

# Social Security

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## Program Operations Manual System (POMS)

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**TN 75 (04-19)**

SI 01130.740 Achieving a Better Life Experience (ABLE) Accounts

**Citations:** Public Law 113–295 The Stephen Beck, Jr., Achieving a Better Life Experience Act (ABLE Act) – Enacted December 19, 2014

### A. What Is An ABLE Account?

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. The eligible individual is the owner and designated beneficiary of the ABLE account. An eligible individual may establish an ABLE account provided that the individual is blind or disabled by a condition that began before the individual's 26th birthday.

An ABLE program can be established by a State (or State agency or instrumentality of a State). An eligible individual can open an ABLE account through the ABLE program in any State, if the State permits it.

Some States formed partnerships to improve access for eligible individuals to enroll in ABLE programs. You may see different types of arrangements between States administering ABLE programs.

- Some States have formed a consortium where the States have their own ABLE program, but join together to provide lower administrative costs and better investment options than they could on their own.
- Some States established their own ABLE program, but contracted with private companies to manage their ABLE program for them.
- Some States established their own ABLE program, but contracted with other States to manage their ABLE program for them.
- Some States do not operate their own ABLE program, but partnered with another State to offer the other State's ABLE program to their residents.

## 1. One ABLE account

A designated beneficiary is limited to one ABLE account, which a qualified ABLE program administers. Except in the case of a rollover or program-to-program transfer, if a designated beneficiary has an additional account, it generally will not be treated as an ABLE account, and will be subject to normal resource counting rules.

**EXCEPTION:** If an additional account is closed within 90 days from the account open date, the account will not be a countable resource for any period the additional account was open.

## 2. Medicaid reimbursement

Upon the death of the designated beneficiary, funds remaining in the ABLE account, after payment of all outstanding qualified disability expenses, must be used to reimburse the State(s) for Medical Assistance (Medicaid) benefits that the designated beneficiary received, if the State(s) files(s) a claim for reimbursement.

## B. Definition Of ABLE Terms

### 1. ABLE program

An ABLE program is the program established and maintained by a State (or agency or instrumentality thereof) through which eligible individuals can open ABLE accounts.

### 2. Contributions

A contribution is the payment of funds into an ABLE account. Contributions must be in cash and may be made in the form of cash or a check, money order, credit card, electronic transfer, or a similar method. Any person can contribute to an ABLE account. ("Person," as defined by the Internal Revenue Code, includes an individual, trust, estate, partnership, association, company, or corporation.) However, the total annual contributions that an ABLE account can receive from all sources is limited to the amount of the per-donee gift-tax exclusion in effect for a given calendar year. For 2019, that limit is \$15,000.

### 3. Designated beneficiary

The designated beneficiary is the individual who owns the ABLE account and who was an eligible individual when the account was established or who succeeded the former designated beneficiary in that capacity.

To be an eligible individual, he or she must:

- a. Be eligible for Supplemental Security Income (SSI) based on disability or blindness that began before age 26;
- b. Be entitled to disability insurance benefits (DIB), childhood disability benefits (CDB), or disabled widow's or widower's benefits (DWB) based on disability or blindness that began before age 26; or
- c. Certify (or an agent under a power of attorney or, if none, a parent or guardian must certify) that the individual:
  - has a medically determinable impairment meeting statutorily specified criteria or is blind; and,
  - the disability or blindness occurred before age 26.

**NOTE:** Do not draw an inference regarding disability under the Social Security Act from a disability certification.

#### **4. Distributions**

A distribution is any payment from an ABLE account. (A program-to-program transfer is not a distribution.) The designated beneficiary or person with signature authority determines when a distribution is made. Distributions (other than rollovers and returns of contributions) may be made only to or for the benefit of the designated beneficiary.

#### **5. Member of the family**

A member of the designated beneficiary's family means a sibling whether by blood or adoption, and includes a brother, sister, stepbrother, stepsister, half-brother, and half-sister.

#### **6. Person with signature authority**

A person with signature authority can establish and administer an ABLE account for a designated beneficiary who is a minor child or is otherwise incapable of managing the account. Signature authority is not the equivalent of ownership. The person with signature authority must be the designated beneficiary's agent acting under power of attorney, or if none, a parent or legal guardian of the designated beneficiary. For SSI purposes, always

consider the designated beneficiary to be the owner of the ABLE account, regardless of whether someone else has signature authority over it.

