Saving for Post-Secondary Education: Strategies for Individuals with Disabilities

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Introduction

There is a common misconception among individuals with disabilities, their families and the disability services provider community that saving for post-secondary education isn't permitted under the Social Security disability benefit program rules. In fact, for individuals receiving disability benefits authorized under Title II of the Social Security Act, there are no restrictions placed upon asset accumulation or the amount of resources a beneficiary may have. The Title II disability programs include Social Security Disability Insurance (SSDI), Childhood Disability Benefits (CDB) and Disabled Widow(er)s Benefits (DWB). These beneficiaries have always been at liberty to plan and save for future educational expenses without any fear that these savings would jeopardize eligibility for cash payments or Medicare health insurance coverage.

Unfortunately, the Supplemental Security Income (SSI) program is means-tested and does impose restrictions on both income and resources. Currently, SSI program rules require that eligible individuals have no more than $2,000 of countable resources with a $3,000 limit for two SSI recipients who form an eligible couple. While this limit is stringent, there are numerous resource exclusions that do not count in any way against the recipient when SSI eligibility determinations are made. Several of these resource exclusions are specifically designed to permit SSI recipients to save for post-secondary education or training that prepares them for paid employment. This paper summarizes these provisions and provides information on additional resources individuals with disabilities may access to help cover the costs of education or vocational training after high school.

Plans to Achieve Self-Support (PASS)

A Plan to Achieve Self-Support or PASS is a special Social Security work incentive that allows individuals to set aside income or resources needed to achieve a stated occupational goal. Funds set aside under an approved PASS are not counted in SSI eligibility determinations or when calculating countable income to determine payment amount. By using a PASS, individuals with disabilities can save money for the services or items they need to reach their work goal without being restricted by the usual $2,000 resource limit. It also allows individuals to use any type of income that would otherwise cause a reduction in SSI cash payments to fund the PASS and have this income be completely disregarded by Social Security. In this manner, a PASS may be used to maintain SSI eligibility, achieve SSI eligibility, or increase the monthly SSI payment amount.

A Plan to Achieve Self-Support (PASS) must specify an occupational goal and is limited to one plan per occupational goal. In order for Social Security to approve the plan, the stated work goal must be feasible and must be expected to significantly reduce or eliminate the person's dependence on SSI and/or Title II disability benefits. The plan must be submitted on Social Security's standard PASS form and must clearly delineate how much will be set aside each month, how the funds will be spent and when, and why the items or services requested are necessary for achieving the identified work goal.

For more information on Plans to Achieve Self-Support go to the Social Security Administration website at: http://www.ssa.gov/pubs/11017.html. To download a copy of the required PASS form SSA-545-BK, go to https://www.ssa.gov/forms/ssa-545.html.

Using a Plan to Achieve Self-Support (PASS) is a great way to save for an educational goal or pay for expenses related to getting post-secondary education or training. PASS funds can be used not only to pay for tuition, but also to purchase books or supplies, pay for attendant care needed to participate in an educational program, pay for transportation costs to get to and from school, or any other related expense. To get help developing a PASS, beneficiaries can contact their regional Social Security PASS Cadre, or can contact their local Work Incentives Planning and Assistance (WIPA) project. These community-based programs are funded by Social Security to help beneficiaries of the Social Security disability benefit programs plan for employment and understand how work will affect their benefits.

Beneficiaries can find contact information for their PASS Cadre at http://www.socialsecurity.gov/disabilityresearch/wi/passcadre.htm. The WIPA providers can be found at http://www.chooseworkttw.net/findhelp/

Educational Savings Accounts or 529 Plans

A relatively new way to save for college is the 529 Plan. The name “529”comes from the section number in the IRS code containing the rules for these tax deferred savings accounts. There are several different options for opening a 529 Plan account. One option lets individuals prepay tuition at a qualified educational institution at today's tuition rates. Another option lets individuals save money in a tax-deferred account (earnings only) to be used to pay for education at future tuition rates. The idea, with either option, is that the investment earnings will grow to meet the higher costs of future education.

