

781—20.5(12I) Eligible individual. An account owner must be an eligible individual. An individual is an eligible individual for a taxable year if, during that year, either (1) the individual is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act (“benefits eligibility”), or (2) a disability certification meeting specified requirements is filed with the Secretary in accordance with Section 529A (“certification eligibility”). In all cases, the blindness or disability must have occurred before the individual’s twenty-sixth birthday. This rule establishes the following other requirements for opening an account:

20.5(1) An account owner may be a resident of any state.

20.5(2) An account owner must be a U.S. citizen or resident alien.

20.5(3) An account owner must, on signing a participation agreement, provide the plan administrator with a valid social security number or tax identification number.

20.5(4) An account owner must have a valid permanent U.S. street address.

20.5(5) No account owner may have more than one account in an ABLÉ plan in existence at the same time. A prior ABLÉ account that has been closed does not prohibit the subsequent creation of another ABLÉ account for the same account owner. As part of the enrollment process, the account owner will be required to certify under penalties of perjury that the account owner has no other ABLÉ account (except in the case of a rollover).

20.5(6) If an individual desires to open an account based on benefits eligibility, the individual must make the following certifications under penalties of perjury that:

a. The individual is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act and has received a benefit verification letter from the Social Security Administration and agrees to retain and provide the letter (or a genuine copy of the letter or other evidence) to the plan, the plan administrator, the IRS, or the U.S. Department of the Treasury upon request;

b. The individual’s disability was present before the individual’s twenty-sixth birthday.

20.5(7) If an individual desires to open an account based on certification eligibility, the individual must certify under penalties of perjury that the individual:

a. Has a medically determinable physical or mental impairment which results in marked or severe functional limitations and which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months;

b. Is blind (within the meaning of the Social Security Act); or

c. Has a condition listed in the “List of Compassionate Allowances Conditions” maintained by the Social Security Administration.

The individual must also certify that the disability, blindness, or compassionate allowances condition occurred before the date of the individual’s twenty-sixth birthday and that the individual has a copy of the individual’s diagnosis relating to the relevant impairment(s), signed by a physician meeting the criteria of Social Security Act Section 1861(r)(1). The individual must also agree to retain and provide a copy of the diagnosis and related information to the plan upon request.

20.5(8) By maintaining an account, the account owner is making a continuing certification that the account owner is an eligible individual. It is the account owner’s responsibility to notify the plan in writing if the account owner ceases to be an eligible individual. It is also the account owner’s responsibility to notify the plan in writing if the account owner subsequently requalifies as an eligible individual.

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