security Income (SSI) or Medicaid, and you are single, you can only have up to \$2,000 in cash (or things you can easily sell for cash called “liquid assets”). If you have more than \$2,000, you cannot get SSI or Medicaid.

If you get a little bit of money that puts you over the \$2,000 limit, you can probably spend that money down in the same month you get it without losing your benefits.

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- ❖ To learn more about how you could spend down a little bit of money, read [What can I buy and still be eligible for SSI and/or Medicaid?](#)
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But if you get a lot of money that puts you over the \$2,000 limit (for example from an inheritance or a personal injury settlement), you may be able to put it in an ABLE Account or Special Needs Trust and still keep your benefits.

What are the main differences between ABLE accounts and Special Needs Trusts?

Both are intended to help you pay for things you need, but also let you keep getting SSI or Medicaid. There are many differences, explained in more detail below.

	Disability	Amount	Age When Created	Use
ABLE Accounts	Onset started before age 26	\$16,000 / year	Any age	Rent, food, other basic needs, and so on
Self-Settled Special Needs Trust (First Party, "D4A")	No disability age requirement; must be disabled as of date of trust's establishment	No limit	Under 65	Only things that SSI/Medicaid don't cover
Pooled Asset Special Needs Trust	No disability age requirement; must be disabled as of date of trust's establishment	No limit	Under 65 – no transfer penalty	Only things that SSI/Medicaid don't cover

Am I eligible to use an ABLE account or Special Needs Trust?

Both options are for people with disabilities.

ABLE accounts are only for people who have had a "life-long disability." A lifelong disability is a disability you were diagnosed with before you turned 26 years old.

Special Needs Trusts can be set up for someone diagnosed with a disability at any age. But certain kinds of trusts must be created before you turn 65 to avoid problems with SSI and Medicaid.

How do I open an ABLE account?

❖ This information is about the Washington State ABLE Savings Plan. Other states have other options.

Opening an ABLE account usually only takes a few minutes.

You can open an ABLE account for yourself, or someone else can do it for you.

You need to make a deposit of at least \$10 to open the account. There is a \$35 annual fee. There may also be other fees.

Is there a limit to how much I can save in an ABLE account?

Yes. You can deposit up to \$16,000 a year, or more if you are earning money from working.

The most you can save in an ABLE account is \$500,000. But if you want to keep your SSI and Medicaid benefits, you can only save up to \$100,000.

How do I use an ABLE account?

An ABLE account belongs to you. You can access and use the money in it for “qualified disability expenses.” These include any costs related to education, housing, transportation, employment, health and more.

Where can I learn more about ABLE accounts?

You can visit www.washingtonstateable.com to learn more about Washington State’s ABLE program.

The ABLE National Resource Center explains the program generally and the various state options. Visit their website at www.ablenrc.org to learn more.

How do I open a Special Needs Trust?

It is not as simple as opening an ABLE account. You may want to talk to a lawyer.

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- ❖ You may be able to find an attorney who practices in the areas of elder law or special needs law through the [Washington Academy of Elder Law Attorneys](http://www.washingtonacademyofelderlawattorneys.org) at <https://waela.org/>. Click “Find a Lawyer” to get to a searchable directory.
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It’s important to know that **someone else will control a Special Needs Trust**. That person will make decisions about how you can use the money in the trust. You cannot access the money on your own.

What is a self-settled trust?

This type of trust is available only if you are disabled and under age 65 when the trust is created. You, your power of attorney, or another person, like a friend, relative or legal guardian can create this type of trust.

A friend, relative or professional will manage your trust. They are called the “trustee.” The trustee can charge you a fee for managing the trust. They are supposed to act in your best interest. The trustee will decide whether to pay for the things you want from the trust based on the law and the rules of the trust.

What is a Pooled-Asset Trust?

This is a different special needs trust. Your funds are held in an account with other people’s funds and it is managed by a nonprofit organization. The nonprofit keeps track of how much money each person has in the account.

A pooled-asset trust usually works better for people who have less money. The nonprofit is providing the same service to lots of people together. This makes it less expensive than a self-settled trust. The trustee fees aren’t as high.

Where could I open a Pooled-Asset Trust?

Several organizations set up and manage pooled-asset trusts. These include:

1. The Arc of Washington manages the Developmental Disabilities Endowment Trust Fund. Contact The Arc of Washington State, 2638 State Ave NE, Olympia, WA 98506, 888-754-8798, ddetf.wa.gov.
2. Lifetime Advocacy Plus, 19203 36th Ave. West, Suite 11, Lynnwood WA 98036, 206-367-8055, www.laplus.org.
3. The Brain Injury Alliance of Washington (PACT Trust), 316 Broadway, Suite 305, Seattle, WA 98122, 206-467-4800, www.biawa.org.
4. Beagle & Associates, 500 W. 8th St. Suite 230, Vancouver, WA 98660, 360-694-5177, intrustmentnw.com.

Is there a limit to how much I can save in a Special Needs Trust?

No. There is no limit.

How can I use a Special Needs Trust?

Usually, the trustee will pay vendors directly for the things you want. For example, if you need furniture, you will pick out the furniture and tell the trustee. The trustee will pay the furniture store directly. They will not give the money to you.

You cannot use money from the trust for your food or shelter. Your SSI is meant to pay for those things.

❖ To learn more about which option might be best for you, visit <https://bit.ly/3z1xFRN> to read [Should I Use a Special Needs Trust or an ABLE Account?](#), by The Arc Center for Future Planning.

Get Legal Help

- Outside King County, call the CLEAR Hotline at 1-888-201-1014 weekdays between 9:15 am - 12:15 pm. Seniors (age 60 and over) can also call CLEAR*Sr at 1-888-387-7111.
- In King County, call the NJP General Information line at 1-888-201-1012 weekdays between 9:00 am - 5:00 pm.
- Apply online with CLEAR*Online: nwjustice.org/get-legal-help.

Deaf, hard of hearing or speech impaired callers can call any of these numbers using the relay service of your choice.

Interpreters provided.

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