

Improving Social Security's Representative Payee Program

REPORT

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Social Security Advisory Board

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Introduction

More than two years ago, the Social Security Advisory Board (board) committed itself to exploring how to strengthen the representative payee (rep payee) program of the Social Security Administration (SSA), which serves more than eight million vulnerable beneficiaries/recipients.¹ This paper summarizes our recommendations. It extends and supplements the 2016 report, *Representative Payees: A Call to Action*.² It includes both recommendations for immediate changes by SSA and a plan for broader government-wide action. The board has reviewed relevant reports and literature and met with congressional staff, SSA leadership, field office (FO) employees and management, the SSA Inspector General and auditors and investigators from the Office of the Inspector General (OIG). In addition, the board met with program stakeholders and representatives from other agencies with similar programs. The board examined issues regarding rep payees of foster children in its annual SSI statement in 2014³ and on the supported decision-making (SDM) movement in its 2016 statement.⁴ In March 2017, the board hosted a public forum, attended by approximately 130 people representing many professions and perspectives. The board found broad interest in improving SSA's rep payee program and reached bipartisan agreement on how to do so.

This report is organized into five parts listed below; it responds to the call for change by providing short-term recommendations which the board believes will strengthen the current administrative process and create a more manageable monitoring role, all while the board advocates for long-term structural changes which will involve comprehensive government-wide coordination efforts and cross-agency reforms.

- ◆ Part I highlights the size and expected growth of SSA's rep payee program in coming decades as baby boomers move into age groups with a higher likelihood that they will require assistance in managing their finances.

- ◆ Part II examines the process for determining the need for a rep payee, the capability analysis, the responsibilities of rep payees and the selection process for appointing a rep payee.
- ◆ Part III provides an overview of SSA's program monitoring procedures.
- ◆ Part IV discusses the need for inter-agency collaboration in approaching how to determine if an individual needs assistance.
- ◆ Part V lists all the board's recommendations discussed and contained within each of the above sections.
- ◆ Appendices provide a brief history of the rep payee program, a summary of a National Academies study on financial capability, an overview of the board's work on rep payee issues and of the board's forum in March 2017, a description of the board's online chart collection on the rep payee program, and copies of the forms described herein.

The board acknowledges foremost the importance of beneficiary/recipient autonomy. It analyzes SSA's strengths and weaknesses as an administrative agency managing this workload and considers the resources necessary to support the program. The board recommends immediate action by Congress and SSA to help strengthen SSA's existing rep payee program to meet future demand and to enhance program integrity. At the same time, it calls on the Office of Management and Budget (OMB) to examine how to best coordinate or combine functions among government agencies confronted with recruiting and training rep payees and determining financial capacity, and the level of support required for beneficiaries and recipients, as well as the type and frequency of monitoring individual and organizational rep payees.

1 The term "beneficiary" refers to the receipt of funds under Title II of the Social Security Act, Old-Age, Survivors and Disability Insurance (OASDI). The term "recipient" refers to those receiving payments under Title XVI, Supplemental Security Income (SSI).

2 Appendix C provides an overview of the board's work on issues related to the rep payee program. Social Security Advisory Board (SSAB), *Representative Payees: A Call to Action* (Washington: SSAB, 2016).

3 SSAB, *SSI Statement: SSI and Foster Care Programs* (Washington: SSAB, 2014).

4 SSAB, *SSI Statement: A New Approach to Rep Payees for Adult SSI Recipients* (Washington: SSAB, 2016).

Selected Abbreviations

ACUS	Administrative Conference of the United States	OIG	Office of the Inspector General
Board	Social Security Advisory Board	OMB	Office of Management and Budget
CRPD	Convention on the Rights of Persons with Disabilities	OPM	Office of Personnel Management
DAA	Drug and Alcohol Addiction	ORDP	Office of Retirement and Disability Policy
DBRA	Disability Benefits Reform Act	ORES	Office of Research, Evaluation and Statistics
DI	Disability Insurance	P&A	Protection and Advocacy
eRPS	Electronic Representative Payee System	POMS	Program Operating Manual System
FFS	Fee-for-Service	Rep Payee	Representative Payee
FO	Field Office	RRB	Railroad Retirement Board
FY	Fiscal Year	SDM	Supported Decision Making
GAO	Government Accountability Office	SSA	Social Security Administration
National Academies	The National Academies of Sciences, Engineering and Medicine	SSAB	Social Security Advisory Board
NAORP	National Association of Organizational Representative Payees	SSI	Supplemental Security Income
NCSSMA	National Council of Social Security Management Associations	SSPA	Social Security Protection Act of 2004
NDRN	National Disability Rights Network	UN	United Nations
NRC	National Research Council	VA	Department of Veterans Affairs
OASDI	Old-Age, Survivors and Disability Insurance	WINGS	Working Interdisciplinary Networks of Guardianship Stakeholders

► Part I. Current costs and expected growth in the rep payee program

If SSA finds that a beneficiary/recipient is unable to manage his/her finances, it can redirect benefit payments to another person—a rep payee. But SSA starts with the premise that adult beneficiaries/recipients are able to manage their benefits or can direct the management of their benefits.⁵ No such presumption is made with respect to adults judged legally incompetent by a court. In these cases, SSA automatically appoints a rep payee. Minors under age 18 are generally presumed to be incapable and a rep payee will be appointed. There are exceptions, including a minor who is legally recognized as an adult, has demonstrated the ability to handle his or her own finances or is a member of the armed forces on active duty.⁶

SSA FO employees handle the operation of the rep payee program. They are tasked with determining whether a beneficiary needs a rep payee, selecting the appropriate rep payee, monitoring some rep payees and when necessary, changing rep payees. Conducting these functions requires trained staff and can be time consuming. A growing need for rep payees will increase SSA’s workload.⁷

As shown in Table 1, the sheer size of SSA’s current rep payee program is staggering. In Fiscal Year (FY) 2016, close to six million rep payees managed \$70

billion in benefits for nearly eight million OASDI and SSI beneficiaries/recipients.⁸ Family members serve as rep payee for 85 percent of all beneficiaries/recipients; and, 63.5 percent are parents.⁹ Organizational rep payees make up less than one percent of all rep payees but serve more than one million beneficiaries/recipients.¹⁰

The number of OASDI and SSI beneficiaries/recipients with rep payees has grown over the past 30 years, from 4.7 million beneficiaries/recipients in 1984 to 8.4 million in 2016 (see Figure 1).¹¹ SSA estimates that the demand for rep payees will continue to increase with an aging population. For example, the number of retired worker beneficiaries with rep payees is projected to increase nearly 48 percent from 2013 to 2025 based entirely on the population aging.¹² Furthermore, many adult children with disabilities currently have parents named as their rep payee. As the parent’s age, they may be unable to continue to function effectively as a rep payee. Some parents may even need assistance themselves. As the population ages and the need for new rep payees grows, SSA will have to recruit, identify and then monitor other suitable, non-family rep payees.

Over the past 10 fiscal years, SSA estimates that the cost of administering the rep payee program has averaged \$257.5 million a year, which is 2.26 percent of the agency’s total enacted budget authority (see Figure 2).¹³ This estimate accounts only for costs captured through measured workloads.

Table 1: Characteristics of SSA’s Rep Payee Program – December 2016¹⁴

Total number of rep payees	5.7 million
Total number of beneficiaries/recipients with a rep payee (Concurrent beneficiaries are not double counted in this table, unlike Figure 1.)	7.7 million
Total number of beneficiaries/recipients under age 18 with a rep payee	4.1 million
Total number of beneficiaries/recipients with a disability with a rep payee	4.2 million

5 SSA, [POMS: GN 00502.001](#) (Baltimore: SSA, 2017).

6 SSA, [POMS: GN 00502.070](#) (Baltimore: SSA, 2017).

7 Appendix E describes the board’s interactive chart collection on the rep payee program, which includes charts that display the growth of the rep payee program and illustrate how demographic changes will exacerbate the need for rep payees in the future. Appendix D summarizes a discussion from the board’s March 2017 forum on demographic changes (panel one).

8 SSA, [Annual Report on the Results of Periodic Representative Payee Site Reviews and Other Reviews for FY 2016](#) (Baltimore: SSA 2017), 2.

9 Ibid; by request: SSA, Office of Retirement and Disability Policy (ORDP), Office of Research, Evaluation, and Statistics (ORES), Master Beneficiary Record and Supplemental Security Record, 100 percent data, received November 2017.

10 SSA, [Annual Report on the Results of Periodic Representative Payee Site Reviews and Other Reviews](#), 2.

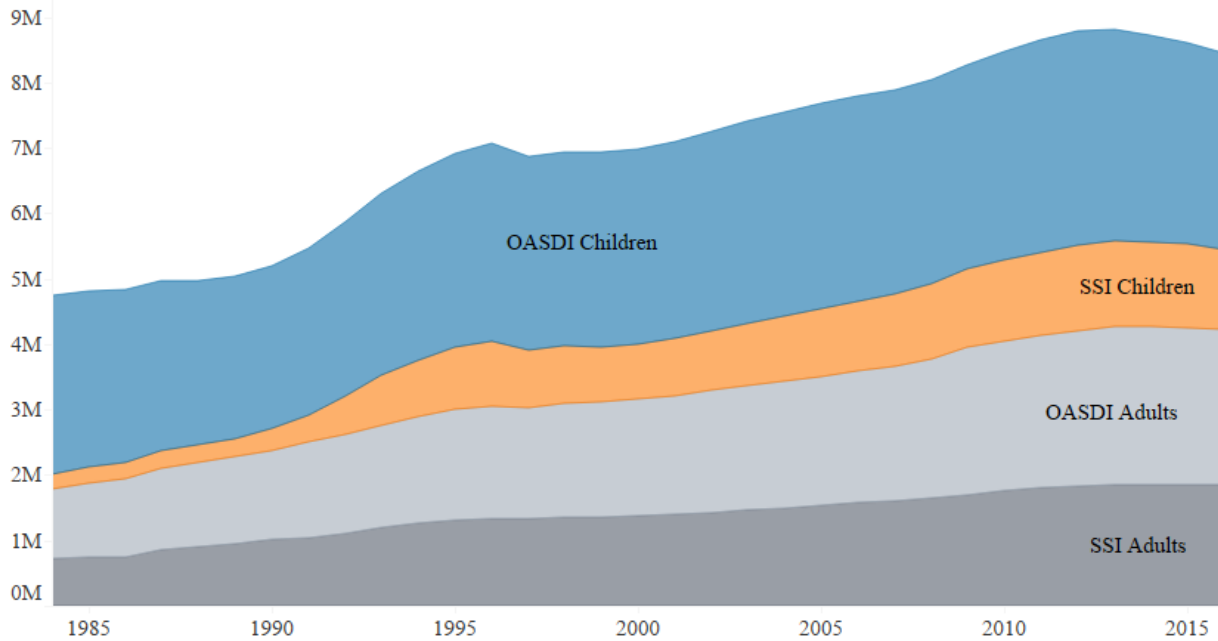
11 Concurrent beneficiaries are double counted. SSA, ORDP, ORES, [Annual Statistical Supplement](#), Tables 5.L1 and 7.E4 (Baltimore: SSA, 2017).

12 Chris Anguelov, Gabriella Ravida, and Robert Weathers II, [“Adult OASDI Beneficiaries and SSI Recipients Who Need Representative Payees: Projections for 2025 and 2035,” Social Security Bulletin](#) 75, no. 2 (2015): 1 – 17.

13 By request: SSA, Office of Budget, Finance, Quality, and Management, Office of Budget, Cost Analysis System, received May 2017.

