This is basic information and
does not constitute legal advice.

A Guide to Social Security Benefits: Representative Payees

What is a representative payee?

A representative payee is a person or organization authorized by the Social Security Administration (SSA) to receive monthly benefits on behalf of a beneficiary, who is qualified to receive Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefit checks.

What are the responsibilities of a representative payee?

The representative payee must use the money received to cover the current needs of an individual for whom the benefits have been received. These current needs include:

- Housing and utilities;
- Food;
- Medical and dental expenses;
- Personal care items;
- Clothing; and
- Rehabilitation expenses, for individuals with disabilities.

If there is any money left over after these expenses have been paid, the representative payee may use it to pay any past-due bills, give the beneficiary spending money, support the beneficiary's dependents, or provide entertainment for the beneficiary. If there is any money left over after this, the payee should save it for the beneficiary. 20 C.F.R. §§ 416.635; 416.640 (2010).

A representative payee for an individual living in an institution, such as a nursing home or hospital, should use the money to cover the cost of the individual's care and personal needs. For more information, go to http://www.socialsecurity.gov/pubs/10097.html.

How does a representative payee account for the use of benefits?

The representative payee should keep accurate records and retain all bills, receipts, and cancelled checks. Representative payees must make an annual accounting with the SSA,

documenting the amounts received and spent on behalf of the beneficiary. The SSA can review the payee's records at any time, so records must be accurate and up-to-date. The SSA may request the following information from your representative payee:

- Where you lived during the accounting period;
- Who made the decisions on how your benefits were spent or saved;
- How your benefit payments were used; and
- How much of your benefit payments were saved and how the savings were invested. 20 C.F.R. § 416.665 (2010).

A representative payee's failure to provide an annual accounting of benefits or other required reports may result in the requirement that the payee receive the benefit payments in person. 20 C.F.R. § 416.665 (2010).

When will the SSA appoint a representative payee?

SSA policy is that every beneficiary has the right to manage his or her own benefit payments. However, if SSA determines that an individual is not able to manage his/her own payments, SSA will appoint a representative payee. A representative payee will be appointed for individuals:

- Legally incompetent (as determined by a court);
- Mentally incapable of managing benefit payments;
- Physically incapable of managing, or directing someone to manage benefit payments; or
- Under age 18, unless applying for SSI or SSDI within seven (7) months of turning 18, except for individuals who are living on their own and have shown that they are capable of managing their own benefits. 20 C.F.R. § 416.601(b) (2010).

The SSA will consider any information that indicates the need for a representative payee, including legal, medical, and other information.

Who will be appointed as a representative payee?

Individuals interested in becoming representative payees must file applications with the SSA. The SSA will decide who to appoint after conducting an investigation. As part of the investigation, the SSA will:

- Conduct a face-to-face interview with the payee applicant, unless impracticable to do so;
- Require the payee applicant to submit documented proof of identity;
- Verify the payee applicant's Social Security account number or employer identification number;
- Determine whether the payee applicant has been convicted of a "Social Security felony";
- Determine whether the payee applicant has ever misused another recipient's funds;
- Use its records to verify the payee applicant's employment and/or direct receipt of Title II, VIII, or XVI benefits;
- Verify the payee applicant's concern for the beneficiary with the beneficiary's custodian or other interested person;

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- Require the payee applicant to provide adequate information showing his or her relationship to the beneficiary and to describe his or her responsibility for the care of the beneficiary; and
- Determine whether the payee applicant is a creditor of the beneficiary. 20 C.F.R. § 416.624(a) (2010).

In selecting a representative payee, the SSA will consider:

- Your relationship to the potential representative payee, if any;
- The amount of interest that the potential representative payee shows in you;
- Any legal authority the potential representative payee has to act on your behalf;
- Whether the potential representative payee has custody of you; and
- Whether the potential representative payee is likely to know and look after your needs.

Payee preference is given to the following individuals:

- A legal guardian, spouse, or other close relative who has actual custody or who demonstrates a strong concern for the personal welfare of the beneficiary;
- A friend;
- A public or nonprofit agency or institution having actual custody, statutory guardianship, or voluntary guardianship of the beneficiary;
- A private, profit-making institution, licensed under state law, with custody of the beneficiary; or
- Someone other than those listed above who is qualified to carry out the responsibilities of a payee and who is willing and able to serve (i.e., a community organization).

The SSA should appoint a payee who best serves the beneficiary's interests.

How will I know that a representative payee has been selected by SSA?

Under federal law, the SSA must send a written notice to you (or, if under age 15, an unemancipated minor under the age of 18, or legally incompetent, to your legal guardian or legal representative) that a representative payee has been selected. This advance notice must:

- Contain language that is easily understandable;
- Identify the person designated as your representative payee;
- Explain that you, your legal guardian, or your legal representative can appeal the determination that you need a representative payee;
- Explain that you, your legal guardian, or your legal representative can appeal the designation of a particular person to serve as your representative payee; and

Explain that you, your legal guardian, or your legal representative can review the evidence upon which the designation of a particular representative payee is based and submit additional evidence. 20 C.F.R. § 416.630(a) (2010).

What if I have problems with my representative payee?

