Representative payees & HR 4547

Strengthening protections for social security beneficiaries
About the Arizona center for disability law (ACDL)

Our office is the protection and advocacy agency for persons with disabilities in Arizona. We provide a variety of legal services to people with mental, physical, psychiatric, and sensory disabilities regarding disability related legal issues. Assistance that may be provided includes information and referral, community legal education, individual advocacy, legal advice, and, in limited cases, legal representation.
definitions

• **Representative Payee**: a person or an organization selected by SS to receive benefits for anyone who can’t manage their benefits.

• **Beneficiary**: a person who receives Social Security and/or Supplemental Security Income (SSI)

• **Abuse of benefits**: using benefits intended for the beneficiary for another’s benefit. Can lead to criminal liability.

• **Misuse of benefits**: when the rep payee does not use benefits for the beneficiary’s current needs
Some statistics

• 5.7 million rep payees
• 8 million beneficiaries who have a rep payee
• $70 billion
• Breakdown:
  • 3.8 million – children
  • 1.5 million retired workers – adults
  • 900,000 – disabled workers
  • 1.7 million – disabled adult children, wives and husbands, widowers

History of rep payee program

• Social Security Act Amendments of 1939: established the rep payee program

• Jordan v. Schweiker (1984) – Federal District Court ruled that the Constitution required annual reporting

• Representative Payee Abuse Prevention Act (1989): requires screening of rep payees

• Social Security Protection Act of 2004 (PL 108-203): law that gave the SS commissioner the authority to review whether rep payees were performing their duties

• HR 4547 – grants P&As to conduct onsite reviews and educational visits
History of misuse and abuse

- Dorothea Puente (late 1980s)
- Aurora Foundation (2000)
- Henry’s Turkey Scandal (2007)
- Philadelphia Basement Scandal (2011)
- Ayudando Guardians, Inc (2017)
How rep payee’s are chosen

• Priority group: spouse, parent, or other relative with custody OR who shows a strong concern for the beneficiary's well being

• Least favored: organization that charges a fee for its service

• Creditors may be chosen if they fall within a statutory exception

• SS Field Officers have discretion and will make a selection that is in the beneficiary’s best interests
Hr 4547: strengthening protections for social security beneficiaries act of 2017

• Unanimous support from both Houses of Congress

• Prompted by Henry’s Turkey Service and other scandal related stories.

• Improves monitoring function to combat misuse and abuse

• Gives P&As (ACDL) authority to conduct onsite reviews
Hr 4547 – continued

• Section 201: allows for advance designation of rep payees
• Section 202: prohibits certain individuals convicted of crimes from serving as rep payees
• Section 203: prohibits beneficiaries with rep payees from serving as rep payees for other individuals
Duties of a rep payee

- Three main responsibilities
  - Money management – understand the financial obligations of the beneficiary
  - Accounting and reporting obligations
  - Advocacy

- Maintaining Accounts
  - If benefits are deposited in collective account, make sure each beneficiary’s account is clearly marked
  - No Conduit Practices – Rep payee may not delegate responsibilities to a third party
Money management – preventing misuse

- A beneficiary budget
- A beneficiary ledger
- Collective account bank statements
- Individual bank statements
- Receipts of income
- Account balance

- Bank reconciliation records
- Cancelled checks
- Expense documentation including receipts, bills, and rental agreements
- How the RP keeps conserved benefits
- Any other financial documents
Money management – proper uses

- Day to day expenses (rent, utilities, food)
- Medical and dental expenses not covered by insurance (motorized wheelchair, reconstructive dental work)
- Personal needs (clothing, recreation, furniture)
- Anything leftover should be placed in a savings account
Rep payee reporting responsibilities

- Beneficiary moves or changes address
- The rep payee does not know how to contact the beneficiary
- Change in employment
- A beneficiary’s medical condition improves
- Beneficiary becomes incarcerated
- The beneficiary changes their name
- The beneficiary dies
- Change in marital status
Rep payee – accounting role

• Annual reports: most rep payees must make an annual report, either by hard copy or electronically to Social Security. This form asks you how you used funds and how you saved any leftover funds (if any)

• Other reports: at other times, Social Security may request a reporting of spending and savings
## General ledger example

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<th>Transaction Date</th>
<th>Indicate: Check # or Cash or Electronic Transfer (EF)</th>
<th>Deposit (+)</th>
<th>Withdrawal (-)</th>
<th>Indicate If Deposit (From Where) or Withdrawal (Paid to and Reason). Beneficiary Must Sign Here if Cash Disbursed</th>
<th>Indicate If This is a Fee or Retroactive PMT</th>
<th>Have Receipt? Yes/No</th>
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Rep payee – advocacy

• This is about maximizing deals for your beneficiary

• Examples
  • Negotiating a better rent deal on an apartment
  • Searching for better deals on groceries
  • Getting the best deals
  • Setting up accounts that minimizes fees
Some helpful TIPS for rep payees

• Engage in an active conversation with your beneficiary
• Understand what your beneficiary’s goals
• Communicate with your beneficiary often
• Save receipts
• Always remember, the goal is to do what is in the best interest of your beneficiary
Best practices – for organizational payees

• Collective Accounts – keep each account separate and distinguished
• Support beneficiaries in their therapy and rehabilitation
• Return overpayments promptly
• Promptly report misuse or employee theft to Social Security
• SSI recipients - $2000 individual / $3000 couple resource limit
Best practices continued

• $30 set aside for personal needs

• If accounts have multiple deposit sources (e.g. pensions, VA payments), clearly show deposits, withdrawals, and expenditures for Social Security benefits

• Setup internal procedures and guidelines to ensure security of funds

• Screen and supervise employees who have access to beneficiary funds
Misuse

- If a fee for service organization, must forfeit fee for the month(s) misuse was found to have occurred
- Social Security will re-evaluate rep payee suitability
- Could lead to possible criminal prosecution
P&A Reviews

- All periodic reviews
- State onsite (mental institution reviews)
- Predictive model reviews
- Quick response checks
- Initiated reviews
What to expect during a review

• Reviews will be scheduled ahead of time
• Be prepared to answer questions about:
  • How the fund is managed
  • How are the beneficiary’s needs being met
  • How the rep payee is accounting for all of the expenses
Rights as a beneficiary

• If misuse is suspected, contact the Office of the Inspector General (OIG): https://www.ssa.gov/fraudreport/oig/public_fraud_reporting/form.htm

• Beneficiaries can change their rep payee by contacting their local Social Security Office
  • (800) 772-1213 | https://secure.ssa.gov/ICON/main.jsp#officeResults
More resources

• https://www.ssa.gov/payee/NewGuide/toc.htm

• https://www.ssa.gov/payee/

If you know of someone who may need a rep payee call SSA at 1-800-772-1213 to make an appointment.
Any questions?