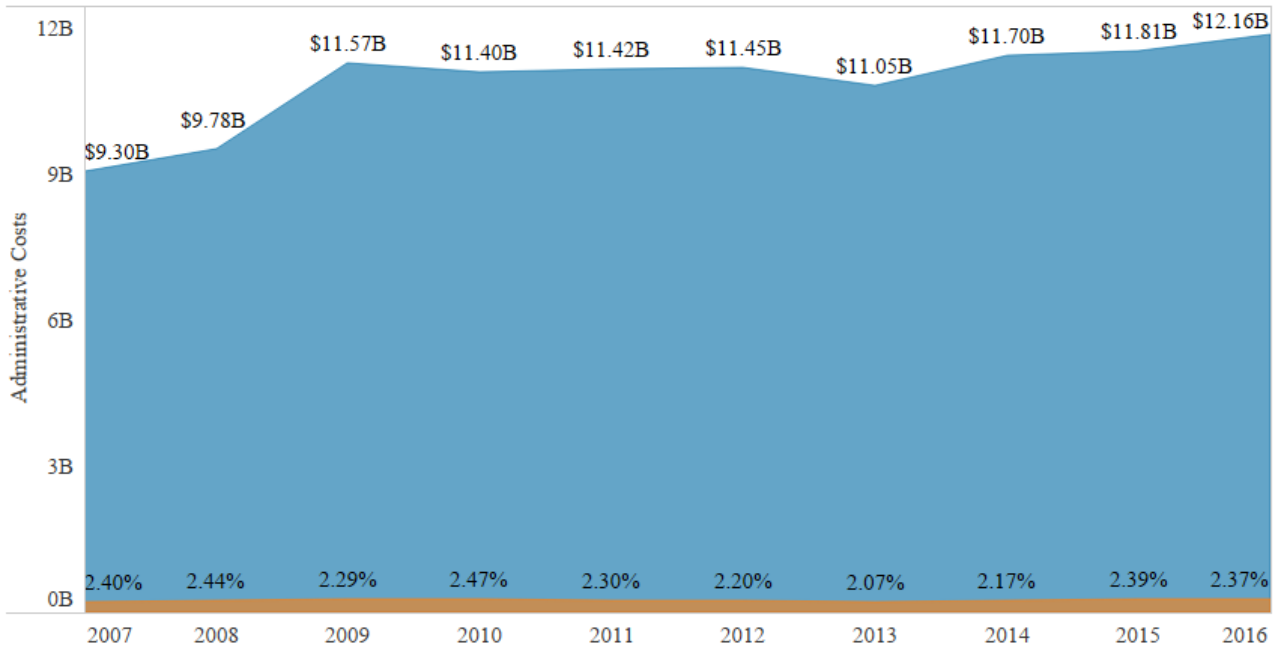
14 Numbers are rounded to the nearest 100,000. SSA, [Annual Report on the Results of Periodic Representative Payee Site Reviews and Other Reviews](#); by request: SSA, ORDP, ORES, Master Beneficiary Record and Supplemental Security Record, 100 percent data, received November 2017.

Figure 1: Number of Beneficiaries/Recipients with a Representative Payee, by Program and Age Group - December 1984 to 2016



Source: Social Security Administration, Office of Retirement and Disability Policy, Office of Research, Evaluation, and Statistics, *Annual Statistical Supplement*, Tables 5.L1 and 7.E4. Note: Concurrent beneficiaries/recipients are double-counted.

Figure 2: Total Agency Enacted Budget Authority and Share of Rep Payee Program - Fiscal Years 2007 to 2016



Source: Social Security Administration, *Congressional Justification, Limitation on Administrative Expenses* and by request: Social Security Administration, Office of Budget, Finance, Quality, and Management, Office of Budget. Received May 2017. Note: The Office of Budget stated that the rep payee program costs "include the cost of direct support, and staff activities dedicated to processing representative payee actions which includes representative payee accounting activities, monitoring activities, representative payee selections and changes, verifications, etc. Dollars include a distribution of payroll and other objects, including overhead and IT/systems support."

► Part II. SSA’s rep payee business process

SSA’s administration of the rep payee program occurs in concert with the processing of old-age, survivor and disability claims. The skills required to determine financial capability, select the appropriate rep payee and monitor proper use of funds differ from the skills needed to process benefit claims. As SSA noted in a June 2017 letter to Sam Johnson (R- TX), Chairman of the Subcommittee on Social Security, Committee on Ways and Means, the agency does not have expertise as “...trained auditors or social workers...and [is] not well suited to perform certain tasks that are related to the rep payee process.”¹⁵

Over time, SSA has worked to improve its rep payee program. It has designed and introduced a new electronic rep payee system, funded research, increased training efforts, initiated an outside contract to conduct on-site reviews and increased the number of potential rep payee reviews.¹⁶ However, SSA continues to have difficulty maintaining a consistent rep payee policy and even complying with its stated policies among FOs.¹⁷ These shortcomings will become more troubling as the number of beneficiaries needing a rep payee increases.¹⁸

Determining the need for a rep payee

SSA determines whether a person is capable of managing or directing the management of his or her benefits.¹⁹ The determination is binary; either the person is capable or the person needs a rep payee.²⁰ The POMS describes the capability determination as one of the most important determinations FO employees will make.²¹

A potential for real injustice exists because SSA may mistakenly identify beneficiaries/recipients as incapable when they can, in fact, manage their funds. Conversely, real harm may be done when SSA mistakenly identifies beneficiaries/recipients as capable when they are not.²² Mismanagement of funds could lead to inadequate provisions for basic needs, such as food and shelter and could lead to hospitalization, incarceration or homelessness.²³ While SSA notes the importance of financial capability determinations, staff receive only a few hours of training on this sensitive issue.

Several events could trigger the development process for determining whether a person might need a rep payee.²⁴ When determining financial capability for adult beneficiaries/recipients, FO staff rely on three types of evidence: a court order, medical assessment by a qualified practitioner and lay evidence, which typically provides real-world insight from family and friends of how a beneficiary/recipient manages his or her personal finances. The National Academies of Sciences Engineering and Medicine (National Academies)

The ability to access and control how one’s money is spent is critical to feelings of self-worth and is one of the essential elements of self-determination and liberty.

(SSA POMS)

15 SSA Acting Commissioner Nancy Berryhill, letter to Chairman Sam Johnson, “Report on SSA’s Representative Payee Program,” June 8, 2017.

16 Ibid.

17 National Research Council (NRC), *Improving the Social Security Representative Payee Program: Serving Beneficiaries and Minimizing Misuse* (Washington: National Academies Press, 2007), 115; National Social Security Management Associations, letter to SSAB, “Improving the Representative Payee Accounting Non-Responder Process,” June 28, 2017.

18 Anguelov, Ravida and Weathers, “[Adult OASDI Beneficiaries and SSI Recipients Who Need Representative Payees: Projections for 2025 and 2035](#).”

19 Appendix B provides a summary of the National Academies study which evaluated SSA’s capability determination process for adult beneficiaries. The appendix provides more detail on how SSA employees trigger the capability development process, gather evidence, and make a determination. Appendix D summarizes a discussion from the board’s March 2017 forum on financial capability determinations (panel two).

20 SSA plans to explore SDM to enhance beneficiary/recipient self-determination and provide an alternative to rep payee assignment. Berryhill, letter to Johnson, “Report on SSA’s Representative Payee Program.”

21 SSA, [POMS GN 00502.001](#).

22 NCSSMA, letter to SSAB, “Representative Payee Workloads: Selection, Accounting and Oversight,” June 28, 2017.

23 National Academies, *Informing Social Security’s Process for Financial Capability Determination* (Washington: National Academies Press, 2016).

24 A SSA decision-maker, Disability Determination Services examiner, Administrative Law Judge, expression of concern by a family member or friend, observations by SSA personnel during the application process, or, the establishment of guardianship by a court may lead to such an evaluation.

concluded that lay evidence is superior evidence. SSA has strengthened its policies on lay evidence in response to the National Academies' study by improving policy guidance on collecting lay evidence.²⁵

FO staff are instructed to gather as much evidence as necessary to have a clear understanding of the beneficiary's abilities and to make a capability determination based on the most convincing evidence.²⁶ However, NCSMA reports that third-party contacts are often unsuccessful or overlooked and requests for medical opinions are unanswered or unsupported by specific information.²⁷ Thus, FO staff appear to be making determinations on incomplete evidence. SSA allows FO employees to choose the questions they will pose to beneficiaries/recipients to assess financial capability leading to variation in assessment methods among staff and across offices. Data are lacking on the reliability and validity of financial capability determinations. The effectiveness of current policies cannot be evaluated without rigorous measurement and evaluation processes.

Recommendation to SSA: Standardize the capability determination process by using empirically-based assessment and decision-making methods.

Selecting a rep payee

Once SSA establishes the need for a rep payee, it must designate one. The objective is to find who will best serve the interest of the beneficiary/recipient. There are two types of rep payees—individual and organizational with several classifications within each.²⁸

The final selection of the rep payee rests with the FO staff who refer to preference lists. The preference lists are ordered hierarchically, starting with the most preferred candidate (see Table 2). Preference lists are outlined in the federal regulations and in POMS; while similar, these sources are not exactly the same.²⁹ The agency relies on the alternative payee preference list

when no preferred candidate is available. However, the alternative payee list largely mirrors the other lists.

The board is not aware of empirical evidence supporting the preference lists, but notes that it is substantially similar to the preference list outlined in the 1960 Social Security Handbook.³⁰ Given an aging population, the dissolution of family structure and smaller family size, the preference lists may be outdated and should be examined further.

The selection paradigm differs for beneficiaries/recipients with drug and alcohol addiction (DAA). Although SSA does not pay disability benefits solely because of DAA, a person determined to have a disability may also have DAA and SSA may determine that direct payment is not appropriate. In these cases, SSA flips the preference list and regards organizational rep payees as preferred because the organizational rep payee may know of other resources and may be less susceptible to coercion or intimidation.

There is no way to determine if the DAA policy is being applied or if the assumption that an organizational rep payee is better suited is accurate. While the board recommends evaluating the order of the preference lists, SSA does not collect the necessary data. Instead, SSA captures data that are similar, although not exactly the same, as the categories outlined in the preference list. They include parent (natural, adoptive, or stepparent), spouse, child (natural, adoptive or stepchild), grandparent, other relative, non-mental institution, mental institution, financial organization, social agency, public official or other.³¹

Figure 3 below shows the distribution of rep payees by category. While it is impossible to tell if the rep payees were selected because of where they fall on the preference list or whether there are other factors involved, it does show that 81 percent of rep payees are a family member, which aligns with the current preference lists in SSA's policy.

25 Berryhill, letter to Johnson, "Report on SSA's Representative Payee Program."

26 SSA, [POMS GN 00502.030](#) (Baltimore: SSA, 2017).

27 NCSMA, letter to SSAB, "Representative Payee Workloads: Selection, Accounting and Oversight."

28 Appendix F provides a copy of the application to become a rep payee (SSA-11-BK).

29 20 CFR § 404.2021 (2004); 20 CFR 416.621 (2004); SSA, [POMS GN 00502.105](#) (Baltimore: SSA, 2017).

30 Department of Health, Education and Welfare, SSA and Bureau of Old-Age and Survivors Insurance, [Social Security Handbook on Old-Age, Survivors and Disability Insurance](#) (Washington: 1960), 179.

31 By request: SSA, ORDP, ORES, Master Beneficiary Record and Supplemental Security Record, 100 percent data, received November 2017.

Table 2: SSA Rep Payee Preference Lists

Preference list for adults	Preference for children	Alternatives payees
1. Legal guardian, spouse (or other relative) with custody or who shows strong concern.	1. Natural or adoptive parent with custody or a guardian.	1. Legal guardian with custody or who shows strong concern for the beneficiary/recipient's well-being.
2. Friend with custody or shows strong concern for the welfare of the beneficiary/recipient.	2. Natural or adoptive parent without custody, but who contributes to support and shows a strong concern for the welfare of the beneficiary/recipient.	2. Relative or friend with custody who shows strong concern for the beneficiary/recipient's well-being.
3. Public or nonprofit agency or institution with custody.	3. A natural or adoptive parent who does not have custody of the beneficiary/recipient and is not contributing toward his or her support but is demonstrating strong concern for the beneficiary/recipient's well-being.	3. Public or nonprofit agency or institution with custody.
4. Private institution for profit and licensed under State law, which has custody of the beneficiary.	4. Relative or stepparent with custody.	4. Private, for-profit institution with custody and is licensed under State law.
5. Persons other than above who are qualified to carry out the responsibilities of a payee and who are able and willing to serve as a payee.	5. Relative without custody but who is contributing toward the beneficiary's support and shows strong concern for beneficiary/recipient's well-being.	5. Anyone not listed above who is qualified, willing and able to act as payee.
	6. Relative or close friend who doesn't have custody but shows concern.	
	7. Authorized social agency or custodial institution. Note: refer to 20 CFR § 404.2021; 20 CFR 416.621; SSA, POMS: GN 00502.105 .	

As the preference lists show, with the exception of DAA, organizational rep payees are near or at the bottom of the preference lists. SSA must approve organizational rep payee applications prior to designation as a rep payee. These organizational rep payees may or may not charge a fee to manage a beneficiary/recipient's SSA funds. Acceptable organizations include state and local government agencies, non-profit organizations, health care facilities, social service and local community agencies. Typically, organizational rep payees are not a creditor to the beneficiary/recipient, although SSA does grant exemptions for some creditors depending on the circumstance of the beneficiary/recipient.

