



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:

Public Housing Field Office Directors
Public Housing Agency Directors
Public Housing Hub Office Directors
Multifamily Regional Center Directors
Rural Services (RHS) Directors
Supervisory Housing Project Managers
Housing Project Managers
Contract Administrators
Multifamily Owners and Management Agents

NOTICE PIH 2019-09
NOTICE H-2019-06

Issued: May 6, 2019

This notice remains in effect until amended,
superseded or rescinded.

Cross Reference: 24 CFR 5.609; ABLÉ Act of
2014

Title: Treatment of ABLÉ Accounts in HUD-Assisted Programs

Purpose: This notice provides guidance regarding the federally mandated exclusion of ABLÉ accounts from the calculation of income and assets, as required under the Achieving a Better Life Experience Act of 2014 (ABLE Act). Per the mandate of the ABLÉ Act, for the purpose of determining eligibility and continued occupancy, HUD will disregard amounts in the designated beneficiary's/individual's ABLÉ account.

Background: The Achieving a Better Life Experience (ABLE) Act (P.L. 113-295.) was signed into law on December 19, 2014. The ABLÉ Act allows States to establish and maintain a program under which contributions may be made to a tax-advantaged ABLÉ savings account to provide for the qualified disability expenses of the designated beneficiary of the account. The designated beneficiary must be a person with disabilities, whose disability began prior to his or her 26th birthday and who meets the statutory eligibility requirements.

Applicability: This notice applies to the following programs:

1. Housing Choice Voucher Program, including all special voucher types
2. Public Housing
3. Project-based Section 8
 - o New Construction
 - o State Agency Financed
 - o Substantial Rehabilitation
 - o Section 202/8
 - o Rural Housing Services (RHS) Section 515/8
 - o Loan Management Set-Aside (LMSA)
 - o Property Disposition Set-Aside (PDSA)
 - o Rental Assistance Demonstration Project Based Rental Assistance (RAD/PBRA)
4. Section 202/162 Project Assistance Contract (PAC)
5. Section 202 Project Rental Assistance Contract (PRAC)
6. Section 202 Senior Preservation Rental Assistance Contracts (SPRAC)
7. Section 811 PRAC

8. Section 811 Project Rental Assistance (PRA)
9. Section 236 (including RAP)
10. Section 221(d)(3)/(d)(5) Below Market Interest Rate (BMIR)

Definition of Terms: This Section includes definitions of terms referred to in this notice.

- A. *ABLE account* means an account established for the benefit of an eligible individual, maintained under a qualified ABLE program.
- B. *Contribution* is the deposit of funds into an ABLE account.
- C. *Designated beneficiary* is the eligible individual who established and owns the ABLE account.
- D. *Distribution* is the withdrawal or issuance of funds from an ABLE account.

Treatment of ABLE account in HUD programs: Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded/disregarded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs.

Individuals have to be income eligible to receive assistance under HUD programs. Per 24 CFR 5.609, annual income is defined as the anticipated total income from all sources received by every family member which are not specifically excluded in 24 CFR 5.609(c). The exclusion found at 24 CFR 5.609(c)(17) instructs PHAs and owners to exclude from income all amounts that are specifically excluded by other Federal statute when the statute is applicable to HUD programs. Given that the ABLE Act creates a federally mandated exclusion for ABLE accounts applicable to HUD programs, in determining a family's income, HUD will exclude amounts in the individual's ABLE account pursuant to 24 CFR 5.609(c)(17). The entire value of the individual's ABLE account will be excluded from the household's assets. This means actual or imputed interest on the ABLE account balance will not be counted as income. Distributions from the ABLE account are also not considered income. All wage income received, regardless of which account the money is paid to, is included as income.

For example:

1. Contributions made by the designated beneficiary

Pursuant to 24 CFR 5.609(a), all amounts received by the designated beneficiary are counted as income, unless they fall under one of the enumerated exclusions under 5.609(c) or are federally mandated, as with distributions from ABLE accounts.

If the beneficiary has a portion of his/her wages directly deposited into his/her ABLE account, then all wage income received, regardless of which account the money is paid to, is included as income. *Pre-tax employer contributions to an ABLE account (that are not deducted from wages) are excluded.* If the designated beneficiary subsequently deposits any amount previously included as income into his/her ABLE account, that deposited amount must not be included in the household's asset calculation or counted as income again when the beneficiary receives a distribution from the account.

2. Contributions made by others directly into the ABLE account

If someone other than the designated beneficiary contributes directly to the ABLE account, that contribution will not be counted as income to the designated beneficiary.

If a relative provides a recurring gift of \$100 per month directly to the beneficiary, the recurring gift would be counted as income. If a relative deposits the \$100 recurring monthly gift directly into the ABLE account, then it will not be counted as income. Note: Any person can contribute to an ABLE

account. However, the Internal Revenue Service (IRS) limits the total annual contributions that any ABLE account can receive from all sources for a given calendar year.

3. Rollovers from existing ABLE accounts

Rollovers from existing ABLE accounts to the designated beneficiary's ABLE account are not counted as income to the designated beneficiary.

Verification: In accordance with program requirements at 24 CFR 5.240(c), PHAs and owners should verify the amount held in the ABLE account. PHAs and owners should develop a policy and procedure for verifying ABLE accounts that obtains the following information:

- the name of the designated beneficiary; and
- the State ABLE program administering the account to verify that the account qualifies as an ABLE account.

Contact Information: If you have any questions regarding this notice, please contact Annecia Durr (Office of Housing) at Annecia.Durr@hud.gov or 202-402-2618, or Becky Primeaux (Office of Public and Indian Housing) at Becky.L.Primeaux@hud.gov or 202-402-6050.

Paperwork Reduction Act: The information collection requirements referred to in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520) and assigned OMB control numbers 2577-0169 and 2502-0204.

_____/s/
 R. Hunter Kurtz
 Principal Deputy Assistant Secretary
 for Public and Indian Housing

_____/s/
 Brian D. Montgomery
 Assistant Secretary for Housing –
 Federal Housing Commissioner