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SOCIAL SECURITY REPRESENTATIVE PAYEES

Social Security's Representative Payee Program provides financial management for the Social Security and SSI payments of beneficiaries who are incapable of managing their Social Security or SSI payments. Generally, Social Security looks for family or friends to serve in this capacity. When friends and family are not able to serve as payee, Social Security looks for qualified organizations to be a representative payee.

What is a Beneficiary?

A beneficiary is a person who receives Social Security and/or Supplemental Security Income (SSI) payments. Social Security and SSI are two different programs and both are administered by SSA.

What is a Representative Payee?

A representative payee is an individual or organization that receives Social Security and/or SSI payments for someone who cannot manage or direct the management of their money. Payees must use the funds for the current and foreseeable needs of the beneficiary and save any remaining funds for the beneficiary's future use.

Who needs a representative payee?

The law requires minor children and legally incompetent adults to have payees.

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In all other situations, adult beneficiaries are presumed to be capable of managing benefits. If there is evidence to the contrary, however, the Social Security Administration (SSA) may appoint a representative payee.

How does someone apply to be a representative payee?

Anyone can apply to be a payee by contacting the SSA office nearest to them. They must then submit an application, form SSA-11-BK (Request to be selected as payee) and documents to prove their identity. SSA requires that the payee application must be completed in a face-to-face interview (with certain exceptions.)

What if a beneficiary disagrees that they need a representative payee, or they believe that SSA has appointed the wrong payee?

The beneficiary has the right to appeal the decision by SSA within 60 days, just like appealing a decision as to whether they're disabled or what benefits they're entitled to.

What are the duties of a representative payee?

A payee acts on behalf of the beneficiary. A payee is responsible for everything related to benefits that a capable beneficiary would do for themselves. SSA encourages payees to go beyond just managing finances and to be actively involved in the beneficiary's life.

Required Duties:

- Determine the beneficiary's needs and use his or her payments to meet those needs;
- Save any money left after meeting the beneficiary's current needs in an interest bearing account or savings bonds for the beneficiary's future needs;
- Report any changes or events which could affect the beneficiary's eligibility for benefits or payment amount;
- Keep records of all payments received and how they are spent and/or saved;
- Provide benefit information to social service agencies or medical facilities that serve the beneficiary;
- Help the beneficiary get medical treatment when necessary;
- Notify SSA of any changes in the payee's circumstances that would affect their performance or continuing as payee;
- Complete written reports accounting for the use of funds; and
- Return any payments, to which the beneficiary is not entitled, to SSA.

What about "Power of Attorney"?

Power of attorney is a legal process where one individual grants another person the authority to handle certain business for that individual. A POA can only be granted if the individual is competent and it does not mean that the individual can no longer handle their own affairs, nor does it usually give the other

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person the right to manage the individual's assets. A POA is not recognized by the Treasury Department for the purposes of accepting or cashing federal payments, including Social Security or SSI checks.

Therefore, if someone is a power of attorney for a beneficiary who is found incapable of managing their own benefits, that person must still file an application to serve as the beneficiary's representative payee.

Can a payee collect a fee for serving as a representative payee?

Individual payees cannot collect fees. An organization, though, may collect a fee from a Social Security or SSI beneficiary's monthly payment as reimbursement for expenses incurred in providing payee services to that beneficiary. To collect a fee an organization must be:

- A community based, nonprofit social service agency, which is bonded or licensed in the state in which it serves as payee, or
- A state or local government agency with responsibility for income maintenance, social service, health care, or fiduciary responsibilities, and
- Regularly serving as a representative payee for at least five beneficiaries, and is not a creditor of the beneficiary (some exceptions apply).

Before an organization can collect a fee for representative payee services, it must request authorization from the manager of the local Social Security office. Once the organization is authorized, they are called a Fees-for Services representative payee.

Can a payee be reimbursed from the beneficiary's funds if he/she incurs an expense on behalf of the beneficiary?

Payees may be reimbursed for reasonable actual out-of-pocket expenses incurred on behalf of the beneficiary. For example the costs of transporting the beneficiary to a doctor's appointment, (such as cab fare, mileage and tolls), postage to pay the beneficiary's bills, and fees for money orders are all considered out-of-pocket expenses. The amount of reimbursement must correspond with the actual expense you incurred for the beneficiary. The payee must keep records of his/her out-of-pocket expenses.

Note: The cost of postage is not reimbursable to a payee who receives a fee for service.

