

STANDARDS OF PRACTICE: REPRESENTATIVE PAYEE

Adopted by the
MINNESOTA ASSOCIATION FOR
GUARDIANSHIP AND CONSERVATORSHIP

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**MINNESOTA ASSOCIATION FOR
GUARDIANSHIP AND CONSERVATORSHIP
MAGiC
An Organization to Explore Substitute Decision-Making**

**STANDARDS OF PRACTICE:
REPRESENTATIVE PAYEE**

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MAGiC MISSION STATEMENT

The Minnesota Association for Guardianship and Conservatorship, MAGiC, is a non-profit membership organization focused on the practice and issues of substitute decision-making for vulnerable persons. MAGiC promotes best practices and ethical provision of service in the least restrictive manner possible through education and advocacy for its members and the community.

We affirm the following values:

1. We believe services are to be provided in the least restrictive manner possible, respecting the rights and dignity of vulnerable persons.
2. We strive for the highest professional standards and ethics in providing service.
3. We are committed to the education and training of our members.
4. We believe in professional collaboration and legislative advocacy in working toward the well-being of vulnerable persons.

INTRODUCTION

A Representative Payee is an entity appointed by a financial benefit organization, such as the Social Security Administration (SSA), the Veterans Administration (VA), or the Railroad Retirement Board (RRB), to receive and administer benefits for a beneficiary, who, due to mental or physical impairments, is unable to receive and manage the benefits him or herself. A Representative Payee can be appointed with or without the consent of the beneficiary, who has several opportunities to challenge an unwanted payee, both before and after the organization issues a formal decision. Once established, the payeeship can be terminated on a showing that the beneficiary has regained the capacity to manage the benefits. The appointment of a Representative Payee (Rep Payee) is frequently a viable less restrictive alternative to the appointment of a conservator, in situations where the benefit payment is the beneficiary's only source of income, and there are no other estate matters requiring management.

By law, Rep Payees are to use the recipient's benefits in the recipient's best interest, and the Rep Payee is personally liable for misuse of funds. A payee's authority extends only to matters relating to the beneficiary's payments and status with the paying organization (SSA, VA, RRB). The Rep Payee, solely by being appointed payee, has no authority to handle property or income other than from SSA/VA/RRB.

A trustworthy relative might be appropriate as a representative payee. For persons who need a representative payee but have no relatives or close friends to provide the service, a professional Rep Payee may be appointed by the paying organization following a finding of the beneficiary's inability to manage his/her own benefits.

This document establishes Standards of Practice for Representative Payees under the Social Security Administration. Nevertheless, most of these Standards, as expectations for appropriate professional behavior, would be applicable to Rep Payees appointed by the VA and RRB. The Veterans Administration or the Railroad Retirement Board should be contacted for details and procedures to follow both to establish representative payeeship and to understand each agency's specific requirements.

Representative payeeship is established through an application process with the Social Security Administration, and includes a requirement for a physician's opinion regarding the beneficiary's inability to manage his/her SSA benefits.

The Social Security Administration recognizes two forms of Representative Payees: individual and organizational.

An Individual Rep Payee is often someone known to the beneficiary, such as a family member or friend, or it could be someone completely independent of the beneficiary,

such as a conservator who also is appointed by the SSA to be Rep Payee, or the billing office or other personnel of a nursing home or other residential provider. An individual Rep Payee is not allowed to collect fees for serving as a Rep Payee.

An Organizational Representative Payee can be a social service organization, an institution, an official of a state or local governmental agency, or a financial organization. Organizational Rep Payees who are incorporated as non-profits are allowed to collect a small monthly fee, as determined by SSA, from the beneficiary's monthly benefit, after filing a request and receiving written authorization from SSA.

The Social Security Administration recognizes neither fiduciaries appointed under a power of attorney, nor via conservatorship/guardianship; thus, attorneys-in-fact and conservators/guardians must make a formal application to the SSA to become Representative Payee.

Nothing in these Standards should be construed as having priority over the requirements of the SSA or other organization that has appointed the Rep Payee. Rep Payees are responsible for understanding the requirements of the paying organization, and for the purposes of Social Security, are advised to carefully review SSA's A Guide for Representative Payees and Guide for Organizational Representative Payees. (<http://www.socialsecurity.gov/payee/index.htm>)

ACCEPTING BENEFICIARIES

The Representative Payee should develop and adopt forms for use in determining whether to accept a new beneficiary, as well as for use in the beneficiary file to perform payee responsibilities. These forms may include: Policies and Procedures; Client Questionnaire (See Appendix A for samples); a Budgeting Form; Payee Intake Information/Face Sheet, and Release of Information.

When considering whether to accept a potential referral, the Rep Payee should first discuss the Rep Payee's policies and procedures with the potential client. The beneficiary should complete the questionnaire, which asks the beneficiary to confirm that he/she understands the policies and procedures. The prospective client should also sign a release of information to grant the Rep Payee permission to contact the beneficiary's case worker, the physician, or any family members involved in their lives, as applicable to the situation.