## **7. Program-to-program transfer**

A program-to-program transfer means the direct transfer of:

- The entire balance of an ABLE account into an ABLE account of the same designated beneficiary in which the first ABLE account is closed upon the transfer of the funds; or
- Part or all of the balance to an ABLE account of an eligible individual who is a member of the family of the designated beneficiary.

## **8. Qualified disability expenses**

Qualified disability expenses (QDEs) are expenses related to the blindness or disability of the designated beneficiary and for the benefit of the designated beneficiary. In general, a QDE includes, but is not limited to, an expense for:

- Education;
- Housing;
- Transportation;
- Employment training and support;
- Assistive technology and related services;
- Personal support services;
- Health;
- Prevention and wellness;
- Financial management and administrative services;

- Legal fees;
- Expenses for ABLE account oversight and monitoring;
- Funeral and burial; and,
- Basic living expenses.

## **9. Housing expenses**

Housing expenses for purposes of an ABLE account are similar to household costs for in-kind support and maintenance purposes, with the exception of food. Housing expenses include expenses for:

- Mortgage (including property insurance required by the mortgage holder);
- Real property taxes;
- Rent;
- Heating fuel;
- Gas;
- Electricity;
- Water;
- Sewer; and
- Garbage removal.

## **10. Rollover**

A rollover is the contribution to an ABLE account of a designated beneficiary (or a family member of the designated beneficiary), of all or a portion of an amount withdrawn from the designated beneficiary's ABLE account, provided that the contribution is made within 60 days of the date of the withdrawal. In the case of a rollover to the designated beneficiary's ABLE account, no rollover should have been made to an ABLE account of the designated beneficiary within the prior 12 months.

## C. When To Exclude ABLE Account Contributions, Balances, Earnings, And Distributions

### 1. Exclude contributions as income

A payment made into an ABLE account constitutes a contribution. Consider the contribution made by the person to whom the funds belong or are due. Exclude contributions to an ABLE account from the income of the designated beneficiary. Excluded contributions include rollovers from a member of the family's ABLE account to an SSI applicant, recipient, or deemor's ABLE account:

**NOTE:** The fact that a person uses his or her income to contribute to an ABLE account does not mean that his or her income is not countable for SSI purposes as it normally would be. Income received by the designated beneficiary and then deposited into his or her ABLE account is income to the designated beneficiary. For example, an applicant, recipient, or deemor can have contributions automatically deducted from his or her paycheck and deposited into an ABLE account. In this case, include the income used to make the ABLE account contribution in the applicant, recipient or deemor's gross wages.

#### a. First party contributions

A contribution made by the designated beneficiary into his or her ABLE account is not income to the designated beneficiary. However, income received by the designated beneficiary and deposited into his or her ABLE account is income to the designated beneficiary. That is, the income is income in the first instance, but the contribution is not income.

An individual cannot use direct deposit to avoid income counting.

So, when a payment that belongs or is due to the designated beneficiary is direct-deposited into his or her ABLE account, the payment is considered to be received by the designated beneficiary, it is counted as income to the designated beneficiary as it otherwise would be, the designated beneficiary is considered the contributor for ABLE purposes, and the ABLE contribution is not considered income to the designated beneficiary.

Examples of payments that might be direct-deposited into an ABLE account, but still are counted as income as they otherwise would be, include:

- Wages;
- Benefit payments (Title II, Veterans Administration, pensions, etc.); and
- Mandatory Support payments (child support or alimony).

#### **b. Third party contributions**

A third party contribution is not income to the designated beneficiary. Third party contributions are contributions made by persons other than the designated beneficiary. Further, third party contributions are made with funds that do not otherwise belong, or are not otherwise due, to the designated beneficiary; that is, they are made with the third party's funds. Accordingly, an ABLE contribution by a person other than the designated beneficiary is treated as a completed gift.

#### **NOTE:**

"Completed gift" refers to the IRS definition for gift-tax rules, not the definition of a gift in SI 00830.520. For ABLE, we exclude third party contributions, regardless of their status as a gift for SSI purposes.