Payees are not permitted to be reimbursed from the beneficiary's funds for any expenses that are considered overhead. For example, the costs associated with utilities, rent, office equipment and supplies cannot be collected from beneficiaries.

What type of bank account should be set up for the beneficiary?

A checking account is better in some ways, because there will be cancelled checks and/or statements that show how the funds are spent. In making the decision to use a checking account, consider the fact

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that some beneficiaries cannot maintain high enough balances to avoid service charges. But if bills must be paid through the mail, a checking account would still be cost effective because cashier's checks and money orders have charges associated with them as well. The payee should set up an account that minimizes fees and enables him/her to keep clear records. SSA encourages interest-bearing accounts. The bank account must be titled so that it is clear that the money in the account belongs to the beneficiary.

What is the proper use of benefits?

Benefits should be used for current needs such as food, clothing, shelter, utilities, dental and medical care and personal comfort items, or reasonably foreseeable needs. If not needed for these purposes, the benefits must be saved or invested on behalf of the beneficiary. Where the beneficiary has unmet current maintenance needs, saving benefits serves little purpose and would not be in the beneficiary's best interests.

A payee must use benefits in the best interests of the beneficiary, according to his/her best judgment.

What are some examples of what payees cannot do?

A payee cannot:

- Sign legal documents, other than Social Security documents, on behalf of a beneficiary.
- Have legal authority over earned income, pensions, or any income from sources other than Social Security or SSI.
- Use a beneficiary's money for the payee's personal expenses, or spend funds in a way that would leave the beneficiary without necessary items or services (housing, food, medical care).
- Put a beneficiary's Social Security or SSI funds in their or another person's account.
- Use a child beneficiary's "dedicated account" funds for basic living expenses. This only applies to disabled/blind SSI beneficiaries under age 18.
- Keep saved funds once they are no longer the payee.
- Charge the beneficiary for services unless authorized by SSA to do so.

How should benefits be used if a beneficiary is institutionalized?

When a beneficiary resides in an institution, a reasonable share of benefits should be paid to the institution to cover the charges for care. An institution's customary charges and the beneficiary's other current needs should be taken into account. The payee should not pay an amount for customary charges that is more than the legal maximum charge established by the State of Virginia.

If a beneficiary is receiving care in a State, Federal, or private institution not receiving Medicaid funds on behalf of the beneficiary, highest priority should be given to the beneficiary's current care costs. Current care costs are not limited to the usual institutional charges but include expenditures for items

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that will aid in the beneficiary's recovery or release from the institution or improve the beneficiary's condition while in the institution. Any benefits remaining should be saved or invested except as they may be otherwise properly used. This includes temporarily maintaining the beneficiary's residence outside the institution unless a physician certifies the beneficiary is unlikely to return home.

If an SSI beneficiary enters a facility, the representative payee should report the admission to SSA. If the beneficiary receives substantial Medicaid payments for the cost of care and receives the \$40 personal needs allowance, the benefit may not be used for current care services.

If the beneficiary has a dependent spouse, child or parent living at home, and if the current needs of the beneficiary are met, part of the benefit may be used to support the legal dependents. If this situation may apply, the local Social Security office should be contacted for guidance.

How much money should be set aside for the personal needs of a beneficiary who is in an institution or nursing home?

A minimum of \$40 should be set aside each month to be used for the beneficiary's personal needs or saved on his/her behalf.

How should large sums of money be handled, for example, if a beneficiary receives a large retroactive payment covering several months, or even years, of benefits?

The main thing to keep in mind is that the money must be used in the best interests of the beneficiary. The first priority is to make sure the beneficiary's current needs are met. This includes food, shelter, medical care and other items for the beneficiary's comfort. If money is left over after providing for those needs, the money could be spent on things that would improve the beneficiary's daily living conditions or provide better medical care. The representative payee may also use left over money to satisfy the beneficiary's debts. However, SSA approval is required when the payee is also a creditor.

If the beneficiary receives SSI, they cannot have more than \$2000 in cash and property (other than a home and car). The back payment must be spent within 9 months so that the beneficiary's total resources are below \$2000. If the money is not spent within 9 months, an overpayment may occur and benefits may stop.

What if the representative payee receives a large sum of money as the payee for a child receiving SSI?

Certain large past-due SSI payments to blind or disabled children covering more than six months of benefits must be paid directly into a separate account in a financial institution. This separate account is called a "dedicated account" because funds in this account may be used only for certain expenses, primarily related to the child's disability.