When the SSA learns that your best interests are not being served by your representative payee, it will discontinue payments to the payee. Under federal law, SSA will suspend payment of

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benefits to your representative payee and appoint a new representative payee or pay you directly if the present payee:

- Has been found by the SSA or a court of competent jurisdiction to have misused your benefits;
- Has not used the benefit payments on your behalf in accordance with the guidelines in this subpart;
- Has not carried out the other responsibilities required by the SSA;
- Dies;
- No longer wishes to be your payee;
- Is unable to manage your benefit payments; or
- Fails to cooperate, within a reasonable time, in providing evidence, accounting, or other information SSA requests. 20 C.F.R. § 416.650 (2010).

If you no longer want a representative payee, you may ask the SSA to pay the benefits directly to you. However, you must be prepared to present evidence that you are capable of handling your benefit payments.

If you currently have a payee but would like someone else to become your payee, the person you want to become your new payee must file an application at a Social Security office. You should inform your present payee of your plans to ask someone else to receive the benefit payments on your behalf.

If you would like payments to be increased but your payee refuses to do so, you may register a complaint with SSA at 1-800-772-1213. SSA will then contact the beneficiary's local SSA office, which will then contact the beneficiary and attempt to resolve the problem. For more information, see http://www.ssa.gov/payee/bene.htm.

How do I appeal a SSA decision regarding a representative payee?

If you do not agree with a decision made by the SSA regarding the necessity for and/or appointment of a representative payee, you can appeal the decision. Under federal law, you have 60 days from the date you receive the letter to make a written request at any Social Security office to appeal the determination regarding your claim. 20 C.F.R. § 416.1409 (2010). There is a rebuttable presumption that you have received the letter five (5) days after the date on the letter.

If unable to meet the 60-day deadline, you may file a request for an extension of time at any Social Security office. If you show that you had good cause for missing the deadline, the time period will be extended. 20 C.F.R. §§ 416.1433(c); 416.1468(b) (2010). You can call your local Social Security office if you need help with your appeal. For more information, go to http://www.ssa.gov/pubs/10041.html.

An initial determination is any determination made by the SSA that is subject to administrative and judicial review. The SSA makes its initial determination based on a preponderance of the evidence. The SSA will state the important facts and explain the reasons

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for making its initial determination. 20 C.F.R. § 404.902 (2010). After the SSA has made an initial determination, there are four levels from which that decision can be appealed:

- Reconsideration;
- Hearing by an administrative law judge;
- Review by the Appeals Council; and
- Federal Court review.

A reconsideration is a complete review of your claim by someone who did not take part in the final decision. If you disagree with the reconsideration decision, you may ask for a hearing. This hearing will be conducted by an administrative law judge who had no part in the original decision or the reconsideration of your case. If you disagree with the hearing decision, you may ask for a review by the SSA Appeals Council. The Appeals Council looks at all requests for review, but may deny a request if it believes the hearing decision was correct. If you disagree with the Appeals Council's decision or if the Appeals Council decides not to review your case, you may file a lawsuit in a federal district court.

When the SSA sends a letter about a decision on your claim, it will tell you how to appeal the decision. See http://www.ssa.gov/pubs/10041.html for more information.

How do I recover misused payments?

Federal law requires representative payees to use the benefits received to support the beneficiary. If a payee misuses benefits, he or she must repay the misused funds. A payee convicted of misusing funds may be fined and imprisoned. See http://www.ssa.gov/pubs/10076.html. The SSA will make every reasonable effort to recover the misused funds from the payee and repay them to you. 20 C.F.R. § 416.641(a) (2010).

In certain circumstances, the SSA will be liable for the amount of misused payments. If the representative payee who has misused benefits serves 15 or more beneficiaries, the SSA will repay the amount of benefits misused by that payee. If an individual representative payee serves 14 or fewer beneficiaries and misuses benefits, then SSA will only be liable if the misuse of benefits resulted from its negligent failure in the investigation or monitoring of that representative payee. "Negligent failure" means that SSA failed to investigate or monitor a representative payee or, if it did investigate or monitor a representative payee, it did not follow established procedures in its investigation or monitoring. 20 C.F.R. § 416.641(a) (2010).

For more information about Social Security and representative payees

Contact the National Social Security office:

- Toll Free: 1-800-772-1213
- TTY: 1-800-325-0778
- Website: www.ssa.gov

Contact your local Social Security office:

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Beatrice
2630 Eastside Blvd.
Beatrice, NE 68310
1-877-319-3080

Grand Island
115 N. Webb Rd. Suite 1
Grand Island, NE 68803
1-877-407-3441

Lincoln
100 Centennial Mall North #191
Lincoln, NE 68508
1-866-593-2880

Norfolk
605 Iron Horse Dr. Suite 1
Norfolk, NE 68701
1-402-371-1595

North Platte
300 E. 3rd St. Room 204
North Platte, NE 691010
1-308-532-9502

Omaha
Old Mill Centre
604 N. 109th Ct.
Omaha, NE 68154
1-866-716-8299

Scottsbluff
415 Valley View Dr.
Scottsbluff, NE 69361
1-308-635-2158

To find out how best to contact your local Social Security office, go to http://ssa.gov/pgm/reach.htm.

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