A transfer of funds from a trust, of which the designated beneficiary is the beneficiary and which is not considered a resource to him or her, to the designated beneficiary's ABLE account generally will be considered a third party contribution for ABLE purposes because the contribution is made by a person or entity other than the designated beneficiary (namely, the trustee) and because the designated beneficiary does not legally own the trust. You may seek guidance from your regional trust lead if you have questions regarding the trust transfer to an ABLE account.

### **2. Exclude ABLE account earnings**

The funds in an ABLE account can accrue interest, earn dividends, and otherwise appreciate in value. Earnings increase the account's balance. Exclude earnings an ABLE account receives from the income of the designated beneficiary.

### **3. Exclude up to and including \$100,000 of balance**

Exclude up to and including \$100,000 of the balance of funds in an ABLE account from the resources of the designated beneficiary.

#### **4. Do not count ABLE account distributions as income**

A distribution from an ABLE account is not income but is a conversion of a resource from one form to another. See SI 01110.600B.4.

Do not count distributions from an ABLE account as income of the designated beneficiary, regardless of whether the distributions are for a QDE not related to housing, for a housing expense, or for a non-qualified expense.

#### **5. Exclude retained distributions for a QDE not related to housing**

##### **a. Distribution for a QDE not related to housing**

Exclude a distribution for a QDE not related to housing from the designated beneficiary's countable resources if he or she retains it beyond the month received.

This exclusion applies while:

- The designated beneficiary maintains, makes contributions to, or receives distributions from the ABLE account;
- The distribution is unspent;
- The distribution is identifiable. (**NOTE:** Identify excludable funds commingled with non-excludable funds. See SI 01130.700A); and
- The individual intends to use the distribution for a QDE not related to housing.

**NOTE:** Apply normal SSI resource counting rules and exclusions to assets or other items purchased with funds from an ABLE account.

##### **b. Previously excluded distribution used for non-qualified expenses or housing expenses**

If a designated beneficiary uses a distribution previously excluded per SI 01130.740C.5.a. in this section, for a non-qualified expense or a housing expense, or the individual's intent to use it for a qualified disability expense (not related to housing) changes, see SI 01130.740D.3. in this section.



**c. Example of an excluded distribution**

Eric takes a distribution of \$500 from his ABLE account in June 2016 to pay for a health-related QDE. His health-related expense is not due until September, and Eric deposits the distribution into his checking account in June. The distribution is not income in June. Eric's distribution is both unspent and identifiable until Eric pays his health-related expense in September. Exclude the \$500 from Eric's countable resources in July, August, and September. For instructions to identify commingled, excluded, and non-excluded funds, see SI 01130.700.

**d. Example of an excluded QDE purchase**

Fred takes a distribution of \$1,500 from his ABLE account in September 2016 to buy a health-related item that is a QDE. The item is an excluded resource in October and continuing, because it is the individual's personal property required for a medical condition. For instructions on household goods, personal effects, and other personal property, see SI 01130.430.

**D. When To Count ABLE Account Balances And Distributions****1. Count ABLE account balance amounts over \$100,000**

Count the amount by which an ABLE account balance exceeds \$100,000 as a resource of the designated beneficiary.

**a. Rule for indefinite benefit suspension and continuing eligibility for Medicaid during periods of excess resources attributable to an ABLE account**

A special rule applies when the balance of an SSI recipient's ABLE account exceeds \$100,000 by an amount that causes the recipient to exceed the SSI resource limit--whether alone or with other resources. When this situation happens, we will place the recipient into a special SSI suspension during which:

- We suspend the recipient's SSI benefits without time limit (as long as he or she remains otherwise eligible);
- The recipient is SSI eligible for Medical Assistance (Medicaid) purposes; and
- The individual's eligibility does not terminate after 12 continuous months of suspension.

Reinstate the recipient's regular SSI eligibility for all months in which the individual's ABLE account balance no longer causes the recipient to exceed the resource limit and he or she is otherwise eligible.

**NOTE:** "SSI-eligible for Medicaid purposes" means that the individual is eligible for Medicaid in States where Medicaid eligibility is based on SSI eligibility (For SSA determinations of Medicaid Eligibility in 1634 States see SI 01730.000). No SSI recipients will reach this suspension status for several years (that is, until it is possible for an ABLE account balance to exceed \$100,000; that is not yet possible due to the limitation on contributions described in SI 01130.740B.2. in this section).