The 529 Plan is a state-sponsored investment program. That is, the state sets up the plan with an asset management company of its choice, and you open a 529 account with that asset management company according to the state's predetermined plan features. You (the parent, family member or concerned other) are the owner of the account, and the child for whom the account is set up is the beneficiary. The owner of the account doesn’t deal directly with the state, but rather with the asset management/investment company. Because each state can control some of the features of its own plan, there are variations from state to state. Most plans follow the same general scheme (and federal requirements), but it’s important to compare plans among states. Most states do not require residency in order to participate, so it’s advisable to shop around different states for the best deal. Individuals should consult a tax advisor to see how a 529 plan applies to specific circumstances, but here are some of the general features**:**

- Investments grow tax-deferred and no federal taxes are due on withdrawals to pay higher education costs - some states offer additional tax credits on contributions.
- Anyone (relative or not) can open an account on behalf of a particular student. If multiple friends and relatives each wish to support a student's higher education, they each will have to set up a college savings account of their own, with the same child named as the beneficiary on each account. Every state, plus the District of Columbia has a college savings plan of its own.
- Funding a 529 Plan might be a means to reduce your taxable estate. However, federal gift tax rules still apply. These rules are complicated so be sure to check with a tax advisor before signing up.
- There is a special provision in the federal tax code for 529 Plans: an individual can place $55,000 in a college savings plan during a single year and escape the gift tax as long as he or she makes no other gifts to that same student over the next 5 years.

- Some plans must be open for a given period before withdrawals can be made without penalty.
- Some plans cap the total contributions that can be made for a given student. Also, be careful not to set aside much more for a given individual than reasonably can be expected to fund his or her higher education. Tax penalties may ensue.

The good news about 529 accounts is that Social Security disability benefits are generally not affected by them. The Social Security Title II program is not based on economic need, so these accounts would have no effect on benefits like SSDI, CDB or child's benefits unrelated to disability. Title II disability beneficiaries are not even required to report these savings accounts to Social Security since they are not counted in any way.

These accounts may or may not impact SSI eligibility or payment amount, depending on the circumstances. The accounts are held by the parent(s) or other concerned adults who make the contributions. While the student is named as the beneficiary, these accounts are owned by others and thus would not count as a resource to the student. If the student is over the age of 18, the 529 accounts held by parents or other concerned adults would have no bearing on the student's SSI eligibility. **However, for youth under the age of 18, a 529 account would be considered to be a countable parental resource during the deeming process. If the value of the 529 account, along with other countable resources, exceeded the parental resource limit of $3,000, it may preclude SSI eligibility for the child. The value of the 529 account would have to be in excess of $5,000 to definitively preclude eligibility for a student under age 18 who resides in a household with only one SSI eligible child.** This is because the eligible child is permitted to have countable resources valuing up to $2,000 with the parents being permitted to have additional countable resources valuing up to $3,000.

When the student comes of age and the funds from the 529 plan are disbursed to pay for educational expenses, they still would not count as income in many instances. The SSI rules state that:

> *"Any portion of a grant, scholarship, fellowship, or gift used for paying tuition, fees, or other necessary educational expenses at any educational institution, including vocational or technical education, is excluded from income. Any portion of such educational assistance that is not used to pay current tuition, fees or other necessary educational expenses but will be used for paying this type of educational expense at a future date is excluded from income in the month of receipt." From SSA POMS SI 01130.455 - Grants, Scholarships, Fellowships, and Gifts.*

Families and students need to be careful about how the funds are spent~~.~~ Any portion of grants, scholarships, fellowships, or gifts that is not used or set aside for paying tuition, fees, or other necessary educational expenses would count as income in the month received and a resource the month after the month of receipt, if retained.

In the past, there was a real problem with retaining funds received from grants, scholarships or gifts if they couldn't be spent for educational purposes right away. In the SSI program, if these funds were put in the bank, they would count as a resource that could potentially cause ineligibility for SSI. Fortunately, the Social Security Protection Act of 2004, Public Law 108-203, provided 9-month resource exclusion for grants, scholarships, fellowships, and gifts used to pay for tuition, fees, and other necessary educational expenses at any educational institution. This exclusion does not apply to any portion set aside or actually used for food or shelter – only on funds spend for educational expenses. If funds aren't spent after the 9th month, they are considered to be countable resources for SSI purposes as of the 10th month following the month of receipt.

Coverdell Accounts

There is another type of educational savings account (or ESA) available in some areas called "Coverdell Accounts". Formerly known as Education IRAs, these accounts let families put away $2,000 per beneficiary, per year and use the money -- tax-free -- to pay for college expenses. Under the old educational IRS rules only $500 per year could be contributed. In addition, under the new rules, families have more time to put the money in, can pay for more types of education expenses with the money and can combine Coverdell cash with other education tax breaks. The basic account setup remains as it was under the old IRA rules. While adults contribute to the savings plan, a child age 17 or younger is named as the account's beneficiary. The contributions aren't tax deductible, but they and their earnings can be withdrawn tax-free as long as they are used to pay eligible schooling costs.