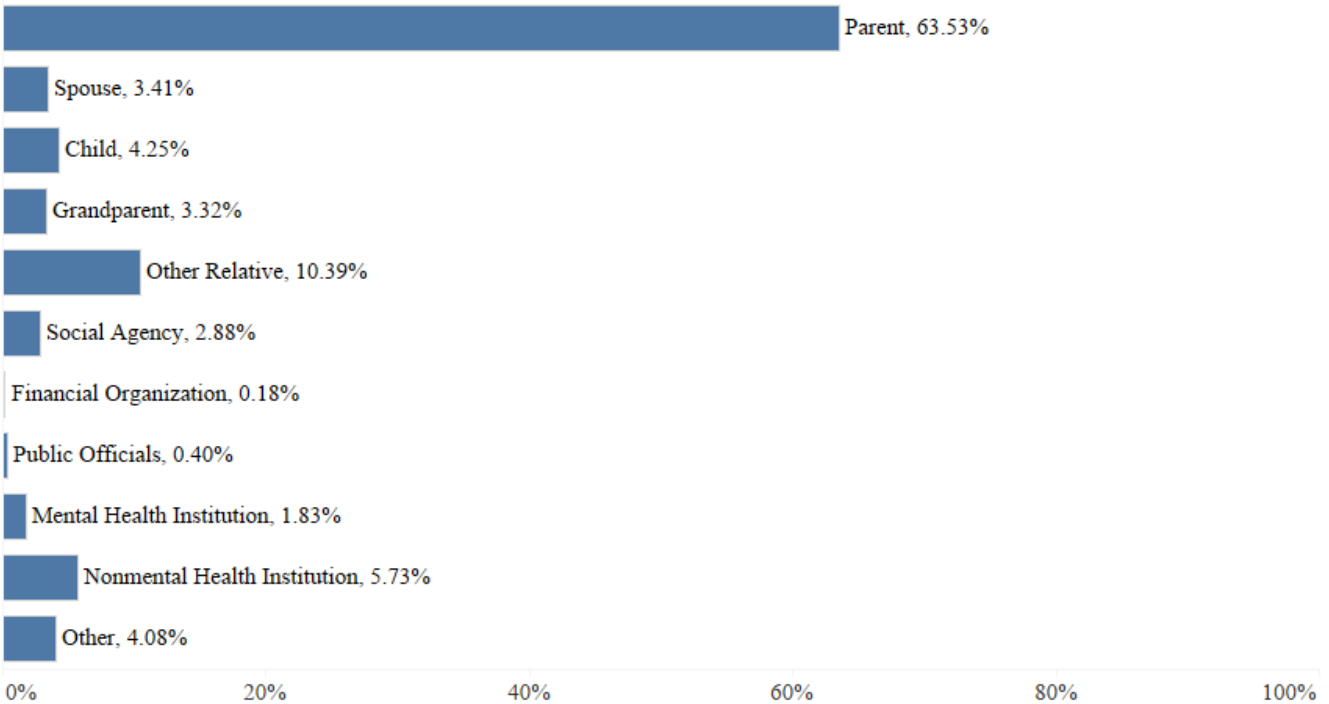
All organizational rep payees, and in particular creditor payees, should be carefully monitored. Since an organizational rep payee manages funds for multiple beneficiaries/recipients, the dollar amount associated with misuse of funds is larger. However, the monitoring process may be more straightforward for organizational rep payees than for individual rep payees because the latter are

more likely to have a personal relationship with the beneficiary/recipient. Organizational rep payees are more likely to complete the accounting report online since they often use electronic account management programs. In addition, organizational rep payees are required to conduct criminal background checks of employees who will be handling beneficiary/recipient accounts. This requirement spares SSA the need to conduct the background checks.

Studying the preference lists, and if warranted, adjusting them may result in organizational rep payees moving further up the preference list. Some organizational rep payees offer additional services, such as mental health counseling, housing assistance and supported financial decision making. Organizational rep payees may be the best option or the only viable option for some beneficiaries/recipients.³²

32 Appendix D summarizes a discussion from the board's March 2017 forum on organizational payees (panel three).

Figure 3: Distribution of Payee Types for All Beneficiaries/Recipients - December 2016



Source: By request: Social Security Administration, Office of Retirement and Disability Policy, Office of Research, Evaluation, and Statistics, Master Beneficiary Record and Supplemental Security Record, 100 percent data. Received November 2017.

Unique selection issues

Within beneficiaries/recipients served by organizational rep payees, nearly 20 percent are served by fee-for-service (FFS) organizational rep payees.³³ In the Omnibus Budget Reconciliation Act of 1990, Congress recognized the need in some cases for FFS organizations to serve as rep payees.³⁴ The law permits a qualified organization to collect the lesser of either 10 percent of the monthly benefit involved, or \$42 per month (\$80 per month if DAA is an issue).³⁵ The number of FFS organizations has grown over time and they could be used when other types of rep payees are unavailable.³⁶ In some circumstances, FFS rep payees may provide services, even on a temporary basis, when another organizational rep payee is removed.

To be qualified as FFS, the organization must be a community-based nonprofit social service organization and tax-exempt under section 501(c) of the Internal Revenue Code.³⁷ It must be bonded/insured to cover misuse and embezzlement by employees and must be licensed in each state in which it serves as rep payee (if licensing is available in the state).³⁸ In addition, the FFS rep payee must serve at least five beneficiaries on a regular basis, complete an application to become an FFS rep payee, provide each FO its mission statement, operating license, state of issuance and its bond/license expiration dates. Each FO must then request a full credit report analysis from SSA’s Office of Income Security Program, and then review and consider the application, which may be quite lengthy with the bonding and insurance documentation. Because each FO decides whether or not to approve the FFS rep payee, the determinations may be inconsistent with some FOs

33 SSA, *Annual Report on the Results of Periodic Representative Payee Site Reviews and Other Reviews*.

34 Omnibus Budget Reconciliation Act of 1990, Public Law No. 101-508, (1990).

35 The dollar fee limits are subject to cost of living adjustments. .

36 *Ensuring the Integrity of Social Security Programs: Protecting Seniors from Representative Payee Fraud*, Before the Special Committee on Aging, 108th Cong. (2003) ([statement of Fritz Streckewald, Assistant Deputy Commissioner for the Office of Disability and Income Security Programs of SSA](#)).

37 Internal Revenue Code, 26 U.S.C. § 501 (2011).

38 The minimum amount of bonding or insurance coverage must equal the average monthly amount of social security payments received by the organization plus the amount of the beneficiaries/recipients conserved funds, plus interest on hand.

approving a given FFS organization while others do not.³⁹ Further complicating the process is the fact that most FOs lack a single point of contact to respond to questions or provide assistance.⁴⁰ Stakeholders have complained that approval and processing time vary across FOs. Approval of an organizational payee application varies anywhere from two to 15 months, influenced by the time needed to receive Internal Revenue Service nonprofit designation.⁴¹

Recommendation to SSA: Establish a centralized process to certify new FFS organizational rep payees instead of having each FO do its own certification.

Creditor rep payees create an apparent conflict of interest which is not addressed in the preference list. A creditor is an individual or organization that provides the beneficiary/recipient with goods or services (beyond financial management) for a fee.⁴² Rep payees should spend funds to create stable living environments and to ensure that basic needs are met for beneficiaries/recipients.⁴³ Creditors may have different interests. The board recognizes that disallowing creditors from serving as rep payees would narrow the pool of potential rep payee candidates. Also, in some instances, the appointment of a creditor rep payee is the most secure and stabilizing selection for the beneficiary/recipient.

While the preference selection list needs to be researched further by SSA, the courts and policymakers understand the apparent conflict of interest that occurs when the creditor of a beneficiary/recipient is named the rep payee.⁴⁴ The regulations generally preclude a beneficiary/recipient's creditor from becoming the rep payee, but provide several exceptions:

1. A relative living in the same household
2. A legal guardian or legal representative
3. A facility that is licensed or certified as a care facility under the law of a state or a political subdivision of a state
4. A qualified organization authorized to collect a monthly fee for expenses incurred in providing rep payee services
5. An administrator, owner or employee of the facility in which the beneficiary/recipient lives, provided SSA is unable to locate an alternative rep payee
6. Any other individual SSA deems appropriate based on a written determination⁴⁵

Creditor relationships occur in state foster care agencies since those agencies are often assigned automatically as the rep payee for children in foster care without an analysis of whether better choices are available.⁴⁶ As the board's 2014 annual SSI Statement indicated, this practice is problematic because it creates conflicts of interest. The interests of state foster care programs may be at odds with, and possibly in conflict with, the interests of beneficiary/recipient.⁴⁷ Particularly with highly vulnerable populations such as children in foster care, SSA should consider all potential rep payees to find one that will act in the best interests of the child.

Recommendation to SSA: Research and evaluate the order of preference for rep payee selection.

39 NCSSMA, in discussion with SSAB, October 24, 2017; NCSSMA, letter to SSAB, "Representative Payee Workloads: Selection, Accounting, and Oversight."

40 SSA, [Guide for Organizational Representative Payees](#) (Baltimore: SSA, 2017), 15; Money Management International, in discussion with SSAB, May 24, 2017.

41 Ibid.

42 20 C.F.R. § 404.2022 (2004).

43 SSA, [Guide for Organizational Representative Payees](#), 13; Reid Weisbord, "[Social Security Representative Payee Misuse](#)," Penn State Law Review 117, no. 4 (2012).

44 Ibid.

45 20 CFR § 404.2022 (e) (2006); 20 CFR § 416 (2017); SSA, [POMS: GN 00502.159](#) (Baltimore: SSA, 2017); SSA, [POMS: GN 00502.135](#) (Baltimore: SSA, 2017).

46 SSAB, [SSI Statement: SSI and Foster Care Programs](#); SSA, [POMS: GN 00502.159](#).

47 SSA, [POMS: GN 00502.105](#).

Table 3a: Crimes included in SSA’s Criminal Bar Policy without Exception

Crime	Description of crime	Is there an exemption?
<i>Social Security Act</i> section 208, 811 and 1632(a)	Crimes under these statutes include: <ul style="list-style-type: none"> ◆ making any false statement or representation about earnings, factors of entitlement to or payment of benefits and factors in determining disability; ◆ concealing knowledge of events affecting entitlement to, or payment of, benefits; ◆ misusing benefits; ◆ committing Social Security number fraud; and/or violating disclosure laws. 	No
<i>Social Security Act</i> section 1136	A representative or a health care provider convicted of any violation under Title XVIII of the United States Code may not participate in Social Security programs and therefore may not serve as a representative payee. The violations relate to: <ul style="list-style-type: none"> ◆ initial application for benefits; ◆ continuing entitlement to benefits; ◆ amount of benefits under Title II or XVI; ◆ and an individual assessed with a Civil Monetary Penalty under section 1129 (a) (1) of the Act. 	No
<i>Social Security Protection Act of 2004</i> section 103	A person is considered a fugitive felon and cannot serve as payee if he or she has an unsatisfied felony warrant for one of the following three offenses: <ul style="list-style-type: none"> ◆ escape from custody; ◆ flight to avoid prosecution, confinement, etc.; ◆ and flight-escape. 	No (only applies while there is an outstanding warrant)

Approving the rep payee – SSA’s criminal bar policy

Before a rep payee is appointed, the rep payee candidate must submit an SSA-11 application, and undergo an interview with the FO decision maker, who will ask about the applicant’s criminal history.⁴⁸ POMS instructs staff to consider any history of criminal behavior in selecting the appropriate rep payee.⁴⁹ In 2014, SSA issued a new criminal bar policy. Going forward, if a rep payee applicant is found to have been convicted of committing, attempting to commit or conspiring to commit certain crimes (outlined in the Table 3a above) they will be barred, without exception, from appointment as a rep payee.⁵⁰

If a person has been convicted of twelve additional crimes (outlined in Table 3b below), they *may* be barred from becoming a rep payee depending on several factors, such as whether the applicant is the custodial

parent of a minor for whom the rep payee applicant wants to serve. The following felonies do not apply if the rep payee applicant:

- ◆ is the custodial parent of the child
- ◆ is the custodial spouse of the beneficiary
- ◆ is the custodial parent of a disabled adult child
- ◆ is the custodial court-appointed guardian of a beneficiary
- ◆ is the custodial grandparent of the minor grandchild
- ◆ is the parent who was previously payee for his or her minor child who has since turned 18 and continues to be eligible for benefits

48 SSA, [POMS: GN 00502.110](#) (Baltimore: SSA, 2017).

49 SSA, [POMS: GN 00502.133](#) (Baltimore: SSA, 2017).

50 Ibid.

- ♦ received a presidential or gubernatorial pardon for the conviction

Since 2014, all rep payee applicants and approximately 300,000 annual rep payee changes have been included in the background check process.⁵¹ There has been discussion as to whether the criminal bar policy should be applied retrospectively, as beneficiaries and recipients whose rep payees have a criminal history may be vulnerable. Initially, this appeared to be an enormous workload. SSA estimated that it would need to reach out to six million rep payees to receive consent to conduct a background check.⁵² However, the bar for convictions under the Social Security Act (the first two convictions in Table 3a, which have no exemptions) does not require consent; these data are currently shared with SSA by the IG's Office of Investigations and other law enforcement agencies. This information is either posted to or matched against the electronic Representative Payee System (eRPS).⁵³ If a current rep payee has a conviction under the Act, then SSA will receive an alert and the FO must remove the rep payee and either appoint a different rep payee or review the beneficiary/recipient's capability.