With this information, the Rep Payee needs to decide whether to accept the beneficiary. Factors include how much time the particular case may take and the payee's current caseload. If the beneficiary already has a payee, the Rep Payee should explore why the prospective client is trying to switch payees. It is advisable to contact the existing payee to better understand the prospective client when there is a question.

TIP: In deciding whether to accept a new client from another provider, consider the reason a beneficiary is requesting to change Rep Payees when there is no substantial evidence that the current payee is misusing funds, treating the beneficiary unfairly, not acting in the best interest of the beneficiary, or other reasonable explanation for the requested change in payees.

Once the Rep Payee has decided to accept the beneficiary, the Rep Payee should contact the SSA and apply to be the appointed payee. The Rep Payee should be ready to provide the necessary information to the SSA. Completion of paperwork such as the Payee Information Sheet at the client interview stage should provide all required information.

Steps After Appointment of Payee

After notification that the SSA has made the appointment, the Rep Payee should set up a file for the beneficiary. The Rep Payee should make an appointment with the beneficiary to bring in all bills and to discuss a budget. The Rep Payee should then change relevant billing addresses to the Rep Payee's address.

When the Rep Payee has established the bank account and begins receiving the SSA benefits, the beneficiary should be asked, in writing, to forward all future communications from creditors to the Rep Payee's office for payment or to develop a payment plan with the beneficiary and creditors.

ESTABLISHING REPRESENTATIVE PAYEE BANK ACCOUNTS

Based on the number of beneficiaries served, an organizational payee may choose to maintain individual accounts for each beneficiary or request approval for payment into a collective bank account to serve multiple beneficiaries. A collective account is a master checking or savings account with sub-accounts for each beneficiary.

A collective account must be approved by the SSA. Having a collective account can help eliminate service charges; working with an accounting system in conjunction with the collective account can save hours of reconciling bank statements and corrections can be made easily. A collective account allows the payee to have a more organized system of distributing checks and maintaining proper records for such things as Payee Reports (annually), rent, and food stamp recertification, etc.

Tip: Working with a computer program such as QuickBooks and online banking makes it easy to reconcile because there is a program with the online bank that will go through QuickBooks and mark off all checks and deposits received, leaving only the task of finding mistakes.

Account Set Up

The collective and individual accounts must be set up as fiduciary accounts, whereby the beneficiary is the owner, and the Rep Payee is designated as the only signer on the account (the beneficiary cannot have direct access to this account). It is against the SSA rules to have the beneficiary as the signer or as a joint account holder.

Provide the SSA the routing and account number while applying to be payee so all the checks will be automatically deposited in a timely manner. Check this account daily for any surprise deposits or withdrawals. The Rep Payee must maintain clear and current records showing the balance for each beneficiary and have clear procedures for documenting deposits, expenditures, and interest allocation for each beneficiary.

VA Funds

The Veterans Administration allows individual accounts only. The veteran should be listed as the owner. All accounts must be separate for each beneficiary, although if one beneficiary receives Social Security and VA funds, those two incomes may be combined into one account. As with Social Security beneficiaries, the account should be set up so the fiduciary is the only signer; there should be no joint accounts.

BUDGETING

Although each individual circumstance is different, most beneficiaries have the same basic needs of housing, basic utilities, food, and clothing. Other items such as cable TV, cell phones, credit cards, computer/game consoles, internet access, entertainment, travel, auto/vehicles, or charitable/church giving are additional lifestyle considerations. The best approach to budgeting is to separate “wants” from “needs”. On the surface this seems straightforward but in practice it quickly becomes more complex. For example, a cell phone for one person may be considered a nice extra (want) and for another person, a matter of personal safety and security (need).

When working with a limited fixed income, budgeting for expense items is a balance of meeting current basic needs first and determining what funds are left to meet other expenses. Helping beneficiaries prioritize meaningful and affordable choices is one of the best services a Rep Payee can offer.

The first priority is to ensure the beneficiary’s day-to-day needs for food and shelter are met. After these basic needs have been met, the money can be used to pay for medical and dental care that is not covered by insurance, as well as for personal needs such as clothing or recreation. It is crucial to understand the full scope of the beneficiary’s financial situation (bills, medical and personal needs) from the very start of the relationship. The Rep Payee should attempt to have sufficient funds reserved for emergency situations. This amount varies based on the beneficiary’s income and expenses.

During the budgeting process, the beneficiary should be informed that unexpected situations, emergencies, or a change in needs might necessitate a new budget formulation. This could include changes such as less spending money, or the inability to pay for things that are not basic needs such as cable, high speed internet, cell phones, etc. It is important for the Rep Payee to stick to these policies to prevent ongoing cycles of surprises.

DISTRIBUTION OF FUNDS

A Rep Payee should pay vendors directly whenever possible. This would include housing, utilities, and health care providers.

Personal Spending Money

Distribution to the beneficiary for “spending money” or other incidental spending should be given directly to the beneficiary proportionate to the beneficiary’s capability to manage money: smaller amounts on a frequent basis for those with more limited capacity, and larger amounts monthly for others. It may be appropriate for the beneficiary to receive a check or gift card(s) for personal items such as shampoo, laundry detergent, garbage bags, pet supplies, etc. Funds can be sent to the beneficiary weekly, monthly or bi-weekly, as appropriate to the situation.

