



June 1, 2023

## **IMPORTANT UPDATE TO THE MARYLAND ABLE PROGRAM**

This supplement amends the Maryland ABLE Program Disclosure Booklet dated December 2021 (the "Disclosure Booklet"). You should review this information carefully and keep it with your current copy of the Disclosure Booklet.

### **Background**

Pursuant to Chapter 113 of the 2023 Laws of Maryland (the "Transition Legislation"), the Maryland 529 Board (the "Board") has been abolished and the Maryland State Treasurer (the "State Treasurer") has both been named the successor to the Board and given the responsibility for administering the Maryland ABLE Program.

In response to the adoption by the Internal Revenue Service of final regulations relating to ABLE programs, the General Assembly also passed a bill that, among other things, establishes a hierarchy of persons who have the authority to create an ABLE account if the individual with a disability is unable to do so. That legislation was signed into law as Chapter 637 of the 2023 Laws of Maryland (together with the Transition Legislation, the "2023 Legislation").

### **Amendments to Disclosure Booklet**

As a result of the 2023 Legislation and other changes to the program made since December 2021, the Disclosure Booklet is hereby amended as follows:

(a) On page 1, the definition of "Board" in the "Important Definitions" section is deleted.

(b) On page 3, the definition of "Program Manager" in the "Important Definitions" section is deleted and replaced with the following:

**"PROGRAM MANAGER**

Vestwell State Savings, LLC ("Vestwell"), a wholly owned subsidiary of Vestwell Holdings, Inc., or any successor thereto."

(c) On page 4, in the "Important Definitions" section, the definition of "Sumday" is deleted.

(d) On page 4, the following definition of "State Treasurer" is added

between the definitions of “SSI” and “Tax Regulations”:

#### **“STATE TREASURER**

As required by Chapter 113 of the 2023 Laws of Maryland, the Maryland ABLE Program is administered by the State Treasurer. The State Treasurer is the Trustee of the Maryland ABLE Program and has general and fiduciary responsibility for the Maryland ABLE Program as a whole.”

(e) All other references to the “Board”, “Maryland 529” (as an entity) or the “Maryland 529 Board” in the Disclosure Booklet are deleted and replaced with a reference to the “State Treasurer”.

(f) On page 6, in the “Program Disclosure Statement Summary” section, the second sentence under “What is the Maryland ABLE Program?” is deleted and replaced with the following:

“The Program is offered and administered by the State Treasurer.”

(g) On page 6, in the “Program Disclosure Statement Summary” section, the two sentences under “Who is responsible for the Maryland ABLE Program” are deleted and replaced with the following:

“The State Treasurer administers the Maryland ABLE Program.”

(h) On page 6, in the “Program Disclosure Statement Summary” section, the three sentences under “Who runs the daily operations of the Maryland ABLE Program?” are deleted and replaced with the following:

“The State Treasurer and Maryland ABLE program staff oversee the Program Manager that runs the daily operations of Maryland ABLE.”

(i) On page 7, in the “Program Disclosure Statement Summary” section, the information under the subheading “Who can open a Maryland ABLE Account and how” is deleted and replaced with the following:

“An Eligible Individual may open an ABLE account and, under certain circumstances, other individuals may open an ABLE account on behalf of an Eligible Individual. For more information, see the Getting Started -- Eligibility to Open an ABLE Account section on page 10 and the Getting Started -- Opening Your ABLE Account section on page 11.

An Eligible Individual or other authorized individual can enroll by completing the online enrollment process or by mailing in a completed Enrollment Form. Requests for enrollment cannot be processed if any required information is missing.”

(j) On page 11, the section titled “Opening Your ABLE Account” is deleted and replaced in its entirety with the following:

### **“Opening Your ABLE Account**

To open an ABLE Account, the Beneficiary, or someone on their behalf, must first complete the documentation in the online enrollment process or submit a paper enrollment form (each, an “Enrollment Form”). The Enrollment Form and this Program Disclosure Booklet govern the terms of your ABLE Account. The Enrollment Form requires you to provide the Program with certain information, including your eligibility to open an ABLE Account, the Portfolio Option(s) you would like to invest contributions in, your name, address, date of birth, Social Security Number, and other information that will allow the Program to identify you. Until you provide the information needed, the Program will not be able to open your ABLE Account or allow contributions to the Program for your benefit.

The Beneficiary, or someone on their behalf, may complete and submit the Enrollment Form online on the Program’s website or mail a paper Enrollment Form to the address listed on the Enrollment Form.