The criminal bar policy and the associated background check is not conducted on exempted rep payees (parents, spouses, and grandparents etc.), which represent approximately 70 percent of all individual rep payees.⁵⁴ Once the exempted populations are removed from the total pool of individual rep payees, along with rep payee appointments since 2014 and the 300,000 annual changes each year in which background checks are conducted, the number of remaining rep payees will be smaller and more manageable. The ability to achieve 100 percent compliance with SSA's criminal bar policy may not be as overwhelming as initially portrayed.

Recommendation to SSA: Implement a plan to achieve full compliance with SSA's criminal bar policy within five years.

Recommendation to SSA: Examine the effectiveness of the criminal bar policy and continue to strengthen it as an appropriate monitoring device.

51 SSA OIG, *Individuals Barred from Serving as Representative Payees* (Baltimore: SSA, 2017); *Examining the Social Security Administration's Representative Payee Program, Before the Committee on Ways and Means Subcommittee on Social Security and Oversight*, 115th Cong. (2017) ([statement of Marianna LaCanfora, Acting Deputy Commissioner, ORDP, SSA](#)).

52 Ibid.

53 eRPS is a web-based application that processes rep payee applications and contains all rep payee related information.

54 Data do not distinguish custodial relationships. By request: SSA, ORDP, ORES, Master Beneficiary Record and Supplemental Security Record, 100 percent data, received November 2017.

Table 3b: Exemptions from SSA’s Criminal Bar Policy

Crime	Description of Crime	Is there an exemption?
Human Trafficking	Human trafficking is the act of recruiting, transporting, transferring, harboring, or receiving a person through a use of force, coercion, or other means, for exploiting the person.	Yes
False Imprisonment	False imprisonment is the illegal confinement of one individual against his/her will by another individual in such a manner as to violate the confined individual’s right to be free from restraint of movement.	Yes
Felony Kidnapping	Kidnapping is the unlawful and non-consensual seizure of a person to gain a ransom or reward, facilitating the commission of a felony or a flight after the commission of a felony, terrorizing or inflicting bodily injury on the victim or a third person, or interfering with a government or political function.	Yes
Rape and Sexual Assault	<p>Rape is a type of sexual assault usually involving sexual intercourse, initiated by one or more persons against another person without that person’s consent. The act may be carried out by physical force, by coercion, by abuse of authority, or with a person who is incapable of valid consent.</p> <p>Sexual assault is an involuntary sexual act in which a person is threatened, coerced, or forced to engage in a sexual act against his/her will or any sexual touching of a person who has not consented. This includes rape, inappropriate touching, forced kissing, child sexual abuse, or the sexual torture of the victim.</p>	Yes
First-Degree Homicide	First-degree homicide is an unlawful killing that is both willful and premeditated, meaning it was committed after planning or “lying in wait” for the victim.	Yes
Robbery	Robbery is theft or larceny of property or money through the offender’s use of physical force or fear against the victim where a deadly weapon, such as a gun, is used or the victim suffers injury. The robbery may be “armed” or “aggravated.” Unlike burglary, the crime of robbery requires the presence of a victim who suffers actual injury, or is threatened with harm.	Yes
Fraud by Scheme	<p>Fraud schemes typically include three major elements: fraud objective, fraud method, and execution. Some common fraud schemes are:</p> <ul style="list-style-type: none"> ◆ telemarketing fraud ◆ investment-related scams ◆ Internet scams ◆ credit card fraud ◆ counterfeit prescription drugs ◆ reverse mortgage scams 	Yes
Theft of Government Funds/Property	Theft of government funds/property is an act by which an individual embezzles, steals, misappropriates, or knowingly converts to his/her use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof. This offense also applies to someone who receives, conceals, or retains the same with intent to convert it to his/her use or gain, knowing it to have been embezzled, stolen, misappropriated, or converted.	Yes
Abuse or Neglect	Abuse or neglect is any act, or failure to act, on the part of a parent, caretaker, or spouse that results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act, or failure to act, that presents an imminent risk of serious harm.	Yes
Forgery	Forgery is the act of making, drawing, or altering a document to deceive. This includes filling in blanks on a document containing a genuine signature or materially altering or erasing an existing instrument. Instruments may include bills of exchange, promissory notes, checks, bonds, receipts, mortgages, deeds, public records, account books, and tickets or passes for transportation or events. An underlying intent to defraud, based on knowledge of the false nature of the instrument, must accompany the criminal act.	Yes
Identity Theft or Identity Fraud	Identity theft or identity fraud refer to all types of crime in which someone wrongfully obtains and uses another person’s personal data in some way that involves fraud or deception, typically for economic gain. Personal data may include a Social Security number, bank account or credit card number, telephone calling card number, or other valuable identifying information that someone can use for profit.	Yes

Table 4: Range of payee status by program and state – December 2014

	OASDI		SSI	
Low	Nevada	2.2%	New York	23.7%
High	Delaware	4.7%	Utah	43.4%

Program variation in the rep payee business process

Administration of the rep payee program differs across FOs and regions in several other ways, including the frequency of on-site reviews and follow-up investigations of suspected benefit misuse. It is difficult to determine the effectiveness of these follow-up investigations but FO staff have repeatedly voiced concerns that they are given too little time for the follow-up and insufficient training on how to identify misuse.⁵⁵

The percentage of adult recipients/beneficiaries with a rep payee varies by program and across states (see Table 4).⁵⁶ State variation in the assignment of a rep payee is particularly remarkable in the SSI program. This variation persists at the regional level as well (see Figure 4).⁵⁷

While the inconsistent application of the financial capability development process may contribute to variation, other factors including differences in population characteristics and economic conditions must be considered, as well. Studies have found that more of the variation in outcomes is traceable to inconsistent application of SSA policy than to differences in financial management capability.⁵⁸

Workload specialization would help SSA run the rep payee program more efficiently. It would also make explicit the post-entitlement workload associated with the program. Workload duties would include:

- ♦ serve as a contact for organizational rep payees

- ♦ serve as the community point of contact for suspected abuse or concerns of potential financial incapability
- ♦ stay abreast of available community resources, such as SDM, to inform the public

Recommendation to SSA: Create specialized rep payee expertise at the FO and/or regional level to administer the rep payee program more uniformly, to answer questions and train new rep payees and to manage organizational rep payee workloads.

► Part III. Rep payee responsibilities and SSA’s monitoring

Rep payees are entrusted with managing the benefits of their appointed beneficiary/recipient. They have many duties and responsibilities, including the requirement to submit annual accounting forms. SSA also has responsibilities and must ensure that the benefits are used in the interests of the beneficiary/recipient. In this section, the board outlines these responsibilities, highlights some of the complexities and examines SSA’s current monitoring process. The board concludes with a recommendation to reduce the annual accounting requirements for specific types of rep payees.⁵⁹

Rep payee responsibilities

The law requires that rep payees must use funds in the best interests of the beneficiary/recipients. Benefits

55 NRC, *Improving the Social Security Representative Payee Program*. NCSSMA, letter to SSAB, “Representative Payee Workloads: Selection, Accounting and Oversight.”

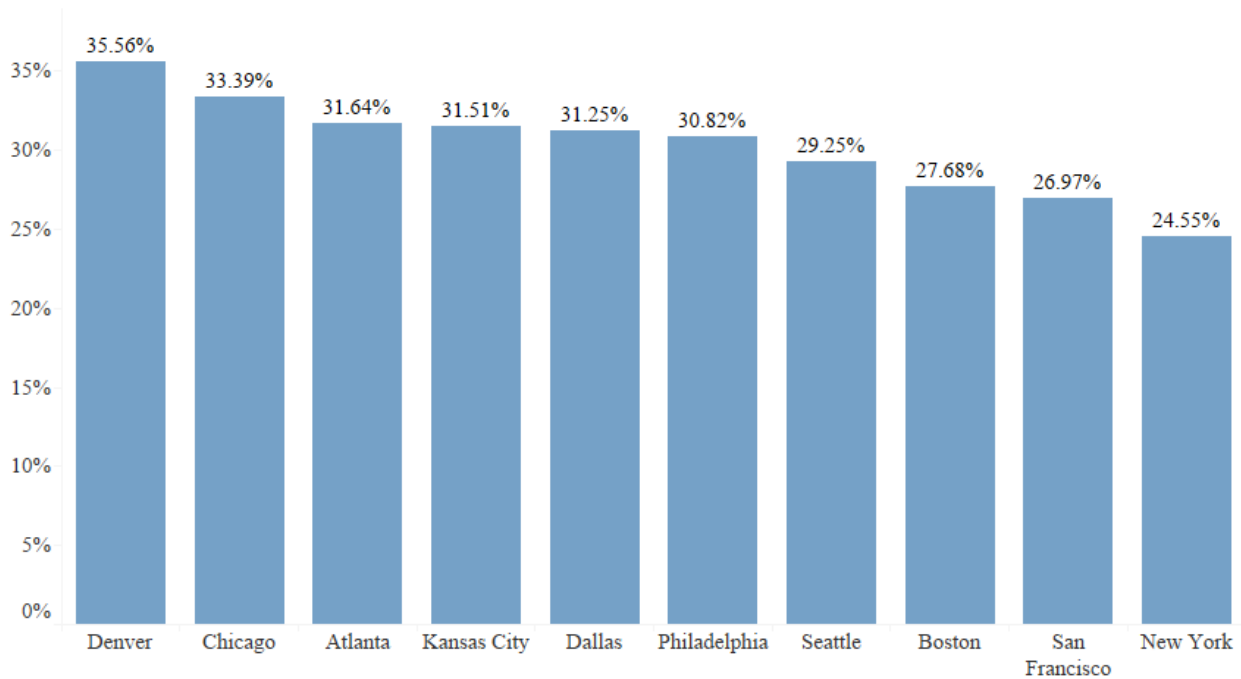
56 By request: SSA, ORDP, ORES, Master Beneficiary Record and Supplemental Security Record, 100 percent data, received November 2015.

57 There are no SSI data for American Samoa, Guam, Puerto Rico, U.S. Virgin Islands. Denver region includes: CO, MT, ND, SD, UT, WY; Chicago region includes: IL, IN, MI, MN, OH, WI; Atlanta region includes: AL, FL, GA, KY, MS, NC, SC, TN; Kansas City region includes: IA, KS, MO, NE; Dallas region includes: AR, LA, NM, OK, TX; Philadelphia region includes: DE, MD, PA, VA, WV; Seattle region includes: AK, ID, OR, WA; Boston region includes: CT, MN, MA, NH, RI, VT; San Francisco region includes: American Samoa, AZ, CA, Guam, HI, NV, Saipan; New York region includes: NJ, NY, Puerto Rico, U.S. Virgin Islands. By request: SSA, ORDP, ORES Master Beneficiary Record and Supplemental Security Record, 100 percent data, received November 2015.

58 Christina Lazar, Anne Black, Thomas McMahon, Kevin O’Shea and Marc Rosen, “*Determining Financial Capability of SSI/SSDI Beneficiaries with Psychiatric Disabilities: A Case Series*,” *Psychiatric Serv.* 66, no. 3 (2015): 279–284.

59 42 U.S.C. § 405 (1935).

Figure 4: Percent of Adult SSI Recipients with a Representative Payee, by SSA Regional Office - December 2014



Source: By request: Social Security Administration, Office of Retirement and Disability Policy, Office of Research, Evaluation, and Statistics, Master Beneficiary Record and Supplemental Security Record, 100 percent data. Received November 2015.

must be kept segregated from the payee’s other personal funds unless the rep payee is a spouse or parent living with the beneficiary/recipient.⁶⁰ Any interest earned on benefits must be treated as the beneficiary/recipient’s own property. Rep payees must notify SSA of any change in a beneficiary/recipient’s circumstances that might affect their benefits, as well as any change in the rep payee’s own circumstances that could affect his or her performance as a rep payee.⁶¹ Except for state institutions, all individual and organizational rep payees must submit an annual accounting form.