TIP: Establish a structure with the beneficiary to address additional needs or requests that may arise in a month beyond what is budgeted. For example, the Rep Payee may require that the beneficiary call to request additional funds by 5 pm the day before the scheduled day for money to be mailed. This instills a sense of responsibility and control for the beneficiary, while maintaining a manageable system for the Rep Payee.

TIP: Along with the check/gift cards, the Rep Payee should consider sending a statement showing what bills were paid, the amount paid, and when they were paid. The statement should include the beneficiary’s current balance so the beneficiary knows how much is left over after payment of all budgeted items and distribution of personal money. This process keeps the beneficiary involved and aware of the status of their funds.

Housing

Housing costs should be paid directly to the landlord or the mortgage company with supporting documentation in the form of a lease or monthly mortgage statement. If the beneficiary becomes a roommate, his or her name must be added to the lease and a copy obtained for the file.

Informal living arrangements such as living with family members or a temporary stay with a friend should be supported by a written statement that includes the agreed rent amount, the due date, and what else is included, such as utilities, meals, phone, etc.

Supporting Utilities

Supporting utilities are those monthly bills that directly support housing, such as electricity, gas, water, garbage, property insurance where applicable, and property taxes. Having these bills come directly to the Rep Payee is essential to timely payment and a functional monthly budget. Unless otherwise noted, the beneficiary retains all rights to enter into binding and legal contracts including services from utility companies. The beneficiary holds the exclusive right to direct the billing address so it is incumbent upon the beneficiary to get the bills to the Rep Payee, and determine the type and level of service they can afford if they are not willing to have bills sent directly to the Rep Payee.

Other Considerations

Other monthly bills such as phone, cell phone, and cable TV are generally the variable expenses that are the most difficult to budget and directly impact spending money allocations. Other professionals such as Independent Living Skills workers (ILS), case managers, or trusted laypersons and relatives are essential to providing copies of unpaid bills and uncovering other unmet expenses. These persons are helpful in providing the basic facts that guide a Rep Payee's decisions. The importance of getting the whole picture as soon as possible cannot be stressed enough.

Food

Food purchases are the most common need for weekly distributions to the beneficiary. Generally this is done in the form of a weekly check made payable to the beneficiary. Sometimes banks are unwilling or unable to establish bank accounts for certain individuals; these beneficiaries can receive their weekly spending money on prepaid debit cards that can be used at point-of-sale (retail) or at most ATMs. When evidence suggests that food money is not being used for food purchases, a more restrictive method of distribution such as gift cards should be utilized. Checks made payable to the grocery vendor is also a good method but is no longer acceptable by most major retailers.

Gift cards for clothing and household purchases are a great option for almost all beneficiaries and available from many retailers. Receipts for gift card purchases along with a copy of the card's security number should be maintained in the beneficiary files.

Large Purchases

Large purchases beyond the usual monthly expenses should be pre-approved by the Rep Payee, who should first determine the appropriateness of the purchase and secondly should require an invoice or estimate (including tax, delivery, etc.) with payment arrangements made directly to the vendor.

Automobiles

Auto purchases require the beneficiary to have a valid drivers license (a copy should be obtained for the Rep Payee's client file) and auto insurance. Insurance premiums must be paid directly to the insurance company or the agent, no exceptions. Insist that the agent provide a proof of payment statement. Private party auto purchases are more risky for the beneficiary and require a 3rd party appraisal of the value and soundness of the vehicle. Prior to the purchase, a copy of the title and a copy of the seller's driver's license should be obtained, along with a written statement of the terms and conditions of the purchase signed by both the beneficiary and the seller. Only if all parties are in agreement should funds be released.

Governmental Benefits

Medical bills and their relationship to public assistance programs require the Rep Payee to be familiar with the eligibility requirements and benefits to properly pay medical bills. Too often, bills received by beneficiaries are incorrect. Overpaying or underpaying these bills can have a dramatic effect on the day to day life of the beneficiary, from having too

much money to having too little money available for other purchases and subsequently causing a discontinuation of services due to non-payment. With the county administration of public assistance programs being overwhelmed, it becomes the responsibility of the Rep Payee to know the programs well enough to judge what to pay even without the benefit of a verifiable county generated budget.

While a Rep Payee is not directly responsible for other governmental benefits programs for which the beneficiary is eligible, the Rep Payee should understand the impact of such benefits on the beneficiary's monthly needs in determining disbursements (e.g., food stamps and MN Supplemental Aid), housing (e.g., Medical Assistance Long Term Care, Group Residential Housing payments), and health care costs (e.g., MA waiver programs, Medicare Part D, etc.).

Requests from Others on Behalf of Beneficiaries

Before any funds are released at the request of someone other than the beneficiary, the Rep Payee should contact the beneficiary for verification. Family members and friends taking advantage of the vulnerable adults must not be given access to information or fund requests which would allow them to exploit the beneficiary. If issues continue with these particular people, the Rep Payee should inform the SSA so a note can be entered in the system about this issue. If problems with family members or friends persist or appear to worsen, the Rep Payee should make a report of financial exploitation of a vulnerable adult to the county's Adult Protective Services.