The money in the "dedicated account" and the interest that it earns are not countable as an SSI resource.

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How should funds in a "Dedicated Account" be spent?

Money in the "dedicated account" must be used for the following allowable expenses:

- Medical treatment and education or job skills training;
- If related to the child's disability: personal needs assistance, special equipment, housing modification, and therapy or rehabilitation; or
- Any other item or service related to the child's disability.

If there is any question as to whether or not an item or service is allowable, guidance must first be requested from the local Social Security office.

What happens if the representative payee spends "Dedicated Account" funds for things other than allowable dedicated account items?

If the payee uses "dedicated account" funds for anything other than the allowable "dedicated account" fund expenses, then the payee must repay SSA, from their own funds, an amount equal to what was spent.

What changes or events must the representative payee report to SSA?

The following events must be reported as soon as possible, by calling SSA at 1-800-772-1213, or contacting the local SSA office. Note that there are additional reporting requirements for SSI beneficiaries at the end of the list.

- The beneficiary dies;
- The beneficiary moves;
- The beneficiary marries;
- The beneficiary starts or stops working, even if the earnings are small;
- A disabled beneficiary's condition improves;
- The beneficiary starts receiving another government benefit, or the amount of that benefit changes;
- The beneficiary plans to leave the U.S. for 30 days or more;
- The beneficiary is imprisoned for a crime that carries a sentence of over one month;
- The beneficiary is committed to an institution by court order for a crime committed because of mental impairment;
- Custody of a child beneficiary changes or a child is adopted;
- The beneficiary is a child (including a stepchild), and the parents divorce;
- The payee can no longer be payee; or
- The beneficiary no longer needs a payee.

Additional events that must be reported by the representative payee for SSI beneficiaries:

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- The beneficiary moves to or from a hospital, nursing home, or other institution;
- A married beneficiary separates from his or her spouse, or they begin living together after a separation;
- Somebody moves into or out of the beneficiary's household;
- The beneficiary has any change in income or resources (i.e., a child's SSI benefit check may change if there are any changes in the family income or resources); or
- Resources that exceed \$2000.

The beneficiary wants to spend money on things that do not meet the representative payee's approval. What is the payee's responsibility?

The payee's main obligation is to ensure that the current needs of the beneficiary are met. Once that has been done, the beneficiary has the right to have some discretionary spending money, even if the representative payee does not approve of all of the beneficiary's choices.

In the case of drug or alcohol abuse, the representative payee may want to give the beneficiary only small amounts of spending money, or purchase food to give to the beneficiary, rather than giving them cash. If the representative payee thinks the beneficiary is spending his or her money on illegal or dangerous items and activities then they should seek help from a social service agency. The representative payee can request guidance from their local SSA office or by calling 1-800-772-1213.

The beneficiary doesn't think the payee gives them enough money. What can they do?

If the beneficiary feels they are not being given enough money, they should talk with their payee about how their money is being spent. The payee should show the beneficiary how much money the beneficiary receives from Social Security or SSI and how much the payee spends on the beneficiary's needs. Then the beneficiary should talk with the payee about how they want to use any remaining money.

What happens if the beneficiary thinks their representative payee is misusing their benefits?

Notify SSA immediately. The SSA will investigate all allegations of misuse, gather facts and evidence, and make a formal determination on whether misuse has occurred. The beneficiary will receive a letter from SSA advising them of the findings. If misuse is found, SSA may appoint a new representative payee or make payments directly to the beneficiary. The SSA will then initiate action to recover the misused funds .

What if a beneficiary believes they no longer need a representative payee?

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Recipients have the right to receive their own Social Security check unless SSA has reason to believe they may spend their money in a way that might hurt them.

If a beneficiary has a representative payee because of a physical or a mental disability, in order to become their own payee, they must show SSA that they are now mentally and physically able to handle their money themselves. They could provide:

- A doctor's statement that there has been a change in the beneficiary's condition and that the doctor believes they are able to care for themselves; or
- An official copy of a court order saying that the court believes that the beneficiary can take care of their self; or
- Other evidence that shows the beneficiary's ability to take care of themselves.

Note: Be advised that if SSA believes the beneficiary's condition has improved to the point that the beneficiary no longer needs a payee, the SSA may reevaluate the beneficiary's eligibility for benefits.

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*Free Legal information by Web and Phone: www.vlas.org and
1-866-LeglAid (534-5243)*

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