In its training guide for organizational rep payees, SSA adds to the above regulatory responsibilities. To the extent feasible, rep payees should:

- ◆ help motivate a beneficiary to achieve independent living
- ◆ support a beneficiary in their therapy and rehabilitation
- ◆ encourage the beneficiary to improve their relationship with family members⁶²

SSI regulations further require that recipient payments be used for medical treatment (to the extent it is necessary and available) for the condition that was the basis for the award.⁶³ While this requirement is the only one that applies to SSI but not to disability insurance (DI), rep payee responsibilities in the SSI program are far more complex in practice. For SSI rep payees, analysis of in-kind support and maintenance requires monthly accounting to the FO whenever a recipient’s living situation changes. This reporting requirement requires a thorough understanding of both SSI rules and the recipient’s changing circumstances. Errors can result in underpayments which can result in hardship for the recipient, or in overpayments for which the rep payee is held personally responsible.⁶⁴ If a beneficiary/recipient receives both DI and SSI, then the rep payee is required to know the rules for both programs. As recommended in Part II, having a specialist available to assist the rep payee in complicated cases could avoid many improper payments.

60 SSA, *A Guide for Representative Payees* (Baltimore: SSA, 2017).

61 20 C.F.R. § 416.635 (2006).

62 SSA, *Guide for Organizational Representative Payees*, 13.

63 20 C.F.R. § 416.635 (2006).

64 SSA, *POMS: GN 03910.040* (Baltimore: SSA, 2016).

SSA's monitoring responsibilities – the annual accounting report

SSA has a statutory responsibility to monitor rep payees for possible benefit misuse.⁶⁵ With the exception of state institutions, SSA policy requires all rep payees to complete and submit an annual accounting form.⁶⁶ This form is intended not only to inform SSA about rep payee performance but also to remind rep payees of their obligations. For nearly all individual payees, filing this report online takes about 15 minutes and is their only interaction with SSA after they have been appointed.

The form asks a few basic questions that vary slightly depending on the relationship of the rep payee to the beneficiary/recipient. The rep payee must report if they have been convicted of a felony in the reporting year and whether there have been any changes in the beneficiary/recipient's living situation. SSA prefills the current year's benefit total and any conserved funds listed in the financial report filed in the preceding year. The rep payee must identify how the amounts were spent in three general categories: (1) food and housing, (2) clothing, education, medical and dental expenses, recreation or personal items and (3) savings, with the type of savings vehicle specified. The form does not require receipts for large expenditures nor does it address changes in spending patterns from prior years. The rep payee must sign the document and may submit it as a hard copy or online. If the report is received on time and the responses are judged as acceptable by SSA, the form is considered "approved."⁶⁷

Submission of accounting reports and non-responders

Completed report forms are processed at the Wilkes-Barre Direct Operations Center. If they contain unacceptable responses, such as failure to sign the report, insufficient or excess conserved funds, unauthorized fund accounts, are sent to processing centers and/or FOs. Generally, the FO is responsible for contacting the payee to clarify an unacceptable response and determine whether further case development is needed.

A rep payee is deemed a non-responder after he or she fails to respond to the second accounting request

within 120 days for rep payees of DI beneficiaries (seven months after the initial request), and 90 days for rep payees of SSI and concurrent SSI and DI beneficiaries/recipients (six months from the initial request).

After confirming no fault by SSA, FO employees attempt to contact the rep payee by phone. If unsuccessful, the FO employee sends a letter to request a face-to-face interview. The rep payee has 15 days (this is beyond the 120 and 90 days noted above) to respond before notice is sent that the benefit checks will be redirected to the local FO. After an additional 15 days (30 days total, plus the 90 and 120 days above), the redirection process is complete and payment is held at the FO. The rep payee has 30 days from the issue date to pick up the check at the FO where the annual report is likely completed and an in-person interview conducted. If the rep payee fails to arrive within 30 days, the check is sent back to the Department of Treasury and the FO begins to develop a change of rep payee. In total, a beneficiary/recipient could have been without benefits between 150 and 180 days (see Figure 5). In FY 2015, 86 percent of reporting forms were returned, which means 950,000 beneficiaries/recipients had non-responder rep payees which the agency had to contact.

SSA POMS states the accounting report is used "to monitor how the rep payee spent or conserved benefits, to identify situations where there is no longer a need for a rep payee, and to determine if the rep payee is no longer suitable."⁶⁸ As discussed, the accounting report workload becomes the collection of the annual report instead of the analysis of report content. The board met with SSA employees, managers and executives who stated that the accounting report amounts to an expensive, time-consuming and pointless process that yields no useful information about benefit expenditures, investments or the rep payee's management of beneficiary/recipient money.

Ending the requirement to file an annual report does not preclude the agency from requesting an accounting when deemed necessary or diminish the requirement that these payees use funds appropriately. Upon selection, SSA policy requires that rep payees be informed of their responsibilities and the penalties of misusing

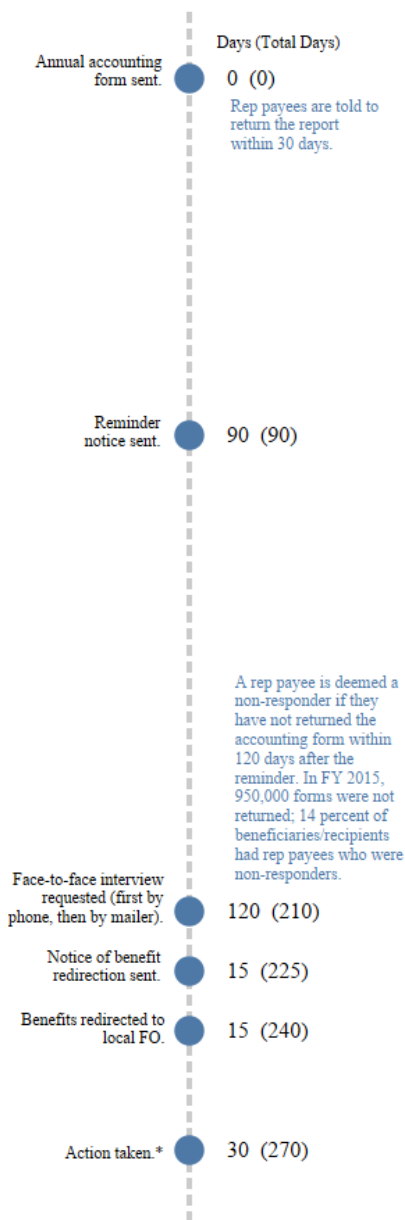
65 Appendix D summarizes a discussion from the board's March 2017 forum on the monitoring of rep payees (panel four).

66 Appendix F provides copies of the annual accounting report for parents, step-parents, and grandparents of minor children (SSA-6230), for organizational payees (SSA-6234) and for all other payee types (SSA-623).

67 SSA, [POMS: GN 00605.005](#) (Baltimore: SSA, 2016).

68 SSA, [POMS GN 00605.001](#) (Baltimore: SSA, 2016).

Figure 5: Timeline for Annual Accounting Form Non-Responders: OASDI Beneficiaries



Source: National Council of Social Security Management Associations, "Improving the Representative Payee Accounting Non-Responder Process," June 28, 2017. Note: *Action taken: If a rep payee arrives at the FO within 30 days after benefits have been redirected, then they must be interviewed by FO staff and complete the annual accounting form. If they fail to arrive, the check is sent to the Department of Treasury and FO staff begin to develop a change in rep payee. This timeline is the same for SSI and concurrent recipients, except that rep payees only have 90 days - rather than 120 days - to respond to the reminder notice before being deemed a "non-responder" with subsequent actions taken.

funds.⁶⁹ The SSA commissioner may direct an audit whenever SSA staff suspect benefit misuse.⁷⁰

Recommendation to Congress: SSA would no longer require all custodial parents and legal guardians of minor children and spouses residing with adult beneficiaries/recipients to submit an accounting report annually. Instead, these rep payees would be required to submit accounting reports upon SSA's request. SSA will request accounting reports from at least five percent of the total exempted group each year, with selection done on a partly randomized and partly targeted basis. SSA would develop data and procedures for targeted selection of cases for accounting-report submissions and reviews. SSA will also develop a process to notify regularly all rep payees in the exempted group of their reporting responsibilities, their being subject to audit, if selected, and their need to maintain an ongoing account of how Social Security benefits are spent.⁷¹

By reducing reporting and focusing on the review of high-risk cases identified using predictive analytics, SSA could more efficiently deploy staff on the cases most prone to misuse. In addition to using predictive models, SSA could require accounting forms from a sample set of low-risk rep payees at regular intervals to monitor the accuracy of the analytical methods employed.

The adoption of the board recommendation would have reduced the number of annual reporting forms by two-thirds in FY 2016, from 6.7 million to slightly over 2.2 million.⁷² Oversight of rep payees can be done more efficiently with the use of empirically-driven identification and monitoring processes.

Recommendation to SSA: SSA should improve the design of the annual accounting form and monitoring of all rep payees and organizational rep payees with annual reporting requirements.

SSA should consider the examination and cognitive testing of new form items; using structured data to evaluate the new design of rep payee monitoring response rate; usefulness of the information generated and follow-up implications.⁷³

69 SSA, [POMS GN 00602.001](#) (Baltimore: SSA, 2012).

70 42 U.S.C. §1007(h)(2).

71 Appendix A provides a history of the rep payee program, which includes a discussion of the *Jordan* court cases that currently influence the agency's monitoring practices.

72 By request: SSA, ORDP, ORES, Master Beneficiary Record and Supplemental Security Record, 100 percent data, received November 2017.

73 NRC, [Improving the Social Security Representative Payee Program](#).

SSA's onsite review schedule

SSA carries out periodic onsite reviews to check how the rep payee manages the beneficiary/recipients' funds and to verify that the rep payee is meeting the needs of the beneficiary or beneficiaries that the rep payee serves. The monitor reviews records to verify that funds were received and how they were spent or conserved. The monitor reviews supporting documents, such as receipts or cancelled checks, as evidence of purchases for the beneficiary/recipient. Monitors may speak with beneficiaries to ask about their experience with the rep payee.⁷⁴ State institutions that participate in the onsite review program are exempt from completing annual accounting forms but are subject to onsite reviews every three years. In addition, the Social Security Act requires SSA to conduct periodic site reviews of the following types of rep payees: (1) organizational rep payees serving 50 beneficiaries or more; (2) FFS rep payees; and (3) individual rep payees serving 15 or more beneficiaries.⁷⁵

From 2011 to 2016, a contractor conducted discretionary onsite reviews for organizational rep payees on behalf of SSA; SSA employees conducted the discretionary onsite reviews for individual rep payees. In July 2016, SSA awarded a federal contract to a vendor to conduct discretionary onsite reviews for both organizational and individual rep payees subject to available resources. By February 2017, the vendor completed only 11 of the projected 1,300 interviews.⁷⁶ SSA's contract with the vendor includes a deliverable schedule for review procedures; for example, providing copies of notification and appointment letters and the immediate submission of referral reports in the event of beneficiary/recipient health or safety concerns. It is unclear how SSA will assess the quality of the reviews conducted and the implications for non-compliance with completing fewer than the estimated number of annual reviews.⁷⁷

Recommendation to SSA: Increase oversight of contracted monitoring through the inclusion of measurable performance standards to assess the monitoring process, including the development of quality, timeliness and quantity standards and a method of assessing compliance with those standards.

Research conducted by the NRC recommended that SSA identify characteristics of misuse that could be collected to flag cases for review. The NRC compiled an initial list of 15 variables associated with misuse, including rep payees serving four or more beneficiaries; rep payees not related to the beneficiary/recipient; rep payees under 50 years old and rep payees with felony convictions.⁷⁸ SSA researchers found that on average, individual payees had just over three of the misuse indicators and all rep payees had at least one.⁷⁹ Rep payees for SSI recipients tend to possess more characteristics of misuse than payees for OASDI beneficiaries. Regardless of the program, 78 percent of the weighted rep payee sample served four or more beneficiaries and 58 percent were under the age of 50; both of which NRC identified as potential characteristics of misuse.⁸⁰

The SSA OIG conducted a study to determine whether the characteristics identified by NRC point toward an increased risk of misuse.⁸¹ Of those individual payees who served 14 or fewer beneficiaries, OIG identified 3,329 payees with at least three of the characteristics and studied a sample of 60 payees from that population. The study found that 42 of the 60 payees failed to meet payee responsibilities, including the inability to confirm whether the beneficiary/recipient was in the payee's care, inadequate documentation and failure to provide for the beneficiary/recipient's basic needs. The OIG found the highest risks included rep payees with limited or no income and rep payees who served beneficiaries unrelated to them. The OIG also found the NRC misuse indicators were reliable and recommended SSA use the indicators to identify payees at higher risk for misuse.