Fortunately, that's where the similarity between the old education IRA and the new Coverdell plan (renamed in honor of the late U.S. Sen. Paul Coverdell of Georgia) ends. In addition to the increased $2,000 contribution limit, the Internal Revenue Service created the following improvements:

- Money can be added to the plan up until the tax-filing deadline of April 15.
- Contributions can be made for a child 18 or older if the individual has special needs.

- Any adult -- parents, grandparents, godparents or friends -- can put money in a child's education IRA, but the total put in the account from all sources cannot exceed $2,000. There's a 6 percent annual excess contribution tax if more than that is contributed for the same child, even when the money comes from different people.
- There are now higher income limits for contributors. To contribute fully, a person must make no more than $95,000 if filing as single taxpayer, $190,000 if married filing jointly. Limited contributions are allowed for single taxpayers earning up to $110,000 and married couples making up to $220,000. Beyond those higher incomes, a person cannot contribute. And remember, the contributions are simply for the future education of the child. The contributor gets no tax break for adding to the account.
- Coverdell funds can now be used for some pre-college expenses, including tuition, room and board, books and computers for public, private or parochial elementary and secondary schools.
- Money can be simultaneously contributed for the same child to a Coverdell account and a state college tuition program such as a 529 account.

The downside to Coverdell accounts is that, unlike Section 529 accounts, funds deposited in a Coverdell ESA are considered a resource to an SSI beneficiary after nine months. Based on Social Security's interpretation of IRS policies, it appears control of the parent or other adult contributor is essentially lost once contributions are made. This means that once a contributor places funds into the Coverdell ESA, he or she can no longer withdraw those funds. Only the beneficiary, at that point, has access to the funds. Section 435 of the Social Security Protection Act (PL 108-203) provides for an additional income and resource exclusion for gifts used to pay educational costs. Funds deposited into a Coverdell account are excluded from resources for 9 months, but become countable after the expiration of the nine-month period. Any additional deposits to the account would be subject to a new 9-month exclusion period (bearing in mind the $2,000 annual limit for contributions to a Coverdell ESA).

With a Coverdell ESA, the trustee or custodian must administer the account for the benefit of the child. Any withdrawals from the account are paid to the beneficiary and are not refunded to the parent or other person who establishes the account. In some situations, you may discover that the "responsible party" actually makes the withdrawals while the beneficiary is still a minor. The account would still be a resource to the child because the responsible party (generally a parent or legal guardian) would merely be acting as an agent for the child. This is unlike the Section 529 account where the individual who established the account can withdraw any or all funds to use for his or her own benefit. For Social Security purposes, the value of the Coverdell ESA is its equity value at the time of the resource determination. There are penalties if withdrawals are made for non-educational expenses and, of course, specific tax implications. The value of the ESA is its available balance minus the penalty, but not the tax.

Once a family has decided that a Coverdell education savings account is a worthwhile component of the child's overall educational savings plan, the next step is deciding where to put the money. Any financial institution (a bank, investment company, brokerage, etc.) that handles traditional IRAs can help a family set up and manage a Coverdell account. Families can put their contributions into any qualifying investment vehicle -- stocks, bonds, mutual funds, certificates of deposit -- offered at the institution that will serve as the account's custodian. The first step is to check with the financial institution to see what the best investment options are.

Educational Grants, Loans, or Scholarships

Students with disabilities and their families always have access to the standard federal educational assistance programs available to any qualified individual who needs help paying for higher education. In fact, most state Vocational Rehabilitation (VR) programs will require that these sources of funding be explored and exhausted before VR funds are provided to pay for educational costs.

Social Security has numerous exclusions for the various forms of educational assistance. As always, the Title II programs never count educational assistance since only wages are relevant for TWP and SGA purposes. Student financial assistance received under Title IV of the Higher Education Act such as PELL and Supplemental Educational Opportunities grants and federal work-study are also not counted as either income or resources for SSI. All student financial assistance received under HEA, or under BIA student assistance programs, is excluded from income and resources, regardless of use. This is different from the way SSI treats other non-federal sources of educational assistance such as 529 plan funds. This means that a student may use federal educational assistance to pay for food and shelter and still have it be excluded. In addition, the resource exclusion for this educational assistance does not have a time limit. In other words, no matter how long the assistance is held in the bank before it is spent, it’s excluded from resources. Some examples of HEA Title IV Programs are:

- Pell grants
- State Student Incentives
- Academic Achievement Incentive Scholarships
- Byrd Scholars
- Federal Supplemental Educational Opportunities Grants (FSEOG)

- Federal Educational Loans (Federal PLUS Loans, Perkins Loans, Stafford Loans, Ford Loans, etc.)
- Upward Bound
- Gear Up (Gaining Early Awareness and Readiness for Undergraduate Programs)
- LEAP (Leveraging Educational Assistance Partnership)
- SLEAP (Special Leveraging Educational Assistance Partnership)
- Work-Study Programs

Another advantage of the federal educational assistance programs has to do with the interest that these funds may accrue if they are put in the bank. For benefits payable on or after July 1, 2004, interest and dividends earned on unspent educational assistance under Title IV of HEA or under BIA are excluded from income. For benefits payable prior to July 1, 2004, interest and dividends earned on unspent educational assistance under Title IV of HEA or BIA, are counted as income. This feature was added as a result of the Social Security Protection Act of 2004.