**Persons Authorized to Open Your ABLE Account:** An ABLE account may only be established for an Eligible Individual by:

- (a) the Eligible Individual;
- (b) a person selected by the Eligible Individual; or
- (c) subject to certain certifications and restrictions set forth below, if an Eligible Individual, whether a minor or an adult, is unable to establish an able account, in the following priority:
  - (i) the eligible individual’s agent under a power of attorney; or
  - (ii) if the eligible individual does not have a power of attorney, in the following order of priority, the

Eligible Individual's:

- (A) legal guardian or conservator;
- (B) spouse;
- (C) parent;
- (D) sibling;
- (E) grandparent; or
- (F) representative payee appointed for the eligible individual by the social security administration.

**Required Certification:** The Program will accept a self-certification made under the penalties of perjury from the person seeking to establish an account that indicates: (i) the basis of the person's authority to establish the account; and (ii) there is no other person with a higher priority to establish the account under paragraph (c)(ii) of this subsection.

**Restrictions on Certain Individuals:** The following individuals may not establish an account on behalf of an Eligible Individual: (a) a minor; (b) an individual against whom the Eligible Individual has obtained a peace or protective order; (c) an individual who has been held civilly or criminally liable for financial exploitation under Title 13, Subtitle 6 of the Estates and Trusts Article of the Annotated Code of Maryland; or (d) an individual who is the subject of a civil or criminal order prohibiting contact with the Eligible Individual."

(k) On page 25 of the Disclosure Booklet, the section titled "Interest Rates" is deleted and replaced in its entirety with the following:

**"Interest Rates**

Interest on the Bank Account will be credited by the Bank on the last business day of each month based on the average daily balance on deposit in the Bank Account during such month. The base interest rate (prior to program-related fees) on the Cash Option will be a rate equal to the upper end of the Federal Funds target rate

range, set from time to time by the Federal Reserve's Federal Open Market Committee ("FOMC"), less 15 basis points.

From this base interest rate, Administrative Fees (0.30%) and variable fees to cover program costs of the Prepaid Card are deducted. The Administrative Fees and Prepaid Card costs are deducted from all accounts within the Cash Option, regardless of whether the Beneficiary utilizes the Prepaid Card. The variable fees include program costs of the Prepaid Card, which are reviewed at least quarterly with the goal of balancing the program need to cover certain costs of providing the Prepaid Card and maximizing the interest rate payable to Beneficiaries in the Cash Option.

Many factors contribute to calculating the program cost of providing the Prepaid Card. Thus, this variable fee may change without notice from time to time.

An example of how the variable interest rate will be determined quarterly:

If the Program balance in the Cash Option is \$30,500,000, and the estimated monthly pre-paid card expense is \$2,000, the Program would set the variable rate at the lowest one-tenth of a basis point that will generate enough fees to cover the expenses. In this example, that would be 0.7 bps ( $30,500,000 \times .00007 = \$2,135$ ).

An example of the application of the interest rate follows:

If the upper end of the Fed Fund Target rate was 3.25% (325 basis points) on a particular date, that would yield a base interest rate of 3.10% (310 basis points) from which the Administrative Fee of 0.30% (30 basis points) is deducted along with a 0.007% (0.7 basis points) variable program fee to cover Prepaid Card expenses. This produces a net annual interest rate paid to participants in the Cash Option of 2.793% (279.3 basis points).

The Fed Fund Target rate, which starts the calculation, is subject to change by the FOMC. The FOMC normally meets eight times a year and may also hold additional meetings and implement target rate range changes outside of its normal schedule.

Units in the Cash Option will have a daily net asset value that includes interest accruals on the Bank Account and is net of the applicable Administrative Fee.

If the interest rate on the Bank Account for any period is less than or equal to the Administrative Fee for such period, the net interest accrual on Units in the Cash Option for such period will be zero. During any such period when the interest rate is less than the Administrative Fee, the Trustee, Program Manager, and the Partner state, Oregon, will each waive their portion of the Administrative Fee, pro rata, that exceeds such interest rate so that the Administrative Fee shall not cause a negative return on amounts contributed to the Cash Option.”

(l) On page 35, the third sentence under “Change of the Program Manager or Investment Adviser, Terms and Conditions of the Program, Portfolio Options, and Mutual Fund” is deleted.

## **Revised Disclosure Statement**

In connection with the transfer of oversight of the Maryland 529 programs pursuant to the 2023 Legislation, the State Treasurer is undergoing a comprehensive review of programs including the Maryland ABLE Program. A revised Disclosure Booklet reflecting this supplement to the December 2021 Disclosure Booklet and any additional changes made to the program as a result of the State Treasurer’s review of the Maryland 529 programs may be provided.