Debts

Common debt, otherwise known as unsecured debt, is most commonly found in credit cards, reserve lines of credit or outstanding overdraft charges and bank fees at a bank or credit union. According to Social Security rules, "current needs should never be sacrificed to pay other expenses or past due bills." If the budget allows, these old debts can be paid over time if the above rule is consistently met. A Rep Payee should make a long-term judgment regarding the likelihood of a favorable credit rating being a factor for the beneficiary in the future. The answer to this question might be considerably different for a 20 year old than for an 80-year-old beneficiary.

AUTHORITY TO DIRECT SPENDING MONEY

In appointing a Rep Payee the Social Security Administration has determined that the beneficiary lacks capacity and grants the Rep Payee authority over 100% of the beneficiary's Social Security income. The SSA guidelines are also clear that beneficiaries must be allowed spending money. For beneficiaries in institutional settings, SSA provides examples of items that are considered personal needs. (See Appendix B)

The term spending money by definition implies a certain level of autonomy. Most beneficiaries are capable of managing small amounts of money, making good decisions that add to their quality of life, or at the very least, decisions that cause no harm. However, a Rep Payee should exercise authority over spending / personal needs money when it becomes apparent that misuse of these funds by the beneficiary or others is directly affecting the beneficiary.

The Rep Payee should use his or her authority to apply restrictions or give others the authority to apply reasonable restrictions on a beneficiary's spending money only to the extent that it addresses immediate safety concerns. For example:

Roy is a smoker and lives in long-term care. Staff helps Roy to and from the designated smoking area and applies a safety vest. Roy's motor skills have deteriorated to the point that he is seriously burning his fingers, his clothing, and his legs yet he refuses to quit smoking and neither staff nor volunteers can be with him while he smokes. Nursing home is asking that a personal needs restriction forbid the purchase of tobacco products.

The Rep Payee should not apply restrictions as a punishment or behavior modification if the behavior to be impacted is not directly linked to immediate safety. For example:

Nellie lives in group residential housing. She suffers from Bipolar Disorder and does very well when medications are administered in proper and timely dosage. Her condition is very sensitive to medication disruptions and recently she has refused to take her meds about half the time. Staff wants to withhold her personal needs money if she doesn't comply using personal needs money as an "incentive or reward" for good behavior.

It should be noted that in severe cases NO spending money is an appropriate choice as long as the Rep Payee is certain that personal needs are being met by other means. Likewise, if it becomes apparent that the beneficiary is influenced by others (such as giving money away), it may be appropriate to restrict personal spending money, even temporarily, while working with the beneficiary toward education and redirection of the beneficiary's behavior.

COMMUNICATION

Due to the nature of the payee/beneficiary relationship, effective communication will ideally enable the Representative Payee to be more efficient in fulfillment of responsibilities, while decreasing the beneficiary's frustration due to the inability to manage his or her own benefits. While it is recognized that the fees allowed by the Social Security Administration are, in many cases, grossly insufficient as compared to the amount of work expected of the Rep Payee, nevertheless, the Rep Payee must develop mechanisms to promote effective communication with the beneficiary.

Because the beneficiary is, by definition, impaired in functioning, the Rep Payee may receive many contacts from the beneficiary, the beneficiary's family or social network, advocating on behalf of the beneficiary for anything from more spending money to disagreements about the Rep Payee's spending decisions.

The Rep Payee should identify a primary contact in every beneficiary situation, whether it is the actual beneficiary or a designated family, friend, or social services worker. Within a reasonable time after appointment, the Rep Payee should communicate with the beneficiary and/or support network. This may take place in person, in teleconference, or in electronic or written communication as appropriate to the situation. Areas of discussion may include:

1. Pertinent information that the Rep Payee needs to gather from the informal support network to better serve the beneficiary. This may include gaining an understanding of the beneficiary's regular monthly bills, credit card and other debts, beneficiary lifestyle and preferences, and other pertinent information in order for the rep payee to establish a budget and, if applicable, a regular allowance for beneficiary's spending money.
2. The Rep Payee's obligations, areas of responsibility, and limits of responsibility. This may include anticipated budget and spending money allowances for the beneficiary, and how this will be distributed to the beneficiary.
3. Ongoing communication expectations. This may include:
 - a. an explanation of Rep Payee's normal business hours in which phone calls will be accepted and in which calls and emails will be returned.
NOTE: It is reasonable for the beneficiary to receive a return call within 1 to 2 business days, with certain exceptions, such as previously established communication limits for beneficiaries/family members who have shown a history of excessive, inappropriate requests or demands from the Rep Payee.
 - b. how the Rep Payee will handle after-hour contacts and emergencies (including defining emergencies).

LIMITATIONS AND RESTRICTIONS TO POWERS AND DUTIES

Many beneficiaries are awarded a Rep Payee as a result of some financial problems that have come to the attention of others in the community, or the beneficiary him or herself reports being a victim. Either way, providing immediate financial stability, and over time, a greater sense of security and well-being, is the goal of most payees.

