



## ANNUAL SUMMIT

# Best Practices for Client Fund Management

## A Deep Dive into Exempt Resources

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## **Thomas G. Tirney**

**President, Arlington Heritage Group, Inc.**

**Prior experience at Standard & Poor's,  
Neuberger Berman, American Century  
Mutual Funds and Steeple Capital.**

**BSBA from Boston University, 1992  
Holds the Chartered Financial Analyst and  
Certified Market Technician designations.**



*Celebrating*  
30 Years of Service

**Since 1988, Offering Trust Administration  
Services to Non-Profits and  
Human Service Providers**

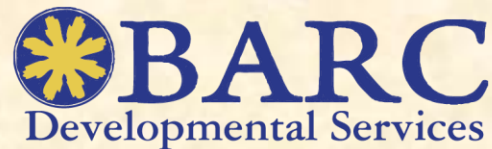


**An in-house special needs pooled trust controlled by the agency providing care.**



**Flexible pre-paid irrevocable burial trust compliant with SSA and Medical Assistance.**

**We manage trusts for human service providers and 501(C)3s.  
We currently work with over 100 providers nationwide.**





# Exempt Resources in SSA POMS

- **Cash Resources**- up to \$2,000
- **Assets** – an individual's house, an individual's automobile, personal effects, keepsakes, jewelry
- **Life Insurance** – face value **OR** paid-up value, \$2,000 or less
- **Funeral Arrangements** – cemetery plot, irrevocable pre-paid burial, reserve accounts of \$2,000 or less
- **Other** – Educational Grants, Health Savings Accounts, Medical Savings Accounts, More...



## Exempt Resources in SSA POMS (cont.)

- **Special Needs Trusts** - no limit on assets
- **Special Needs Pooled Trusts** – no limit on assets
- **ABLE Accounts**– \$15,000 per year, with a \$100,000 cap



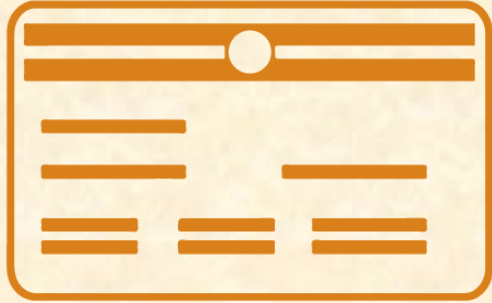


## **Exempt Resources: Cash > \$2,000**

- **Checking Account**
- **Savings Account**
- **Certificate of Deposit**
- **Brokerage Account**
- **Mutual Fund Account**
- **U.S. Savings Bonds**
- **IRA**
- **401(K)**
- **SEP**

***Restricted Accounts COUNT!***





## **Exempt Resources: Life Insurance**

- **Face Value *OR* Paid-In Value**
- **Owner *OR* Beneficiary**

***! WORST USE OF ASSETS UNDER \$2,000 !***



# **Exempt Resources: Funeral Accounts**

**Just Because Something Is Labeled “Irrevocable”  
Doesn’t Mean it is Compliant...**

- **Irrevocable Burial Accounts**
- **Irrevocable Burial CDs**
- **Burial Reserve Accounts**

***Individuals Can Still Be Penalized!***



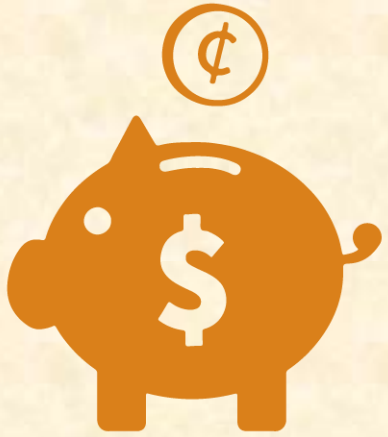
# Exempt Resources: Funeral Accounts

## What Does The Social Security Administration Want?

### PREPAID BURIAL ARRANGEMENT

- The trustee is not permitted to pay for an individual's final expenses **before** the State.
- A purchased prepaid burial arrangement while the individual is alive is an appropriate expenditure.
- The arrangement needs to meet certain requirements (i.e., funds irrevocably paid to the funeral director).
- Burial space items are excluded: plots, headstones, etc.
- Be aware that an irrevocable "burial reserve account" will not meet this requirement (i.e., no purchase made) and still counts as a resource for SSI purposes (up to \$1,500 may be excluded).