74 SSA, [Guide for Organizational Representative Payees](#).

75 Social Security Act, 42 U.S.C 405(j)(6).

76 [Examining the Social Security Administration's Representative Payee Program](#), Before the Committee on Ways and Means Subcommittee on Social Security and Oversight, 115th Cong. (2017).

77 Federal Acquisition Regulation, [Subpart 37.6 Performance-Based Acquisition](#) (2015).

78 NRC, [Improving the Social Security Representative Payee Program](#).

79 Renee Paret, Jeffrey Hemmeter, and Nancy Early. "[Selected Characteristics and Self-Perceived Performance of Individual Social Security and Supplemental Security Income Representative Payees](#)," *Research and Statistics Note* No. 2009-02 (2009).

80 Ibid.

81 SSA OIG, [Characteristics of Representative Payees that May Increase the Risk of Benefit Misuse](#) (Baltimore: SSA, 2009).

Based on these data, SSA developed predictive models to identify rep payees who are at an increased risk for misuse and subjected them to special reviews. In a 2015 presentation to the board, SSA reported that the predictive models identified roughly 250 individual rep payees and 600 organizational rep payees for review each fiscal year from 2012 to 2014. The reviews detected seven cases of individual rep payee misuse and three cases of organizational rep payee misuse. More recently, SSA stated that a case identified by the agency’s analytical model is four times more likely to have misused funds than cases drawn at random.⁸² Additional characteristics that warrant heightened monitoring and potential inclusion in analytical models include creditors serving as rep payees since they have a built-in conflict of interest and any distribution of lump sum payouts.⁸³

There is strong support for rigorous monitoring of rep payees.⁸⁴ Given an aging population and potential changes in the composition of rep payees serving agency beneficiaries/recipients, it is of critical importance that SSA assess model accuracy and update model parameters over time.

Recommendation to Congress and SSA: The performance of analytical models that are used in the monitoring processes should be periodically examined and judged by experts outside of SSA. Experts conducting this work should provide findings to Congress.

Recommendation to SSA: Develop strategies to inform the public of resources related to the SSA rep payee program and how to report suspected abuse.

► Part IV. An OMB commission

The issue of delivering money to a third party arises whenever the government issues a payment.⁸⁵ Several

federal agencies that administer benefits also oversee programs that appoint a third party to manage the benefits on the beneficiaries’ behalf. These agencies, which include the Department of Veterans Affairs (VA), Office of Personnel Management (OPM), Railroad Retirement Board (RRB), and the Department of Labor,⁸⁶ have similar challenges with program administration, including how to determine when a third party is needed, how to select a suitable surrogate and how to monitor for misuse. While there are multiple federal agencies with rep payee responsibilities, there is little coordination among them. As far back as 1991, the Government Accountability Office (GAO) reported that:

...efforts to raise public and professional awareness, improve interagency coordination, and increase the availability of in-home and respite care are likely to have a more significant impact on the effectiveness of state elder abuse programs than mandatory or voluntary reporting laws.⁸⁷

SSA has the largest pool of affected individuals and has become the defacto leader in establishing processes which other agencies may use as guidance. However, this does not necessarily indicate that SSA has sufficient expertise to design and administer financial capability determinations, rep payee selections and effective monitoring of the program.

Currently, every agency creates its own rules and procedures and assigns its own rep payee or fiduciary, which leads to duplicative regulations, confusing policy differences and some absurd results – such as when a person who receives benefits from multiple agencies is assigned a rep payee in one program and is deemed capable of managing their benefits in another. In other cases, the federal government may establish special funds, such as the 9-11 Victim’s Compensation Fund, where the question of third-party payments must be entirely addressed anew.

82 Berryhill, letter to Johnson, “Report on SSA’s Representative Payee Program.”

83 SSA, *Final Report of the Representative Payment Advisory Committee* (Baltimore: SSA 1996); NRC, [Improving the Social Security Representative Payee Program](#), 60.

84 Berryhill, letter to Johnson, “Report on SSA’s Representative Payee Program”; NRC, [Improving the Social Security Representative Payee Program](#); National Disability Rights Network (NDRN), *Providing Payee Oversight: A Report on the First Two Years of the Social Security Administration Representative Payee Review Project* (Washington: NDRN, 2012); SSA OIG, [Characteristics of Representative Payees That May Increase The Risk Of Benefit Misuse](#); SSA OIG, [Individual Representative Payees Who Misuse Benefits](#) (Baltimore: SSA, 2012).

85 Appendix D summarizes a discussion from the board’s March 2017 forum on collaboration with entities that have similar functions to SSA’s rep payee program (panel five).

86 “[Division of Coal Mine Workers’ Compensation](#),” *U.S. Department of Labor, Office of Worker’s Compensation*, accessed on November 22, 2017.

87 GAO, [Elder Abuse: Effectiveness of Reporting Laws and Other Factors](#) (Washington: GAO 1991), 1-22.

RRB, OPM, and VA each may assign a fiduciary in cases where the beneficiary/recipient cannot manage the funds.⁸⁸ All of these programs require some type of accounting from the fiduciary. For example, OPM representatives are required to submit written reports to show that payments are being used properly for the annuitant.⁸⁹ VA requires fiduciaries to submit detailed financial documents, including bank records, with annual accountings.⁹⁰ Like SSA, these agencies face challenges overseeing these fiduciaries. A 2012 RRB OIG report found that RRB lacked sufficient controls to ensure that annuitants' rights were protected and that the reliance on self-reporting (similar to SSA) did little or nothing to discourage the risk that annuitants' benefits would be misused.⁹¹ The VA OIG found that the VA failed to take timely or appropriate actions in cases of suspected misuse 48 percent of the time. The VA OIG attributed some of the problems to the lack of "national performance measures" for tracking benefit misuse.⁹²

Finally, state and local courts may appoint guardians or conservators. SSA commissioned the Administrative Conference of the United States (ACUS) to conduct a study of states' guardianship laws and court practices.⁹³ In their survey of court employees and guardians, in collaboration with the National Center for State Courts and the National Guardianship Association, ACUS reported that 67 percent of state courts require annual financial accounting for their appointed guardians, creating the potential for coordinated accountings. However, SSA officials had previously told GAO that the Privacy Act places some limitations on sharing information regarding rep payees with state courts.⁹⁴

These agencies operate in parallel with each other, without requirements to share or exchange information to protect the beneficiaries from harm. Efforts to improve coordination among agencies and streamline resources needed to effectively inform rep payee determination are consistent with current federal government reform initiatives.⁹⁵

Information sharing between SSA and VA, for example, could enhance protection for beneficiaries/recipients, when one agency has identified misuse by a rep payee who also serves as a fiduciary. However, sharing information does not happen regularly between SSA and VA. Currently, VA may access information from SSA about particular rep payees on a case-by-case basis. SSA asserts that the "relatively few SSA beneficiaries who also collect VA cash benefits" makes an information-sharing program with VA cost ineffective.⁹⁶ GAO recommended that SSA convene an inter-agency workgroup to conduct a cost-benefit analysis of sharing information about common incapacitated beneficiaries/recipients among the agencies, as well as common rep payees and fiduciaries, along with the rep payees and fiduciaries who have been identified as misusers.

In response to a GAO recommendation that SSA disclose information about rep payees to state courts to help when appointing guardians, SSA cited procedural and legal limitations related to the Privacy Act. SSA would have to consider whether such activity constituted a routine use and expressed concern that these activities were outside the mission of the agency. GAO recommended that SSA "take whatever measures are necessary to allow it to [disclose information about beneficiaries and fiduciaries to state courts]."⁹⁷

88 SSA, OPM, and RRB assign rep payees. VA's equivalent is called a fiduciary. For purposes of this report, we will use the term rep payee to mean one assigned to oversee benefits for beneficiaries who are unable to manage their own funds.

89 OPM Retirement Operations, *Representative Payee Application: Form No. 3206-0150* (2013).

90 VA OIG, *Audit of Fiduciary Program Controls Addressing Beneficiary Fund Misuse*.

91 RRB OIG, *Inspection of the Railroad Retirement Board's Representative Payee Monitoring*.

92 VA OIG, *Audit of Fiduciary Program Controls Addressing Beneficiary Fund Misuse*.

93 ACUS, *SSA Representative Payee: Survey of State Guardianship Laws and Court Practices* (Washington: ACUS, 2014).

94 GAO, *Incapacitated Adults: Oversight of Federal Fiduciaries and Court-Appointed Guardians Needs Improvement* (Washington: GAO, 2011), 11.

95 OMB Director Mick Mulvaney, memorandum to the heads of executive departments and agencies, "[Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce](#)," April 12, 2017.

96 The VA National Center for Veterans Analysis and Statistics released data from FY 2015 showing that the Veterans Administration paid roughly 4.5 million individuals compensation or pensions, which is less than 10 percent of the number of individuals receiving OASDI or SSI benefits in the same year. GAO, *Incapacitated Adults: Oversight of Federal Fiduciaries and Court-Appointed Guardians Needs Improvement*, 11.

97 *Ibid.*, 18.

Presumably, coordinating rep payee activities across the federal benefit-paying agencies would be beyond the purview, and outside the mission, of any one agency. Potential issues include:

- ◆ addressing barriers to information sharing among the agencies
- ◆ establishing shared definitions and principles, within parameters of existing law, to enhance communication among agencies
- ◆ developing a system of data exchange to identify beneficiaries receiving more than one federal benefit who have a rep payee for one but not all of those benefits
- ◆ creating a shared database identifying known benefits misusers to prevent them from being selected as rep payees
- ◆ sharing best practices
- ◆ proposing new procedures and legislative changes to enhance protections for vulnerable beneficiaries

The data exchange bureaucracy that operates across agencies, federal or otherwise, is one that could streamline identification and monitoring of rep payees. The federal statutes governing data exchange may require significant updates in order to adequately address the need for timely sharing of relevant administrative data in order to meet the needs of beneficiaries/recipients and their rep payees.

Supported Decision Making

Decisions about rep payee assignment ultimately reflect judgments about self-direction and independence. The United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD)⁹⁸ extends the reach of

the Americans with Disabilities Act of 1990 by creating a broad human rights platform to emphasize greater autonomy and empowerment. As social and policy perspectives on the rights of people with disabilities evolve, so too should the policies and practices of the public agencies that serve these individuals.

A determination of financial capability should consider financial knowledge, judgment and performance: a complex interaction encompassing physical and mental abilities.⁹⁹ Since the adoption of CRPD in 2006 and as the population continues to age, alternative approaches beyond a “yes” or “no” determination outcome are emerging. One approach, SDM, is gaining wider acceptance.¹⁰⁰ In legal settings, SDM is interpreted as approaches to enhance the retention of rights.¹⁰¹ Additional characteristics of SDM frameworks include voluntary participation, active engagement in decision making and legal enforceability of those decisions.¹⁰² This means supported decisions, such as those pertaining to legal, financial and medical issues are legally binding. A key characteristic of an SDM system is the promotion and support of self advocacy.¹⁰³ SDM may take many forms, ranging from informal assistance by family or friends; to more structured assistance from community organizations.¹⁰⁴

Approaches to facilitate SDM are emerging at varied levels of government and in local communities. Local organizations, such as Bread for the City in Washington, DC, provide rep payee services for clients while adopting a more structured SDM arrangement.¹⁰⁵ Clients are referred to Bread for the City by the DC Department of Behavioral Health or other related agencies. Bread for the City then applies to SSA to serve as the client’s rep payee. The client, the mental health case manager and Bread for the City, create a collaborative team, working to empower clients and support their unique needs and preferences in a personalized way.

98 UN, *Convention on the Rights of Persons with Disability and Optional Protocol* (UN, 2007).

99 National Academies, *Informing Social Security’s Process for Financial Capability Determination*.

100 Appendix D summarizes a discussion from the board’s March 2017 forum that addressed SDM models (panel two).

101 Inclusion Europe, *Key Elements of a System for Supported Decision-Making* (Brussels: Inclusion Europe, 2008).

102 Nina Kohn, Jeremy Blumenthal, and Amy Campbell, “[Supported Decision-Making: A Viable Alternative to Guardianship](#),” *Penn State Law Review* 17, no. 4 (2013): 1111-1157.