Another important thing to know is that the SSI program never counts proceeds from a legitimate loan in determining eligibility and payment. This means that a student could use funds secured from a personal loan through a bank, credit union, finance company or even from Mom and Dad to finance a college education. The only restriction is that the loan has to be “bona fide”; meaning that there is an actual intent to pay the funds back. If there’s no intention of paying the funds back, then it would count as a gift. Depending on how the gift is handled, it may still be excluded in the manner explained above in the section covering 529 plans.

You should report the receipt of educational assistance to Social Security just to make sure they know you are participating in one of the excluded programs. When reporting this information, make sure to include documentation to verify which program is involved (Coverdell account, 529 account, Pell grant, etc.) for Social Security’s records. For more information about ways to finance higher education, go to http://www.savingforcollege.com/

Individual Development Accounts (IDA)

An Individual Development Account or IDA is a savings account designed to help low-income individuals save for specified purposes. The individual makes deposits from his or her earnings, and these are matched by a combination of government and private sector funds. The rate of match varies, depending on the program and the availability of funds, but is usually in the range of $2 to $4 for every $1 the individual deposits. There are federally supported and non-federally supported IDA programs. The most common federally supported programs involve

Temporary Aid to Needy Families (TANF) dollars or Federal grant monies under the *Assets for Independence Act* (AFIA). Except for emergencies, the federally supported programs permit use of the funds only to buy a home, start a business, or pay for post-secondary education. The non-federally-supported IDA programs, some of which are state programs and some of which are local funds, typically mimic the AFIA programs but allow funds to be used for one or more additional purposes, such as transportation or assistive technology. These IDA programs do not involve Federal funds, but may be supported by State or local dollars, by private funds, or a combination thereof.

Participating in a federally funded IDA program (TANF or AFI Demonstration Project) is an excellent way for Social Security disability beneficiaries to save for post-secondary education. As always, the Social Security Title II disability programs such as SSDI, CDB or DWB do not count resources or assets in any way when determining eligibility for benefits or when calculating benefit payment amounts. There's no restriction on participating in any type of IDA program or any other savings or investment program for Title II disability beneficiaries. For SSI recipients, there is no negative impact on benefits for participating in the federally funded IDA programs. As of January 1, 2001 the following SSI rules apply to all TANF or AFI IDAs:

- Any earnings an individual contributes to a TANF or AFI Demonstration Project IDA are deducted from wages in determining countable income. An individual's contributions that are deposited in a TANF or AFI Demonstration Project IDA are excluded from resources.
- Any matching funds that are deposited in a TANF or AFI Demonstration Project IDA are excluded from income and resources.
- Any interest earned on the individual's own contributions and on the matching funds that are deposited in a TANF or AFI Demonstration Project IDA is excluded from income and resources.
- Disbursements from a TANF or AFI Demonstration Project IDA can only be made for a qualified purpose (e.g., education, business capitalization or first home purchase) or for an allowable emergency (as determined by the IDA agency). Disbursements from a TANF or AFI Demonstration Project IDA for a qualified purpose are excluded from income. Emergency withdrawals are loans and therefore are not income.

(from SSA POMS: Exclusion from resources of TANF-funded IDAs, SI 01130.678 , Exclusion from resources of Demonstration Project IDAs, SI 01130.679 , Exclusion from income of TANF-funded IDAs, SI 00830.665 , Temporary Assistance for Needy Families (TANF), SI 00830.403

SSI recipients who participate in non-federally funded IDA programs do NOT receive the exemptions from income and resources that are applied to the TANF and AFI IDA programs.

ABLE Accounts

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged account that an eligible individual can use to save funds for the disability-related expenses of the account's designated beneficiary, who must be blind or disabled by a condition that began before the individual's 26th birthday. ABLE Accounts were created as a result of the passage of the Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 or better known as the ABLE Act. The beneficiary of the account is the account owner, and income earned by the accounts will not be taxed. Contributions to the account made by any person (the account beneficiary, family and friends) will be made using post-taxed dollars and will not be tax deductible, although some states may allow for state income tax deductions for contribution made to an ABLE account.