***"Have a pre-paid funeral and make it irrevocable."***



## **Exempt Resources: Trusts & ABLE**

- **Similar Instruments**
- **Maintain Eligibility**
- **Flexible**
- **Each Have Their Own Limitations**

# The ABLE Act: ABLE Accounts



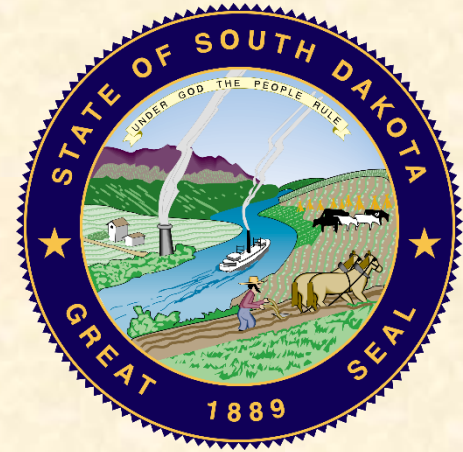
- **Achieving a Better Life Experience Act**
- **Federal law, implemented by the States**
- **Qualified Savings Account; Preferred Tax Treatment**
- **Exempt resource as per SSA and MA**



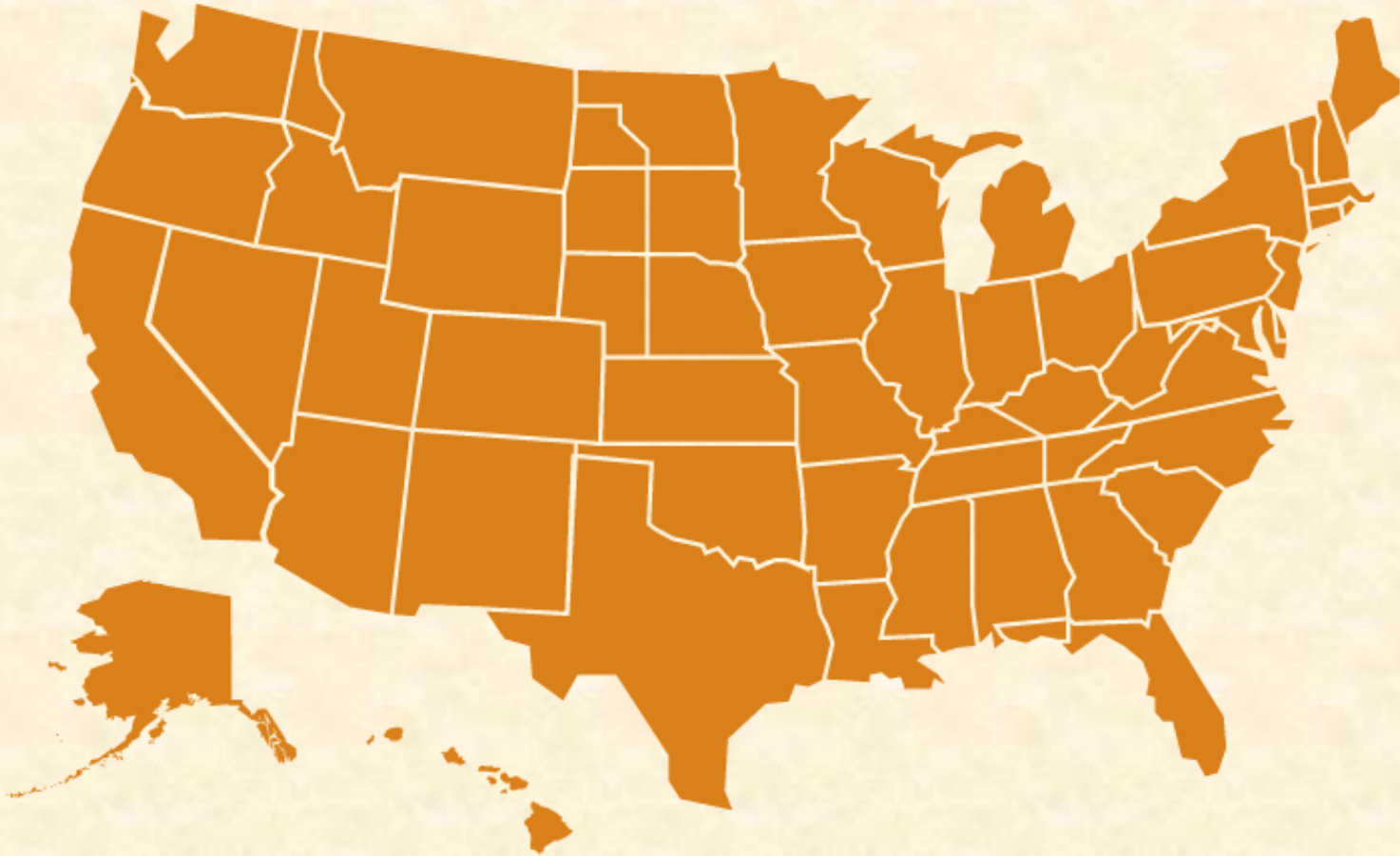
## **Guidelines**

- **Account holder disabled by Title II or Title XVI SSA**
- **Disabled before age 26**
- **One ABLE account per person**
- **Only parent, guardian or POA may open account**
- **Maximum annual contribution: \$15,000**
- **Maximum lifetime contribution: \$235,000 - \$529,000 (varies by state)**
- **Upon death of accountholder, funds can be claimed by MA**