103 Ibid.

104 UN Enable, “[Legal Capacity and Supported Decision-Making](#),” *From Provisions to Practice: implementing the Convention*, (UN, 2013).

105 “[Bread for the City](#),” accessed October 25, 2017.

Texas and Delaware have led the nation in enacting SDM legislation, providing an alternative to guardianship.¹⁰⁶ The legislation permits people with disabilities to formally name a supporter to assist with decision making. Service providers are legally required to abide by the agreement, which covers a broad range of life decisions, including where and with whom to live, employment and medical care.¹⁰⁷ At the federal level, VA has adopted a shared decision-making framework, where veterans may identify areas of daily life in which they seek assistance as well as people to provide that support.¹⁰⁸ These decisions may encompass self care, such as bathing and dressing, to assistance with paying bills and seeking treatment for mental health conditions. The objective is to keep the veteran at the center of decision making about health care and supportive services.

These early adopters provide models to inform efforts, more broadly, across the country. Research and practice regarding SDM are rapidly developing.¹⁰⁹ Organizations, such as the National Resource Center for Supported Decision-Making, provide access to relevant literature and research, including information on state initiatives on SDM.¹¹⁰

The Government Performance and Results Modernization Act of 2010 identifies OMB as the federal lead for the

development of cross-agency priority goals which are intended to address key issues important across agencies with the expectation of producing measurable outcomes. In light of an aging population and the importance of rep payee programs for government beneficiaries and recipients, OMB is the most suitable agency to lead the broader inter-governmental reform of the rep payee program. Potential approaches may range from development of a centralized, federal rep payee agency to regulation guiding rep payee determinations across government and public-private partnerships advancing approaches to SDM.

Recommendation to OMB: Study how best to coordinate the management of federal benefits for people who have been determined to be financially incapable with the recognition that alternative approaches such as SDM have been embraced by key stakeholders.

Recommendation to OMB: Consider the creation of a shared database for federal benefit-paying agencies and state and local courts that make guardianship decisions. The database will assist in improving financial capability determinations, rep payee selection and oversight of the program.

106 Supported Decision Making Agreement Act, Estates Code § 1357 (2015); Megan Morgan, “[Supported Decision Making: A New Alternative to Guardianship](#),” *The Arc of Texas* (2015); Supported Decision Making Act, 80 Del. Laws. C.427 § 94A (2016).

107 Supported Decision Making Agreement Act, Estates Code § 1357.

108 “[Geriatrics and Extended Care: Shared Decision Making](#),” *VA*, accessed October 25, 2017.

109 Anna Arstein-Kerslake, Joanne Watson, Michelle Browning, Jonathan Martinis and Peter Blanck, “[Future Directions in Supported Decision-Making](#),” *Disability Studies Quarterly* 37, no. 1 (2017).

110 “[National Resource Center for Supported Decision-Making](#),” accessed October 24, 2017.

▶ Part V. Summary of the board's recommendations

Recommendations to SSA:

- ◆ Standardize the capability determination process by using empirically-based assessment and decision-making methods.
- ◆ Establish a centralized process to certify new FFS organizational rep payees instead of having each FO do its own certification.
- ◆ Research and evaluate the order of preference for rep payee selection.
- ◆ Implement a plan to achieve full compliance with SSA's criminal bar policy within five years.
- ◆ Examine the effectiveness of the criminal bar policy and continue to strengthen it as an appropriate monitoring device.
- ◆ Create specialized rep payee expertise at the FO and/or regional level to administer the rep payee program more uniformly, to answer questions and train new rep payees and to manage organizational rep payee workloads.
- ◆ Develop strategies to inform the public of resources related to the SSA rep payee program and how to report suspected abuse.

Recommendation to Congress:

- ◆ No longer require all custodial parents and legal guardians of minor children and spouses residing with adult beneficiaries/recipients to submit an accounting report annually. Instead, these rep payees would be required to submit accounting reports upon SSA's request. SSA will request accounting reports from at least five percent of the total exempted group each year, with selection done on a partly randomized and partly targeted

basis. SSA would develop data and procedures for targeted selection of cases for accounting-report submissions and reviews. SSA will also develop a process to notify regularly all rep payees in the exempted group of their reporting responsibilities, their being subject to audit, if selected, and their need to maintain an ongoing account of how Social Security benefits are spent.

- ◆ Increase oversight of contracted monitoring through the inclusion of measurable performance standards to assess the monitoring process, including the development of quality, timeliness and quantity standards and a method of assessing compliance with those standards.

Recommendation to Congress and SSA:

- ◆ The performance of analytical models that are used in the monitoring processes should be periodically examined and judged by experts outside of SSA. Experts conducting this work should provide findings to Congress.
- ◆ Improve the design of the annual accounting form and monitoring of all rep payee and organizational rep payees with annual reporting requirements.

Recommendations to OMB:

- ◆ Study how best to coordinate the management of federal benefits for people who have been determined to be financially incapable with the recognition that alternative approaches such as supportive decision making have been embraced by key stakeholders.
- ◆ Consider the creation of a shared database for federal benefit-paying agencies and state and local courts that make guardianship decisions. The database will assist in improving financial capability determinations, rep payee selection and oversight of the program.

Appendices

- A. The rep payee program: a brief history**
- B. Summary of a National Academies study to evaluate SSA's capability determination process for adult beneficiaries**
- C. Overview of the board's work on the rep payee program**
- D. Synopsis of the board's March 2017 forum – *Joining Forces to Improve the Representative Payee Program***
- E. Rep payee chart collection**
- F. Relevant SSA rep payee forms**

► Appendix A. The rep payee program: a brief history

Following passage of the 1935 Social Security Act, planning for what is now called the ‘representative payee’ program began even before the first Social Security check was paid. In response to recommendations of the 1938 Advisory Council on Social Security, the Social Security Board (now SSA) proposed an administrative procedures section that included a hearings process, defined evidence, provided subpoena and rulemaking authority to the agency, as well as including a provision for payment to “infants or other legally incompetent persons.”¹¹¹ A specific reference to surrogate payees initially surfaced in 1939 testimony by Arthur Altmeyer, Chair of the Social Security Board, who suggested the agency receive the authority to identify an appropriate payee in circumstances of beneficiary incompetence.¹¹²

The amendments enacted in 1939 ultimately established six new categories of beneficiaries and authorized the agency to pay benefits to someone other than the legally entitled beneficiary.¹¹³ The legislation included the following statement,

(j) When it appears to the Board that the interest of an applicant entitled to a payment would be served thereby, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled thereto, either for direct payment to such applicant, or for his use and benefit to a relative or some other person.¹¹⁴

The agency then began designing an administrative decision-making structure. It issued guidance in January 1940 outlining a review process that accorded a right to an administrative hearing challenging an agency determination when there was a wage reporting discrepancy or a disputed benefit amount, but not the assignment of a rep payee. The right to an administrative appeal process was not included in the statute until 1990.¹¹⁵ This allows a beneficiary/recipient to appeal SSA’s determination that a rep payee is needed or the individual SSA selects as the rep payee.

The early decades of the rep payee program

During the first few decades of its existence, the rep payee program had little impact on the management of Social Security programs. In 1989, an SSA official testified to Congress that “from 1939 until well into the 1970’s, we encountered very few difficulties with rep payee policies because in the large majority of these cases the normal payee sources yielded suitable payees, such as close relatives, friends, and so on.”¹¹⁶ The 1961 annual report announced that SSA had established an accounting process.¹¹⁷

A significant recent accomplishment was the inauguration of a formal accounting procedure by which certain rep payees are required to submit annual reports as to the stewardship of the funds they have received on behalf of minor children and adults found to be unable to handle such funds. This development grows out of extended bureau experience in this area. The accountability procedure augments but does not supplant personal interviews with certain rep payees at stated intervals.

111 Social Security Board, *1938 Advisory Council Report – The Social Security Board’s Comments & Recommendations* (Washington: Social Security Board, 1938).

112 “We are also recommending simplification of the procedure for payment to infants or other legally incompetent persons... it has to do with simplifying the guardianship requirements, as laid down in the laws in the various States, and giving the Social Security Board some discretion to determine who is the proper person to receive the payments, in the case of an incompetent person.” *Hearings Relative to the Social Security Act Amendments of 1939, Before the Committee on Ways and Means, House Representatives, 77th Cong.* (1939) (statement of Arthur Altmeyer, Chair, Social Security Board).

113 The six new categories of beneficiaries included: under the old age program, (1) wives, age 65 and over and (2) dependent and unmarried children, under age 18; under the survivors program, (3) widows, age 65 and over, (4) unmarried dependent orphans, under age 18, (5) eligible widows and mothers caring for eligible minor children, and if there was no surviving eligible widow or unmarried child, under age 18, then (6) aged parents might be an eligible beneficiary. The 1939 Amendments did not include widowers, which were included in 1950 for those dependents, age 65 and over. Larry DeWitt, “[Summary of Major Benefits Under the Social Security Program](#),” SSA Office of the Historian, Research Note no.16 (2001).

114 Social Security Act Amendments of 1939, Chapter 666, Section 205(j)(1), 53 Stat. 1371.

115 Omnibus Budget Reconciliation Act of 1990, Section 5105(i), Public Law 101-508, (1990).

116 *Use of Representative Payees in the Social Security and Supplemental Security Income Programs, Before the Subcommittee on Social Security and Subcommittee on Human Resources of the House Committee on Ways and Means*, 101st Cong. (1989) (statement of Louis D. Enoff, Deputy Commissioner, SSA).

117 U.S. Department of Health, Education, and Welfare, *U.S. Department of Health, Education, and Welfare: 1961 Annual Report* (Washington: 1962); see also “Social Security Office Picks Payees for Minors, Disabled,” *The News Journal* (Wilmington, DL), Apr. 5, 1958. The article described the rep payee program in Delaware and noted that there were over 3,000 children receiving benefits. It also noted that in cases where the rep payee was not the parent, the agency would have to find another rep payee which could entail repeated investigations, but it was the agency’s responsibility to ensure the full use and benefit of the beneficiary’s monthly benefit.

Program expansions

Expansion of Social Security to people with disabilities in 1956 and enactment of SSI in 1972 changed the demographics of the beneficiary/recipient population served by SSA. The new legislation added persons with disabilities, blind individuals and the elderly with limited income and resources.¹¹⁸ Additionally, the SSI program included new reporting requirements, adding to rep payee responsibilities. There was also an increasing need to recruit non-relatives as rep payees as fewer SSI recipients had close family members to serve in the role.¹¹⁹ Further contributing to the program's growth was the requirement to assign a rep payee to SSI recipients whose disability was based on a DAA diagnosis.¹²⁰

In the 1980s, the agency's disability caseload increased rapidly along with the number of rep payee assignments. In congressional testimony in 2000, SSA executive Susan Daniels noted that in 30 years the assignment of rep payees from the population of beneficiaries/recipients had risen from 5.2 percent to 13.3 percent; about 42 percent of this beneficiary/recipient population had a disability. She attributed the change to several factors including the de-institutionalization of people with mental illness and the increase in substance abuse all contributed to the change in the nature of the beneficiary/recipient population served by rep payees.

Judicial challenges and their impacts

The number of judicial challenges to the appointment, selection and oversight of the rep payee program is surprisingly small given the millions of beneficiaries/recipients that are assigned a rep payee, but the cases have raised awareness about due process protections and influenced policy.¹²¹

As the courts considered issues related to the rep payee program, they relied on a three-part balancing test outlined by the Supreme Court in *Matthews v. Eldridge*¹²² to address a growing number of due process complaints; 1) Was there an important interest at stake? 2) Did improper procedures risk an erroneous deprivation of interests? 3) Will additional procedural safeguards provide significant benefit?

In *McGrath v. Weinberger*¹²³ the court considered the rep payee assignment, selection and notification processes which differ from state guardianship systems that involve a judicial due process hearing with notice, representation, and appeals rights. The *McGrath* court balanced the administrative burdens against the deprivation of the beneficiary/recipient's free use of benefits and found the process satisfied due process requirements, but it noted that SSA had modified its procedures and was providing a 10-day advance notice of a proposed rep payee assignment and providing opportunity to object.