**EXAMPLE: Excess resources — recipient is suspended but retains eligibility for Medicaid**

Paul is the designated beneficiary of an ABLE account with a balance of \$101,000 on the first of the month. Paul's only other countable resource is a checking account with a balance of \$1,500. Paul's countable resources are \$2,500 and therefore exceed the SSI resource limit. However, since Paul's ABLE account balance causes him to exceed the resource limit (i.e., his countable resources other than the ABLE account are less than \$2,000), suspend Paul's SSI eligibility and stop his cash benefits, but he retains eligibility for Medicaid in his State.

**b. Ineligibility due to excess resources other than an ABLE account**

The special suspension rule does not apply when:

- The balance of an SSI recipient's ABLE account exceeds \$100,000 by an amount that causes the recipient to exceed the SSI resource limit; but
- The resources other than the ABLE account alone make the individual ineligible for SSI due to excess resources.

When this situation happens, suspend the recipient's SSI benefits using the payment status code N04. While in N04, the recipient loses eligibility for Medical Assistance (Medicaid) and the individual's SSI eligibility terminates 12 months later if the suspension continues throughout this period. Reinstate the recipient's regular SSI eligibility and Medicaid benefits for all months in which the individual's resources, including the ABLE account, no longer cause the recipient to exceed the resource limit.

**EXAMPLE: Combination of resources — recipient loses SSI eligibility**

Christine is the designated beneficiary of an ABLE account with a first of the month balance of \$101,000. Christine's only other countable resource is a checking account with a balance of \$3,000. Christine's countable resources are \$4,000 and therefore exceed the SSI resource limit.

However, because her ABLE account balance is not the cause of her excess resources (i.e., her countable resources other than the ABLE account are more than \$2,000), the special rule does not apply, and Christine is not eligible for SSI because of excess resources. Suspend Christine's SSI benefits using payment status N04. Her Medicaid benefits stop.

### **c. Ineligibility for other reasons**

If an individual is ineligible for any reason other than excess resources in an ABLE account, the special suspension status does not apply. Suspend the individual's SSI eligibility using normal procedures.

#### **EXAMPLE: Ineligibility for a reason other than excess resources in an ABLE account**

In April, Sam's ABLE account balance is \$102,500 as of the first of the month. However, Sam also has excess deemed income in April and is N01 despite the excess funds in his ABLE account. Before the end of April, Sam leaves the U.S. and does not return until July 1. Sam is N03 for May, June, and July. If Sam still has excess resources in his ABLE account effective August 1 and is otherwise SSI eligible, place him in the special ABLE resource suspension status. He is eligible for Medicaid.

## **2. Count retained distributions for housing expenses or expenses that are not QDEs as a resource**

A distribution from an ABLE account is not income, but is a conversion of a resource from one form to another. For more information see SI 01110.600B.4.

Count a distribution for a housing expense or for an expense that is not a QDE as a resource, if the designated beneficiary retains the distribution into the month following the month of receipt. If the designated beneficiary spends the distribution within the month of receipt, there is no effect on eligibility. However, apply normal SSI resource counting rules and exclusions to items purchased with funds from an ABLE account.

#### **EXAMPLE: Retained distribution intended for housing expenses is a resource**

Amy takes a distribution of \$500 from her ABLE account in May to pay a housing expense for June. She deposits the \$500 into her checking account in May, withdraws \$500 in cash on June 3, and pays her landlord. This distribution is a housing expense and part of her

checking account balance as of June 1, which makes it a countable resource for the month of June.

### **3. Count previously excluded distributions used for a non-qualified purpose or housing expense**

Count the amount of funds used for a non-qualified expense or housing expense as a resource as of the first moment of the month in which the funds were spent if the designated beneficiary uses the distribution (that was previously excluded per SI 01130.740C.5.a. in this section) for a non-qualified purpose or a housing expense.

If an individual's intent to use the funds for a QDE changes at any other time, but he or she has not spent the funds, count the retained funds as a resource as of the first of the following month.