The Rep Payee role is mostly that of a banker with a small social services component. The appointment of a Rep Payee does not restrict the legal rights of the individual. As a result, a Rep Payee should maintain the following boundaries:

- A Rep Payee should neither choose nor terminate abode but should willingly work with landlords and housing agencies.
- A Rep Payee should not begin or discontinue vendor services (gas, electric, phone, cable, etc.) but should pay bills in a timely manner and consult with the beneficiary on affordability.
- A Rep Payee should not transport or set up transportation, other than to arrange payment terms.
- A Rep Payee should not arrange medical appointments or services, but should willingly provide insurance billing information and payments.
- A Rep Payee should not apply for public assistance programs when there is clear evidence the beneficiary can do so on his or her own or with the help of case management services. However, sometimes the Rep Payee may be the resource of last resort and may need to do so.
- A Rep Payee should not prepare or sign tax forms, but should willingly provide supporting documents, income verifications, and hire a professional tax preparer if necessary.
- A Rep Payee should be willing, ready and able to supply all the necessary income and asset verifications to all appropriate agencies, to pay proper expenses, and to do so in a fast, fair, and professional manner.

PAYMENTS TO THE REPRESENTATIVE PAYEE

Fees for Services as Payee

An individual Representative Payee is not entitled to payment of fees out of the beneficiary's benefits. Only those payees who are nonprofit organizations *and* meet the special requirements of the SSA are permitted to receive nominal fees for their services. These payees are called Fee for Service (FFS) and they are required to receive written authorization from SSA before any fees can be collected. The amount of the fees is determined by SSA.

The SSA has restrictions on the payment of guardian fees out of the beneficiary's benefits when the guardian is also serving as the Rep Payee. The SSA requires that guardian fees be authorized and monitored by the court; that the fees do not deplete the beneficiary's funds such that the beneficiary's financial needs cannot be met; and that the Rep Payee is not also collecting an authorized Organizational Rep Payee (FFS) fee from this beneficiary.

Out-of-Pocket Expenses

A Rep Payee can reimburse him or herself out of the beneficiary's benefits for reasonable out-of-pocket expenses for food, housing, medical care, clothing, transportation and personal needs incurred on behalf of the beneficiary. The reimbursed expenses must be the actual expense incurred and records of these expenses must be kept by the payee.

A Rep Payee who is not being paid a fee to serve can also reimburse him or herself out of the beneficiary's benefits for expenses incurred in providing services to the beneficiary, such as postage, long distance phone call charges, money orders, and mileage. Records must be kept for the expenses. The Rep Payee, whether an individual or FFS cannot charge for expenses considered to be operating expenses.

NOTE: The SSA considers postage as an overhead expense so a FFS Payee cannot be reimbursed for postage expenses.

SOCIAL SECURITY ACCOUNTING

The Representative Payee is responsible for keeping records and reporting how benefits are spent. Records must be kept in a manner that will allow access when requested by the Social Security Administration auditor. Computerized records are acceptable.

The Rep Payee's record keeping system must track credits, disbursements, and current balance for each beneficiary. The Rep Payee must keep documents of all disbursements to create a paper trail to demonstrate how funds were spent. The following documents should be maintained by the Rep Payee: bank statements and cancelled checks (if applicable), receipts or other documentation to prove payment of rent, utilities, and other purchases.

For Rep Payee organizations with more than one staff person, a sound accounting practice is the separation of employee duties so that staff are responsible for different duties such as logging paper checks into the system when received, depositing checks into the bank account(s), monitoring bank statements, writing checks for beneficiary needs and payment of bills, signing such checks, and reconciling the bank accounts.

In addition to the monthly account reconciliation, the Rep Payee should regularly complete internal audits of the financial and bank records; this task should be completed by someone other than the person responsible for the daily record keeping, but who can verify the accuracy of the audited records. SSA recommends that an outside entity conduct annual audits of the Rep Payee's client financial and bank records.

The Rep Payee is required to submit an annual account to the Social Security Administration via the Representative Payee Report Form (SSA 623-F6), (<http://www.socialsecurity.gov/payee/NewGuide/ssa-6234exhibitB.pdf>) which requires an accounting of the benefits received and spent on behalf of the beneficiary. The Rep Payee may wish to use the Income and Expense Worksheet (Appendix C) in addition to the Rep Payee's regularly used spreadsheet to support completion of this form. The report form should be returned within thirty days of receipt from SSA. Failure to do so may result in suspension of benefits.

Social Security mandates that the Rep Payee keep records for two years, however, it is recommended that they be kept for at least seven years.

The Social Security Administration may request a site review of the Rep Payee's organization, which would include review of all receipts, bills, printouts, and files of the beneficiary to account for how the beneficiary's funds are received, spent, and conserved.

LIABILITY ISSUES FOR REPRESENTATIVE PAYEES

Professional fiduciaries are accustomed to performing multiple duties for their clients. As a Representative Payee it is important to remember the limits of this particular authority as well as the numerous obligations and expectations placed upon the Rep Payee.

