



Ohio Revised Code

Section 113.53 Application to open account.

Effective: October 12, 2016

Legislation: House Bill 483 - 131st General Assembly

(A) A designated beneficiary, or a trustee or guardian of a designated beneficiary who lacks capacity to enter into an agreement, may apply, on forms prescribed by the treasurer of state, to open a program account. A beneficiary may have only one ABLE account. The treasurer of state may impose a nonrefundable application fee. The application shall require the applicant to provide the following information:

- (1) The name, address, social security number, and birth date of the designated beneficiary;
- (2) The name, address, and social security number of the designated beneficiary's trustee or guardian, if applicable;
- (3) Certification by the applicant that the applicant understands the maximum account value and the consequences under division (C) of this section for excess contributions and understands how program account values exceeding the amount designated under section 103 of the "Stephen Beck, Jr., ABLE Act of 2014," 26 U.S.C. 529A note, may affect the applicant's resources for determining the applicant's eligibility for the supplemental security income program;
- (4) Any additional information required by the treasurer of state.

(B)(1) To qualify for a program account, a designated beneficiary must be an eligible individual at the time the program account is opened. Before opening a program account, the treasurer of state or program manager shall enter into an agreement with the account owner that discloses the requirements and restrictions on contributions and withdrawals from the program account.

(2) Any person may make contributions to a program account after the account is opened, subject to the limitations imposed by section 529A of the Internal Revenue Code and any rules adopted by the secretary.



(C) Contributions to a program account shall be made in cash. The treasurer of state or program manager shall reject or promptly withdraw a contribution to a program account if that contribution would exceed the annual limits prescribed in subsection (b)(2)(B) of section 529A of the Internal Revenue Code. The treasurer or program manager shall reject or promptly withdraw a contribution if the value of the program account equals or exceeds the maximum account value or the designated beneficiary is not an eligible individual in the current calendar year.

(D)(1) To the extent authorized by federal law, and in accordance with rules adopted by the treasurer of state, an account owner may change the designated beneficiary of a program account to another individual.

(2) No account owner may use an interest in an ABLE account as security for a loan. Any pledge of an interest in an account shall be void and of no force and effect.

(E)(1) A distribution from a program account to any individual or for the benefit of any individual during a calendar year shall be reported to the internal revenue service and the designated beneficiary or the distributee to the extent required under state or federal law.

(2) Statements shall be provided to each account owner of a program account at least four times each year within thirty days after the end of the quarterly period to which a statement relates. The statement shall identify the contributions made during the preceding quarter, the total contributions made to the account through the last day of that quarter, the value of the account on the last day of that quarter, distributions made during that quarter, and any other information that the treasurer of state requires to be reported to the account owner.

(3) Statements and information relating to program accounts shall be prepared and filed to the extent required under sections 113.50 to 113.56 of the Revised Code and any other state or federal law.

(F) The program shall provide separate accounting for each designated beneficiary. An annual fee may be imposed upon the account owner for the maintenance of a program account.

(G) Money in an ABLE account shall be exempt from attachment, execution, or garnishment as provided in section 2329.66 of the Revised Code, and is subject to claims made under the medicaid



estate recovery program instituted pursuant to section 5162.21 of the Revised Code, in accordance with subsection (f) of section 529A of the Internal Revenue Code and subject to any limitations imposed by the secretary.

(H)(1) Notwithstanding any other provision of state law, all of the following shall be disregarded for the purposes of determining an individual's eligibility for a means-tested public assistance program funded only with state, local, or state and local funds and the amount of assistance or benefits the individual is eligible to receive under the program:

- (a) Any amount in an ABLE account, including earnings on the account;
- (b) Any contributions to an ABLE account;
- (c) Any distribution from an ABLE account for qualified disability expenses.

(2) Division (H)(1) of this section applies only to an individual who is either of the following:

- (a) The designated beneficiary of the ABLE account;
- (b) An individual whose eligibility for the means-tested program is conditioned on the ABLE account's designated beneficiary disclosing the designated beneficiary's income, resources, or both to the entity administering the means-tested public assistance program.