#### **a. Example of a previously excluded distribution used for a non-QDE**

Sam takes a distribution of \$25,000 from his ABLE account in May for an assistive technology and related service. He pays a \$10,000 deposit. While waiting for the service to be completed, Sam takes a trip to a local casino in July where he loses \$1,000 of his ABLE distribution gambling. The \$1,000 he lost gambling is a countable resource in July. The other \$14,000 Sam retains is an excluded resource while it meets the requirements of SI 01130.740C.5.a. in this section.

#### **b. Example of a previously excluded distribution used for a housing expense**

In June, Jennifer takes a \$7,000 distribution from her ABLE account to pay an educational expense that is a QDE. Her educational expense is due in September. However, she has to make a \$750 advance rent payment to her landlord for her college apartment in August. She uses some of the distribution she took in June to make the rent payment – a housing expense. The \$750 is a countable resource in August. Exclude the remaining \$6,250 of the retained distribution while it continues to meet the requirements of SI 01130.740C.5.a. in this section.

#### **c. Example of a change of intent on the use of a distribution**

In June, Jennifer takes a \$7,000 distribution from her ABLE account to pay an educational expense that is a QDE. Her educational expense is due in September. In August, Jennifer gets a job offer and decides not to return to school. The \$7,000 becomes a countable resource in September because she no longer intends to use it for an educational expense that is a QDE, unless Jennifer re-designates it for another QDE or returns the funds to her ABLE account prior to September.

## E. How To Verify, Document, And Record ABLE Account Balances

You may become aware of an individual's ownership of an ABLE account if he or she tells you during an initial claim or redetermination or contacts the office to report it.

### 1. Obtain evidence of the ABLE account

When an applicant, recipient, or deemor alleges being the designated beneficiary of an ABLE account, obtain evidence and enter the following information:

- Select yes to the ABLE account question;
- Select the program State where the ABLE account was established or indicate unknown;
- Enter the unique account number assigned by the State or indicate Unknown;
- Enter the account opened date or indicate unknown;
- If the account is closed, input the account closed date or indicate unknown, or leave the field blank;
- Enter the name of the person with signature authority (if different from the designated beneficiary); and
- Enter the account balance information in the values field.

If the available evidence does not provide the necessary information, contact the appropriate ABLE program to obtain it.

Beginning October 1, 2017, States report the first-of-the-month account balances and the prior month's distribution information for all ABLE accounts in their program to us. Not all States began reporting in October 2017, but eventually all State ABLE programs will report. If you become aware of a new ABLE account via the monthly data exchange, see SI 01130.740E.4. in this section.

### 2. Document the evidence

Fax the evidence into the certified electronic folder (CEF) or Non-disability Repository for Evidentiary Documents (NDRED). If you contact the ABLE program directly, document the

information you received on a Report of Contact (DROC) in the Supplemental Security Income (SSI) claims system or on an SSA-5002 (Report of Contact) in paper claims.

### **3. Record the account on the SSI claim system “Achieving a Better Life Experience (RABL)” page**

Record the account information and balance on the SSI claim system Achieving a Better Life Experience (RABL) page. For instructions to complete RABL, see MS INTRANETSSI 013.038.

**NOTE:** The designated beneficiary of an ABLE account is always the owner of the account for SSI purposes. Review ABLE account balances during redeterminations and when potential ineligibility exists due to the ABLE account balance.

### **4. Determine status of mismatched account data**

State ABLE programs notify us through a monthly data exchange when individuals establish new accounts. The pending Achieving a Better Life Experience (RAPN) page displays new account information. The following information will be included:

- Account Owner Name;
- Account Owner SSN;
- Account Owner Birth date;
- Program State;
- Account Number;
- Account Opened Date;
- Account Closed Date;
- Name of Signature Authority;
- Balance Month/Year; and

- Balance Amount.

If the data on the RAPN page does not match an existing ABLE account on the RABL page, determine whether the ABLE data received applies to the person for whom it was received. Select one of the options in the SSI claim system:

- update an existing ABLE page;
- add this ABLE account;
- reject this ABLE account; or
- decide later.

If you chose "decide later," address the pending RAPN page before closing an initial claim, redetermination, or appeal event.

**NOTE:** Once you document the ABLE account information in the SSI claim system, subsequent reports received from the State that have matching data automatically update the account balance information. However, distribution data will not be available until a future systems release.