Knowing the proper procedures and responsibilities will substantially reduce one's liability exposure. Refer to the SSA's *A Guide for Representative Payees* and *Guide for Organizational Representative Payees*. (<http://www.socialsecurity.gov/payee/index.htm>)

The most important duty of a Rep Payee is to know the needs of the beneficiary and to use the benefits in the best interests of the beneficiary.

Other Important Expectations of a Representative Payee:

- 1) To provide annual accountings to the beneficiary as well as the Social Security Administration.
- 2) To promptly respond to requests for information or for actions to be taken. Some of the more common requests by the Social Security Administration consist of a disability review or the SSI redetermination of eligibility.
- 3) To report changes in the beneficiary's condition that could affect eligibility for benefits. Which changes require reporting depends on the benefits being received and the paying organization's rules. Reportable changes may include:
 - Address
 - Living arrangement
 - Income or wages
 - Resources (assets)
 - Improved medical condition(s)
 - Benefit changes-if the beneficiary receives additional government benefits, or if those amounts change
 - Work status-if the beneficiary starts or stops working
 - Marriage/divorce
 - Beneficiary is a child (including a stepchild) and the parents divorce
 - Custody of a child beneficiary changes or a child is adopted
 - A plan to leave the US for 30 days or more
 - Imprisonment for a crime with a sentence of over one month
 - Commitment to an institution by court order for a crime committed because of mental impairment

NOTE: Failure to report changes in the status of the beneficiary may result in overpayment. As a result, payments may stop or the money might have to be repaid. If

Social Security determines the Rep Payee intentionally withheld information, penalties may include fines and criminal prosecution.

A Rep Payee's authority is limited to affairs between the beneficiary and the Social Security Administration. A Rep Payee has no authority to enter into binding contracts on behalf of the beneficiary.

If a beneficiary dies, the Rep Payee must notify the Social Security Administration. Conserved funds belong to the beneficiary's estate and should be forwarded to the legal representative of the estate. Payments received for benefits after the month of death must be returned.

Lump Sum Back Payment

Benefits can take time to be approved, resulting in an accumulation of benefits to be paid. Sometimes the Social Security Administration will pay back payments in one lump sum. Receipt of a large back payment may impact the beneficiary's eligibility for other government programs such as MA and SSI. Each governmental benefit program has specific restrictions regarding the amount of assets that can be retained and the length of time in which a "spend down" may occur to maintain eligibility.

Large back payments from SSA or other sources such as insurance or injury settlements or inheritance may be sheltered through a tool such as a Special Needs Trust, Pooled Special Needs Trust or Prepaid Burial Plan. Seek immediate assistance from an attorney who specializes in estate planning for the disabled for advice on these options.

Prohibited Actions of a Representative Payee

Rep Payees cannot:

- Use a beneficiary's funds for the Rep Payee's personal use.
- Spend funds in a way that would leave the beneficiary without necessary items or services (housing, food and medical care).
- Put a beneficiary's funds in the Rep Payee's or another person's account.
- Keep conserved funds once the Rep Payee is no longer serving in this role.
- Charge the beneficiary for services unless authorized by the Social Security Administration to do so.

Overpayments

If the Rep Payee discovers a beneficiary is receiving an overpayment, it is the Rep Payee's obligation to alert the Social Security Administration. There are a few different ways SSA can recover an overpayment:

- Withholding the monthly SS check until the overpayment is paid in full.
- Compromise Settlement: SSA may be willing to accept a lesser amount than the full value of the overpayment.

- Tax Refund Offset: the overpayment is recovered through the individual's federal tax refund. Note: This is only an option if the person no longer receives Social Security.
- Withholding family benefits paid on the beneficiary's record.

TERMINATION OF DUTIES

Resignation

Upon the Rep Payee's resignation, SSA and the beneficiary must be notified immediately. The resigning Rep Payee can assist the beneficiary by recommending to SSA an alternate person or agency to serve as the new payee.

Any conserved funds held by the Rep Payee must be returned to SSA so that the SSA can transfer the funds to the new payee. In light of the fact that it will take SSA time to appoint a new payee, the Rep Payee should consider the upcoming needs of the beneficiary and see that payment is made for the beneficiary's expected bills, to the extent the Rep Payee can pay those in advance. If advance payment is not feasible, the Rep Payee should notify the beneficiary's creditors of the expected late payment of their bills pending the appointment of a new payee.

Restoration of Beneficiary

Upon the SSA's determination that the beneficiary can handle his or her own benefits, any conserved funds should be returned to SSA so that the SSA can transfer the funds to the beneficiary.

Death of Beneficiary

If the beneficiary dies, the Rep Payee must report the death to the SSA and turn over any conserved funds of the beneficiary to the legal representative of the beneficiary's estate. If there is no legal representative in existence and no expectation that one will exist, the funds should be handled according to state law. For example, funds could be distributed upon receipt of an Affidavit For Collection of Personal Property under Minn. Stat. Sec. 524.3-1201.