An ABLE program can be established and maintained by a State or a State agency directly or by contracting with a private company (an instrumentality of the State). An eligible individual can open an ABLE account through the ABLE program in any State. An eligible individual can be the designated beneficiary of only one ABLE account, which must be administered by a qualified ABLE program.

The total annual contributions by all participating individuals, including family and friends, for a single tax year is $15,000. The amount may be adjusted periodically to account for inflation. Under current tax law, $15,000 is the maximum amount that individuals can make as a gift to someone else and not report the gift to the IRS (gift tax exclusion). The total limit over time that could be made to an ABLE account will be subject to the individual state and their limit for education-related 529 savings accounts. Many states have set this limit at more than $300,000 per plan. However, for individuals with disabilities who are recipients of SSI, the ABLE Act sets some further limitations. The first $100,000 in ABLE accounts would be exempted from the SSI $2,000 individual resource limit. If and when an ABLE account exceeds $100,000, the beneficiary's SSI cash benefit would be suspended until such time as the account falls back below $100,000. It's important to note that while the beneficiary's eligibility for the SSI cash benefit is suspended, this has no effect on their ability to receive or be eligible to receive medical assistance through Medicaid.

ABLE account funds may be used for any "qualifying disability expense". A "qualified disability expense" means any expense related to the designated beneficiary as a result of living a life with disabilities. These may include education, housing, transportation, employment training and support, assistive technology, personal support services, health care expenses, financial management and administrative services and other expenses which help improve health, independence, and/or quality of life.

For more information about ABLE accounts, go to the ABLE National Resource Center's website here: http://www.ablenrc.org/. For more information about how the SSI program treats funds set aside in an ABLE account and disbursements from these accounts, go to https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130740

Other Strategies for Getting Help with Paying for Post-Secondary Education

Multiple sources of funding are potentially available to fund education, training, and career development for individuals with disabilities. The most common sources of assistance include State Vocational Rehabilitation Agencies (SVRAs) and the American Job Center system funded by the U.S. Department of Labor through State and local Workforce Investment Boards. These agencies provide funds that are typically paid directly to the educational or training entity and are not counted as either income or resources for SSI purposes.

State VR agencies provide or purchase numerous services that help individuals prepare for or access paid employment. While there are broad federal parameters states must adhere to governing eligibility requirements and services, there's a great deal of variance among states in terms of who is served and what services are provided. In the area of post-secondary education assistance, some states pay for 100% of expenses, while others require a percentage match from those they serve. State VR agencies typically require participants to maintain a certain grade point average and often restrict attendance to state schools. To find contact information for the SVRA in a given state, go to http://www.chooseworkttw.net/findhelp/

The workforce development system was initially created by the passage of the Workforce Investment Act (WIA) in 1998. This act reorganized federal programs governing the generic job training, adult education and literacy, and vocational rehabilitation systems into a more simplified and coordinated "one-stop" delivery system. In July of 2014, President Barack Obama signed the Workforce Innovation and Opportunity Act (WIOA) into law. WIOA supersedes the Workforce Investment Act of 1998 and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act of 1973. The Act took effect on July 1, 2015. WIOA is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. A center piece of both WIA and WIOA is the American Job Center system which operates through a network of service centers in each state. These centers provide a variety of services designed to help individuals meet their employment and training needs, while also assisting local employers to meet their needs for qualified personnel.

The types of services available for job seekers within the American Job Center system must include core services such as job search and placement assistance, intensive services such as vocational skill assessment, career counseling; and case management, and training services such as occupational skills training; on-the-job training; job readiness training; adult education and literacy training. American Job Centers use Individual Training Accounts (ITAs) to pay for training services. The amount of funding available for individuals who qualify for training services may vary from state to state. In addition, intensive and training services are reserved for persons who meet certain eligibility criteria as determined by DOL. To find out more about the WIOA go https://www.doleta.gov/wioa/

Conducting Independent Research

POMS SI 01130.455 -- Grants, Scholarships, Fellowships, and Gifts.

POMS SI 00870.000 -- Plans to Achieve Self-Support for Blind or Disabled People

POMS SI 01130.678 -- Individual Development Accounts (IDAs)--TANF Funded

POMS SI 01130.679 -- Individual Development Accounts (IDAs) -- Demonstration Project

POMS SI 01130.678 -- Individual Development Accounts (IDAs)--TANF Funded

POMS SI 01130.679 -- Individual Development Accounts (IDAs) -- Demonstration Project