

SSA's Representative Payee Program

Acknowledgements/Introduction

Central to Justice in Aging's mission is ensuring that our nation's most vulnerable seniors are protected from misuse of their modest incomes. Currently there are over ten million older adults who rely exclusively on Social Security benefits as their primary source of income.¹ To protect seniors from financial exploitation or interruption in their benefits, it is vital that advocates and caregivers are aware of key issues affecting the way the Social Security Administration administers payments to beneficiaries. This fact sheet is the first in a series of informational publications concerning SSA's Representative Payee Program. This project is supported by a fellowship grant from the Borchard Center Foundation on Law and Aging, which sponsors fellows who are interested in improving the quality of life for seniors.

The Representative Payee Program: The Basics

To ensure that all beneficiaries can receive their payments and make proper use of funds, Congress has granted the Social Security Administration (SSA) the authority to appoint third parties, known as representative payees, to receive and manage payments when the beneficiary is unable to do so. With Alzheimer's disease and other cognitive impairments on the rise,² more seniors find themselves unable to manage their own benefits. SSA is currently exploring additional ways to identify seniors who may be in need of a representative payee. When working with seniors or caring for loved ones, please be aware of the following information about the rep payee program to help identify seniors in need.

“ To protect seniors from financial exploitation or interruption in their benefits, it is vital that advocates and caregivers are aware of key issues affecting the way the Social Security Administration administers payments to beneficiaries. ”

Administration of the Representative Payee Program

A rep payee is an individual or organization appointed by SSA to receive Social Security or Supplemental Security Income (SSI) benefits for someone who cannot manage or instruct someone else to manage his or

- 1 Mikki Waid, *Social Security is a Critical Income Source for Older Americans: State-Level Estimates, 2010-2012*, AARP Public Policy Institute, http://www.aarp.org/content/dam/aarp/research/public_policy_institute/econ_sec/2014/social-security-critical-income-source-AARP-ppi-econ-sec.pdf.
- 2 National Institute on Aging, *2014-2015 Alzheimer's Disease Progress Report: Advancing Research Toward a Cure*, 2015, National Institutes of Health, 4-5, available at https://d2cauhfh6h4x0p.cloudfront.net/s3fs-public/2014-2015_alzheimers-disease-progress-report.pdf?majSMEv2CY5HS8MnjFt2RTujfgTu1a1e.

her income.³ In administering the representative payee program, SSA follows certain procedures and regulations in order to: 1) determine whether it is in the beneficiary's best interest to have a payee; 2) select the proper payee; 3) have adequate oversight over the payee's activities; and 4) provide redress for any misuse of funds.

Capability Determinations

Seniors with cognitive impairments and those who are suspected to be victims of financial exploitation can benefit greatly from the representative payee program. However, SSA has not established a consistent, evidence-gathering process to determine which seniors are in need. Generally, SSA must first receive some information that the beneficiary has a mental or physical impairment which prevents them from properly managing their affairs.⁴ If a beneficiary is found incompetent by a court, a payee must be appointed. SSA will also consider medical evidence about a beneficiary's condition in making a capability determination. Lay evidence, including the statements of relatives, friends, and other people who have observed the beneficiary is also taken into consideration.⁵ SSA should adopt improved and comprehensive procedures to make capability determinations more consistent across the country.

“ Seniors with cognitive impairments and those who are suspected to be victims of financial exploitation can benefit greatly from the representative payee program. ”

How SSA Chooses Payees

In order to better protect seniors, caregivers and advocates should follow a series of steps to help SSA identify a suitable payee. First, if you believe that your client or loved one suffers from a health condition that prevents them from managing their own affairs, it is important to discuss your concerns with SSA.

Next, the individual seeking to become the rep payee must file an application with the local field office or online.⁶ In choosing a payee, SSA will first look to family and friends who are aware of the beneficiary's needs and eligible to serve as a payee. SSA should consider multiple factors such as the relationship of the person to the beneficiary and whether the potential payee is in a position to look after the needs of the beneficiary.⁷ If no family or friends are available, SSA will consider appointing a qualified organization to serve as payee. As SSA relies heavily on family members and friends to serve as payees, individuals aware of the beneficiary's daily needs and lifestyle are best suited to serve in this role.

SSA will review the application and transfer it to the Disability Determination Services (DDS) in the state where the beneficiary lives. The DDS may approve, further investigate the application by considering medical and lay evidence, or deny the application. If denied, the decision may be appealed. If approved, SSA will appoint the payee and initiate the first payment to that individual.

³ 42 USC §405(j)(1)(A)(2006).

⁴ GN 00502.020 Determining Capability – Adult Beneficiaries.

⁵ CFR 404.2015.

⁶ Form SSA-11-BK, available at <https://www.ssa.gov/forms/ssa-11-bk.pdf>.

⁷ CFR 404.2020.

SSA will also consider a potential payee's criminal history. The following applicants may be prohibited from serving as a payee:

- » Certain individuals convicted of a serious crime and those fleeing to avoid prosecution.
- » A payee whose prior certification of payments has been revoked or terminated due to misuse.
- » The person is a creditor of the beneficiary.⁸

The Duties of a Rep Payee

Serving as a representative payee is a serious legal duty. SSA encourages payees to take a more active role in the beneficiary's life as a means to be more helpful. The primary responsibilities include:

- » Becoming familiar with SSA's program's rules, especially for those receiving SSI benefits. If a rep payee has any questions about how to spend or save money on behalf of the beneficiary, he or she should contact their local SSA office to avoid a loss of benefits or overpayments that may have to be repaid to SSA.
- » Meeting with the beneficiary on a regular basis. The payee must understand the beneficiary's needs, including food, housing, and medical costs.
- » Using the benefits in the best interests of the beneficiary and saving any unspent benefits to meet later needs.⁹
- » Keeping detailed and accurate records of how the benefits are used and saved.
- » Reporting changes such as death, incarceration, address and custody changes, and changes in circumstances that would affect the payment of benefits.¹⁰

Oversight and Redress

Whether seniors are receiving Social Security benefits or Supplemental Security Income payments, every penny counts. To assist payees in carrying out their duties, the Consumer Financial Protection Bureau has released a lay fiduciary guide about managing Social Security benefits and useful information for those serving as rep payees.¹¹ In the event that a payee is found to have misused benefits, SSA is authorized to impose criminal and civil penalties. If the misuse is intentional, a felony charge against the payee will be brought and imprisonment up to five years is possible.¹² Civil penalties could render the payee personally liable for misuse of the funds.¹³



If you or someone you know may be in need of a representative payee, please call the Social Security Administration at the national toll-free number at 1-800-772-1213 or contact your local SSA office.

8 42 USC 405(j)(2)(C)(i)(I-III).

9 SSA POMS GN 00502.114.

10 *Id.*

11 Please visit the Consumer Financial Protection Bureau website to find a full copy of the guide, which is also available at [cfpb lay fiduciary guides representative web 20131028.pdf](https://www.consumerfinance.gov/lay-fiduciary-guides-representative-web-20131028.pdf).

12 42 U.S. C. § 408(a)(5)(2006).

13 42 U. S. C. § 405(j)(7)(2006).