APPENDIX

- Appendix A Sample: Prospective Client Questionnaire
Sample: Policies and Procedures
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APPENDIX A

sample

Client Name:

Date:

Prospective Client Questionnaire

1. Have you had a payee in the past? Yes/No
2. If yes, what concerns, likes, dislikes did you have?
3. If yes, what is your reason for getting a different payee?
4. Do you feel you have an understanding of what a payee's role is?
Yes/No
5. If yes, what do you think their role is?
6. Are you willing to follow the procedures that I have read for you today? Yes/No
7. What are your concerns starting with a new payee, if any?
8. At any time if you decide it's not working out, you are able to find a new payee and have them take over your funds for you. On the other hand, if we feel things are not working out, or that there is a repetitive breach of our policies and procedures, do you understand that we can also make the decision to resign as your payee?
9. Do you have a case manager or a counselor you see on a regular basis?
Yes/No
If so, would you be willing to sign a release for us to get any information needed and for them to contact us, as well?
10. Do you have any questions?

sample

Policies and Procedures

1. Checks will be mailed out once every week. It is up to the client to budget weekly spending amounts. Requesting 'extra' money is not an emergency. **No checks are processed and mailed out on the same day they are requested, and no checks are available for pick up by the client.
2. If a need arises, the payee will complete the request within two days, unless it is an emergency. Emergency is defined as: death, rent deposit, lack of food. Other exceptions will be decided at the discretion of the payee as they arise.
3. All employment income must be reported to the Social Security Administration by the Rep Payee; it is the beneficiary's responsibility to provide income information to the payee in a timely manner.
4. Questions and/or concerns can be directed to the payee during the hours of 8am-4pm Monday through Friday. (Excluding lunch hour, which is from 12pm-1pm.)
5. Large purchases or additional bills require a new budget which means cutting spending money or other expenditures already in the budget.
6. Bills are paid in this priority:
 - Rent
 - Food
 - Utilities
 - Medical
 - Insurance
 - Loans/Credit Cards
 - Telephone
 - Cable
 - Spending Money
 - Other
7. The Representative Payee is responsible for completion and submission of representative payee reports. Other government or social service agencies that need financial information (i.e. Housing, Food Stamps, Medical Assistance), can be directed to this office for income information. All other information will be the responsibility of the beneficiary.

8. Rent changes must be given to the Rep Payee before the 1st of every month. If given on the same day or after, there will have to be a rent change on the following month.
9. All bills must be sent directly to the Rep Payee. The beneficiary is responsible to make necessary address changes since vendors will not talk to anyone other than the person whose name is on the account.
10. Requests for amounts over \$100 require a detailed receipt for Social Security purposes.

We always strive to provide our services in the best interest of our clients. As Rep Payee, we must follow SSA guidelines and rules and therefore make decisions accordingly.

APPENDIX B

INCOME AND EXPENSES WORKSHEET			
Month and Year	Amount of Social Security or SSI Benefits Received	Expenses for Food and Housing	Expenses for Clothing, Medical/Dental, Personal Items, Recreation, Miscellaneous
Totals for Report Period	\$ _____	\$ _____ Put this figure on line 3B of the Form SSA-623	\$ _____ Put this figure on line 3C of the Form SSA-623
Show the total amount of any benefits you saved for the beneficiary, including any interest earned.			\$ _____ Put this figure on line 3D of the Form SSA-623

Social Security Administration: *A Guide for Representative Payees*

APPENDIX C

Personal Spending Money for Institutionalized Beneficiaries:

Acceptable Personal Needs Expenditures

It is SSA's policy that Representative Payees of all institutionalized beneficiaries provide at least \$30 monthly for the beneficiaries' personal needs.

Acceptable personal needs expenditures include:

- *health and hygiene items: soaps, toilet articles, cosmetics, combs, brushes, bath scale, dermatology treatments, cosmetic surgery, elective or cosmetic dental treatments, etc;*
- *clothing: caps, scarves, gloves, bathing suits and caps, seasonal garments, shoes, boots, slippers, athletic shoes, disability-related adaptive clothing, etc;*
- *convenience items: radios, TVs, clocks, cassette/CD players, clothes hamper, stationery, wristwatches, etc.;*
- *living area furnishings: carpets, curtains, blankets, bedspreads, quilts, pictures, posters, mirrors, pillows, lockable chest/trunk, rocking chair, recliner, etc;*
- *therapeutic equipment: if recommended by a doctor or appropriate therapist, and not covered by any other source: hearing aids, electric wheelchairs, orthopedic shoes, shower and bathroom chairs, walkers, crawlers, book holders, feeding aids, toilet aids, etc.;*
- *transportation expenses: trips to visit family or for relatives to visit the beneficiary in special cases, trips to amusement parks, State Fairs, summer camps, etc.;*
- *hobby and craft items: art supplies, photo albums, cameras, film, cassette tapes, video cassettes, etc.;*
- *miscellaneous items: magazine subscriptions, reasonably priced holiday presents for family/friends, telephone calls to or from out-of-town relatives, restaurant meals, etc.*

If the beneficiary is receiving care in a federal, state or private institution and not receiving Medicaid payments for his or her care, current maintenance includes the institution's charges and expenditures for items that will aid in the beneficiary's recovery or release or improve the beneficiary's condition.