# Where Are You?



# The ABLE Act: Current State Programs



**41 States & DC Have Implemented the Program:**

**AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WY**



# Special Needs Trusts and Pooled Trusts

- **D(4)a vs D(4)c**
- **One Trustee, One Account vs. One Trustee, Many Accounts**
- **Both can be created by parent, grandparent, guardian, court or the individual.**
- **D(4)a can be expensive, tends to be for estate planning**
- **No max for either.**
- **Upon death of accountholder, funds can be claimed by MA**

# Special Needs Pooled Trusts: Legal Guidelines



- **The Trustee must be a non-profit 501(C)(3) entity**
- **Individual with the trust account must be disabled as per SSI criteria**
- **Individual trust must be created by a parent, grandparent, guardian, court, or the person him/herself.**
- **Funds placed into the trust must be irrevocable and therefore do not count as an SSA resource.**
- **Money in the trust can only be used for the sole benefit of the individual**

# Special Needs Trusts, Pooled Trusts & ABLE

- **Medical treatments**
- **Dental, Optometry**
- **Travel, Vacations, Day trips**
- **Clothing, Furniture, Transportation**
- **Education, Classes, Computers, Software**
- **Hobbies**
- **Some utilities**

# Comparisons

	<b>ABLE Accounts</b>	<b>Special Needs Trust (d)(4)(a)</b>	<b>Special Needs Pooled Trust (d)(4)(c)</b>
<b>Beneficiary</b>	Named Person with disability eligible for SSA services	Named Person with disability eligible for SSA Services	Named person with disability eligible for SSA Services
<b>Settlor</b>	Individual, parent, or third party	Parent, grand, guardian or court of law	INDIVIDUAL, parent, grand, guardian or court of law
<b>Trustee</b>	No Trustee; any individual including beneficiary, parent, others that have guardian status or power of attorney	Any individual, corporate, or non-profit institution	Non-profit institution
<b>Legislation</b>	ABLE Act, 2014	OBRA Act 1993	OBRA Act 1993
<b>Source of Funds</b>	Individual's assets, parent's, third-party	Individual's assets, parent's, third-party	Individual's assets, parent's, third-party

# Comparisons

	<b>ABLE Accounts</b>	<b>Special Needs Trust (d)(4)(a)</b>	<b>Special Needs Pooled Trust (d)(4)(c)</b>
<b>Age</b>	Disabled by age 26	No age restriction Except 65+	No age restriction Except 65+
<b>Assets</b>	\$15,000 per year	No max or cap	No max or cap
<b>Distributions</b>	Sole benefit Qualified expenses	Sole benefit Not otherwise reimbursed by SSA or Medicaid	Sole benefit Not otherwise reimbursed by SSA or Medicaid
<b>Impact on Benefits</b>	Not a resource, up to \$100,000	Not a resource 65+ look back for Medicaid in some cases	Not a resource 65+ look back for Medicaid in some cases
<b>Death of Beneficiary</b>	Payback to state for Medicaid funded services	Payback to state for Medicaid funded services	Partial or no payback to state for Medicaid funded services. Remainder funds to be used for other individuals in the trust who are disabled by SSA criteria



versus



Can be established by parent, power of attorney, guardian or individual



Can be established by a parent, grandparent, guardian, court, person himself/herself

Managed by beneficiary or parent, guardian, or agent (if incapacitated)



Managed by a trustee

Must be blind or disabled prior to age 26



Age of disability is irrelevant

Annual contribution max: \$15,000  
Lifetime contribution max: \$235,000 to \$529,000\*  
(\*range varies by state)



No maximum annual or lifetime contribution

Tax-free withdrawals for qualifying expenses; withdrawals for non-qualifying expenses result in regular income tax plus 10% surcharge



Withdrawals can be made for any expense that benefits the person and **is not taxable**

Medicaid: Not countable  
SSI: Maximum account value of \$100,000



No maximum limits for Medicaid or SSI

ABLE distributions do not count as income for Medicaid/SSI, but may still be taxable income



Trust distributions do not count as income and are not taxable

Subject to DHS/Medicaid payback



Subject to DHS/Medicaid payback for first party money but **not for third party money**

# Special Needs Pooled Trusts Vs. ABLE Accounts

- Age Limitations
- Annual/Lifetime Contribution Restrictions
- Tax Implications
- SSI Eligibility Issue
- Medicaid Payback

# Underappreciated Techniques

- **An individual's house, if they own it and live in it, is exempt.**
- **An individual's car is exempt, whether they can drive or not.**





## Have a Plan

- **Policy**
- **Control**
- **Transparency**

*Experiment*





**Thomas Tirney**  
**Arlington Heritage Group, Inc.**  
**tgtirney@ahgtrusts.com**  
**(215) 672-1184**