## F. How To Verify, Document, And Record ABLE Account Distributions

### 1. When to develop

Verify a distribution only when an applicant, recipient, or deemor alleges retaining, or other evidence indicates that he or she retained, all or part of the distribution into months following the month of receipt. The distribution is material only to determine whether the applicant, recipient, or deemor's countable resources exceed the resource limit, since distributions do not count as income.

### 2. Verify the distribution

Obtain evidence that shows distribution amount(s), distribution date(s), and the distribution recipient(s) (for example, the designated beneficiary paid the distribution directly to a vendor). Obtain and accept the applicant, recipient, or deemor's allegation that he or she used or intends to use the distribution for:

- a QDE not related to housing;
- a housing expense; or
- an expense that is not a QDE.

### **3. Exclude retained distributions for QDEs not related to housing**

Exclude any retained distribution, or part of a distribution, for a QDE not related to housing, from the designated beneficiary's countable resources per SI 01130.740C.5. in this section.

#### **Example of a retained QDE not related to housing**

Elizabeth takes a distribution of \$500 from her ABLE account in May to pay for a health-related QDE that she expects to pay in September. She deposits the distribution into her checking account in May and withdraws it in September to pay the health-related QDE. Exclude the \$500 from Elizabeth's countable resources from June through September. Starting in June, document the deposit on the Financial Institution Account (RFIA) page. Input \$500 as the "excluded amount." Select "Other" as the exclusion reason and input "ABLE QDE distribution" as the "other reason."

### **4. Count retained distributions for housing expenses and expenses that are not QDEs**

Count as a resource any distribution or part of a distribution for a housing expense or an expense that is not a QDE if it is retained into the month following the month of receipt.

#### **Example of a retained distribution for a housing expense**

Amy takes a distribution of \$500 from her ABLE account in May to pay a housing expense for June. She deposits the \$500 into her checking account in May, withdraws \$500 in cash on June 3, and pays her landlord. This distribution is a housing expense and is part of her checking account balance as of the first of the month in June, which makes it a countable resource for the month of June.

### **5. Count previously excluded distributions used for a non-qualified purpose or housing expense**

Count the amount of funds used for a non-qualified expense or housing expense as a resource as of the first moment of the month in which the funds were spent if the



designated beneficiary uses the distribution (that was previously excluded per SI 01130.740C.5.a. in this section) for a non-qualified purpose or a housing expense.

If an individual's intent to use the funds for a QDE changes at any other time, but he or she has not spent the funds, count the retained funds as a resource as of the first of the month following the month of change of intent. Document the individual's change of intent on a Report of Contact (DROC) in the SSI claim system or on an SSA-5002 (Report of Contact) in paper claims. For examples, see SI 01130.740D.3. in this section.

## **6. Record the amount excluded on the appropriate resource page**

ABLE account distributions are the conversion of a resource from one form to another. Accordingly, they continue to be a resource if retained into the month following the month of receipt. Exclude from resources a distribution retained for a QDE not related to housing, per SI 01130.740C.5.a. in this section. Document ABLE account distributions on the appropriate SSI claim system resources page (e.g., cash, financial institution account).

**NOTE:** Distribution information obtained from the State by data exchange is in the SSI claim system, but you cannot access it until additional system enhancements are completed.

## **G. Handling And Recording ABLE Prepaid Debit Card Information**

### **1. Handling ABLE prepaid debit cards**

Some ABLE programs provide designated beneficiaries with a prepaid debit card, which may be used to control the issuance of distributions and provide designated beneficiaries with convenient access to their ABLE funds.

### **2. Handling ABLE debit cards in the SSI claim system**

If a designated beneficiary has an ABLE prepaid debit card, record the ABLE prepaid debit card on the Other Resource (ROTH) page in SSI claim system. You need the program State and account number. Monies distributed onto an ABLE prepaid debit card are considered a qualified distribution unless we determine otherwise. Enter the intended use of the funds in the Description field. Enter the alleged Value of the ABLE prepaid debit card. Enter the entire alleged value as an excluded amount and as qualified distributions when funds are added onto the debit card. Use the new exclusion reason of "Qualified Disability Expenses" on the ROTH page to exclude monies on a prepaid ABLE debit card.

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0501130740>

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