For institutionalized Social Security (not SSI) beneficiaries whose current maintenance needs are being met, you may use part of the funds to support the beneficiary's legally dependent spouse, child, and/or parent. If you have any questions on this provision, contact your local Social Security office.

(Social Security Administration: Guide for Organizational Representative Payees)

APPENDIX D

Best Practices for Maintaining an Effective Representative Payee Accounting System

(www.socialsecurity.gov/payee/best.htm)

The "Guide for Organizational Representative Payees" recommends that your organization establish internal procedures and guidelines governing how your organization manages beneficiary funds. These internal procedures should also include internal controls to help ensure the integrity and accuracy of your accounting system.

What follows is a brief description of some common practices for ensuring the integrity and accuracy of an accounting system, whether it is manual or automated. Many of these practices are standard in a well-designed accounting system. Your organization may already follow many of these best practices, but you may also find some useful new ideas.

Separation of Employee Duties

Separation of employee duties helps deter both check fraud and employee theft. When establishing or re-evaluating your internal procedures, consider the best way to separate employee duties. Ideally, assign a different person to perform each of the following basic duties:

- *Logging paper checks into the organization as soon as received;*
- *Depositing paper checks into bank accounts promptly;*
- *Maintaining ledgers and bank records;*
- *Making requests for goods and services on behalf of beneficiaries;*
- *Holding blank check stock;*
- *Writing checks for approved disbursements;*
- *Signing checks for approved disbursements; and*
- *Reconciling ledgers and banks accounts.*

SSA realizes that your ability to achieve separation of duties can be affected by the size of your accounting staff.

Adequate Oversight

Your internal procedures should provide for adequate review and supervision of accounting functions. For example, you may require a second employee's approval when a proposed disbursement exceeds a certain limit, assign a second employee to review bills for propriety before a check can be written, and establish a countersignature requirement for all checks written or those that exceed a certain threshold.

You should perform monthly reconciliations of ledgers and bank records as soon as you receive bank statements. Monthly reconciliations will give you the opportunity to adjust for any differences in your records. The reconciliation should include explanations for any differences you find and be kept to document your accounting records. You should not assign an employee who is authorized to deposit or withdraw beneficiary funds to perform this job. Have someone other than the preparer certify that the reconciliation is complete and accurate. Besides monthly reconciliations, you should conduct internal audits of financial and bank records regularly. The person who performs the internal audit should be someone who can verify the accuracy and completeness of your records, but not the same person responsible for the daily upkeep of ledgers and bank accounts. Finally, you should have an outside contractor or entity conduct annual audits of your financial and bank records.

Keeping Checks Secure

In a secure cabinet or container, preferably in an access-controlled area, lock up:

- *Checks for beneficiaries, until deposited;*
- *Stock of blank checks; and*
- *Check signature stamps.*

Be sure to change the key or combination to the cabinet or container periodically. Remember: If your organization receives paper checks, record them right away and deposit them promptly.

Preventing Identity Theft

When you throw out papers, shred any papers with information identifying beneficiaries. Examples of identifying information that your organization may keep includes name, Social Security number, date of birth, sex, and address. Identifying information could be on bank records, bills, and internal records you throw out.

Paper and Electronic File Security

Your organization should have a backup procedure and disaster recovery plan whether its accounting system is manual or automated. You should regularly (for example, daily, weekly, or monthly, as appropriate) make backup copies of computer and/or paper records and files so you can recover records if your master files are lost, stolen or destroyed. Arrange to store backup copies in a safe place, such as a fireproof, locking cabinet. You should also have a disaster recovery plan so that procedures are in place for using backup copies to restore records and files if this ever becomes necessary.

If you keep your accounting records on a computer, you can help protect your files from unauthorized access by using password protection. Many off-the-shelf software programs include a password protection feature that you can enable for this purpose.

Protecting Beneficiary Bank Accounts

The "Guide for Organizational Representative Payees" explains how representative payees must title bank accounts holding beneficiary funds. Keep in mind that proper account titling will ensure Federal Deposit Insurance Corporation (FDIC) protection of up to \$100,000 per depositor in an FDIC insured bank.

SSA has received reports from representative payees that some beneficiaries have gained access to bank accounts even though the accounts were titled correctly. To prevent beneficiaries from making unauthorized telephone and internet transactions, do not reveal their bank account numbers to them.

Occasionally organizations report internal fraud or check fraud to SSA. Fraud might take the form of embezzlement, forged signatures on checks, theft of check stock, and forged check endorsements. We recommend that you work with your bank to help prevent fraud. You may be able to arrange for your bank to check for two signatures whenever a check exceeding a certain amount is presented for payment. Your bank should also be able to advise you about check security features and any fraud prevention programs it has. For example, if a bank has a "positive pay program," it can compare a check number and amount to a list of check numbers and amounts that your organization provides. With a "positive payee program," if you identify the payee of a check you issue, the bank will verify if the payee information is correct when the check is presented.

APPENDIX E
Guide for Organizational Representative Payees
<http://www.socialsecurity.gov/payee/NewGuide/toc.htm>

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