In *Briggs v. Sullivan*¹²⁴ a class of beneficiaries/recipients raised concerns about SSA's statutory obligation to investigate rep payee applicants; SSA's financial responsibility to provide duplicate payments if rep payees misused funds and SSA's practice of suspending benefits if a rep payee was not assigned. Class members had suffered economic loss when rep payees had misused or stolen benefits, but suffered again when SSA's response at the reporting of the rep payee misuse was to suspend benefits while a new rep payee was being sought. After weighing the administrative burdens of adding additional investigatory responsibilities against the beneficiaries/recipients' property interests the court held that the current process met due process requirements and that if SSA followed its investigatory procedures, it was not obligated to make duplicate payments if a rep payee stole or misused benefits. However, it required SSA provide direct payment to most beneficiaries while a rep payee appointment was pending.¹²⁵

118 NRC, *Improving the Social Security Representative Payee Program*; see also *Social Security Representative Payees, Before the Special Committee on Aging*, 106th Cong. (2000) (statement of Susan M. Daniels, Deputy Commissioner, Disability and Income Security Programs, SSA).

119 Ibid.

120 Lenna D. Kennedy, "OASDI Beneficiaries and SSI Recipients With Representative Payees" *Social Security Bulletin* 58, no. 4 (1995); see also Michael J. Churgin, "The Elderly with a Disability: Social Security and Representative Payment," *Marquette Elder's Advisor* 11 (2009), 121.

121 Daniel L. Skoler and Amy L. Allbright, "Judicial Oversight of the Nation's Largest Guardianship System: Caselaw on Social Security Administration Representative Payee Issues," *Mental & Physical Disability Law Rep.* 24, no. 1 (2000), 169 and 176.

122 *Matthews v. Eldridge*, 424 U.S. 319 (1976).

123 *McGrath v. Weinberger*, 541 F.2d 249, (10th Cir. 1976), cert. denied, 430 U.S. 933 (1977).

124 *Briggs v. Sullivan*, 886 F.2d 1132 (9th Cir. 1989) and 954 F.2d 534 (9th Cir. 1992).

125 Direct payment did not apply if DAA was the basis for the finding of disability.

A number of cases, known as the Jordan Cases,¹²⁶ followed actions taken by SSA in 1978, when, as a work-saving measure, the agency suspended its annual accounting program which required everyone, except for custodial parents, spouses, legal guardians and state and federal institutions to complete an annual accounting report.¹²⁷ A federal district court certified a nationwide class of disability beneficiaries/recipients who raised multiple complaints about the process. The court dismissed all but one issue which involved SSA's accounting process. Up until the Jordan case(s), SSA maintained that the obligation to supervise rep payees was discretionary.¹²⁸ Using the *Matthews* analysis, the *Jordan* court determined that due process required the agency establish appropriate *mandatory periodic accounting procedures*. SSA appealed, but then voluntarily withdrew the appeal and the court gave the agency a year to institute an accounting process.

Approximately a year later, SSA presented a two-part plan. First, they would send out notice to all rep payees of the need to keep records as they might be audited, and then later the agency would begin auditing 10 percent of all rep payees. Plaintiffs objected to the proposal and filed a motion to enforce the court's judgment. While the court agreed with SSA's plan to send out notification to rep payees, it found the plan that SSA presented was insufficient.¹²⁹

A few months later, in October 1984, Congress enacted the Disability Benefits Reform Act (DBRA) which excluded from the annual accounting requirement rep payees who were spouses or parents with custody of the beneficiary. SSA requested an indicative ruling (an indication as to how the court would rule) and in its ruling the court noted that Congress had no authority to modify constitutionally required procedures, stating the "only way by which the Secretary [Commissioner] can avoid the mandatory annual account is to establish that

beneficiaries' due process rights are being adequately provided through some alternative means."¹³⁰ The language exempting parents and spouses some classes of rep payees in DBRA was subsequently removed in the Omnibus Reconciliation Act of 1990.¹³¹

Developments since 1990

Since 1990, Congress has revisited the rep payee program to shore up protections for beneficiaries/recipients and guard against misuse. Administrative appeal rights were added, criminal background checks of rep payees were required, and a centralized file accessible to local SSA offices containing the names and Social Security numbers of all individuals who had their rep payee certification revoked due to misuse was made available. Congress required the agency to reimburse beneficiaries/recipients for misused funds when it fails to monitor or investigate a rep payee and required an annual report to Congress.

The passage of the 2004 Social Security Protection Act ushered in even more changes.¹³² New qualifications were instituted in selecting non-governmental organizational rep payees. Most individuals convicted of offenses resulting in imprisonment for more than one year were barred from serving as rep payees. The statute also mandated periodic onsite review of high-volume rep payees and allowed SSA to redirect delivery of benefit payment when a rep payee failed to submit the annual accounting form. New penalties were introduced including personal liability for fund misuse by rep payees and fee forfeiture if a fee for service rep payee misused benefits. Finally, the statute authorized \$8.5 million to study how payments made to rep payees are managed and utilized. SSA utilized these funds for the NRC study released in 2007.

126 The case was originally filed as *Jordan v. Schweiker* in 1979. As the Commissioner of Social Security changed, the name of the case was renamed *Jordan v. Heckler* and finally *Jordan v. Bowen* 808 F.2d 733 (10th Cir. 1987).

127 S. Rep 98-466, 98th Cong. 2nd Sess. 29 (1984).

128 *Watson v. Califano*, 487 F. Supp. 179 (S.D. New York 1979); 622 F.2d 577 (2nd Cir. 1979).

129 *Jordan v. Schweiker*, Order, Civ-79-994-W (W.D. Okl. March 26, 1984), 3.

130 *Ibid.* (Jan 18, 1985), 6.

131 The Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, (1990). Subsec. (j)(3)(B), (C). Public Law 101-508, § 5105(b)(1)(A)(i), (ii), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: "Subparagraph (A) shall not apply in any case where the other person to whom such payment is made is a parent or spouse of the individual entitled to such payment who lives in the same household as such individual. The Secretary shall require such parent or spouse to verify on a periodic basis that such parent or spouse continues to live in the same household as such individual."

132 Social Security Protection Act of 2004, Public Law 108-203, 118 Stat. 493.

► Appendix B. Summary of a National Academies study to evaluate SSA’s capability determination process for adult beneficiaries

SSA commissioned the National Academies to convene a committee of experts on SSA’s process for capability determination. The committee issued its final report in 2016, entitled *Informing Social Security’s Process for Capability Determination* (hereafter referred to “the committee”). This effort was the third major study on the rep payee program and the only one to focus exclusively on the capability determination process.¹³³ This document describes the committee’s findings relevant to this report. The full committee report is available online.

A conceptual model and fundamental terminology

The committee broadens the conception of *capability* to include whether a person can *manage* or *direct the management* of benefits in a way that *routinely meets basic needs* such as food, shelter, and clothing.¹³⁴ *Managing* one’s funds requires the beneficiary to be fully and independently responsible for and cognizant of spending required to meet basic needs. *Directing the management* of one’s funds requires the beneficiary to communicate spending preferences consistent with meeting basic needs to someone else and to direct that person to execute the use of funds according to those preferences.¹³⁵

The committee introduced a conceptual model of fundamental terminology to ensure clarity and consistency in both capability determination processes and the committee’s recommendations. The conceptual model of the committee’s report is mapped (see Figure 6) and described below.

The committee distinguishes two key concepts relevant for assessing financial capability:

- ◆ Financial performance is handling financial responsibilities *in the context of daily life*, including environmental factors and relevant supports or barriers to performance in the real world¹³⁶
- ◆ Financial competence is the ability to handle financial responsibilities *in a controlled setting*¹³⁷ and includes financial knowledge about relevant tasks and procedures and, financial judgment in choosing appropriately among alternatives.¹³⁸

Financial competence requires the confluence of several types of abilities, skills and knowledge including cognitive/intellectual ability, attention and vigilance, learning and memory, planning and executing tasks, social cognition, communication and others.¹³⁹ It can be demonstrated in a simulated setting but may not be realized as financial performance in the real world because of particular barriers.

Personal factors like one’s mental state or history of substance abuse may impact one’s financial performance and well-being in several ways, but not compromise one’s financial competence.¹⁴⁰ Stressors and supports can diminish or enhance one’s real-world financial performance. One may fail to demonstrate financial competence in a controlled setting, but may be able to achieve one’s basic needs with support. Conversely, one may possess the necessary financial knowledge and judgment in a controlled setting, but not regularly meet one’s basic needs.¹⁴¹ The committee’s central conclusion was that an assessment of a beneficiaries’ real-world functioning when such evidence is available, is preferable over evaluating beneficiaries’ knowledge and judgment in a controlled setting.¹⁴²

133 SSA commissioned two previous reports. The Committee on Social Security Representative Payees, convened by the NRC of the National Academies, released a report in 2007. The Representative Payee Advisory Committee released their report in 1996.

134 National Academies, *Informing Social Security’s Process for Financial Capability Determination*, 24.

135 Ibid., 81-82.

136 Ibid., 6.

137 Ibid., 91.

138 Ibid., 25 and 83-85.

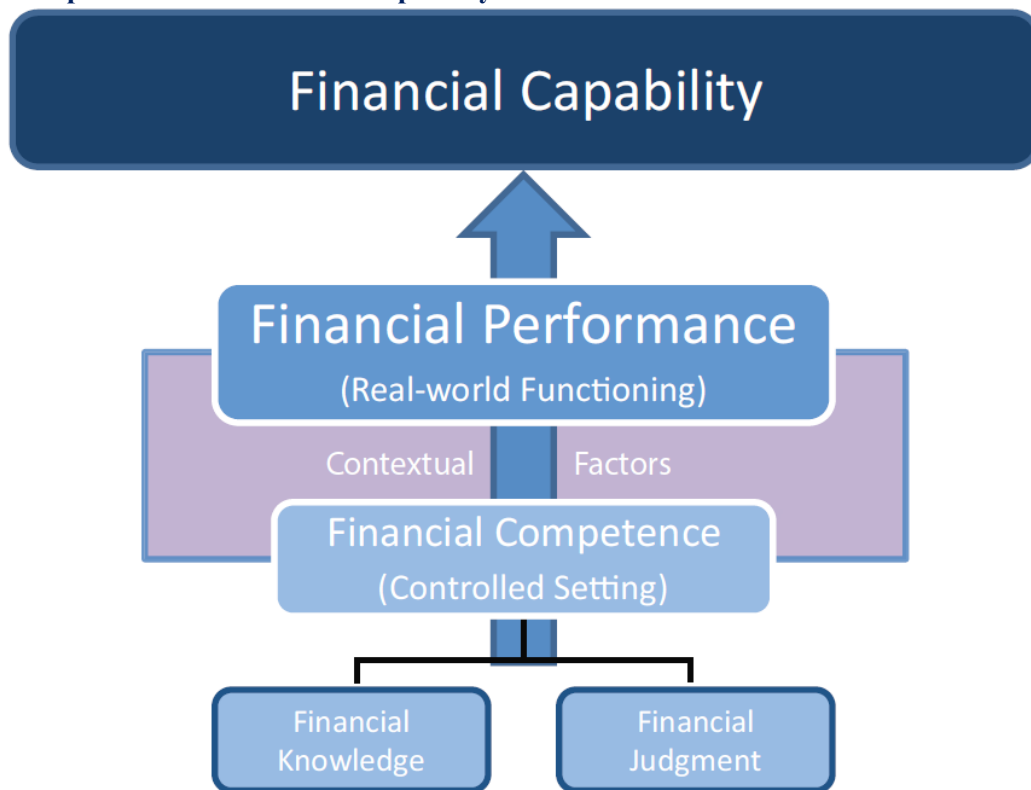
139 Ibid., 86-91.

140 Ibid., 94.

141 Ibid., 155.

142 Ibid., X.

Figure 6: Conceptual model of financial capability¹⁴³



SSA’s policies & procedures for capability determination

The committee examined SSA’s procedure for determining capability and compared it to similar programs including the VA, OPM and Service Canada – Canada’s social insurance program. The process can be broken into three steps: triggering an assessment, gathering evidence and determining capability.

Triggering an assessment

The opportunity to trigger an assessment of capability stands throughout the entirety of SSA’s engagement with a beneficiary/recipient. FO staff may initiate a capability determination if at any point they suspect

or receive information that a physical or mental condition may prevent the beneficiary from managing or directing the management of their benefits.¹⁴⁴ The first point of contact between SSA and a beneficiary is at the FO when disability applications are processed and

eligibility requirements verified. It is often at this point that a capability determination is triggered. FO staff are instructed to consider:

Does the individual have difficulty answering questions, getting the evidence or information necessary to pursue the claim or understanding explanations and reporting instructions? If yes, do you think this difficulty indicates the beneficiary cannot manage or direct the management of benefits?¹⁴⁵

After the initial FO review, the state DDS develops medical evidence for the initial determination of disability. The DDS examiner will also gather medical evidence for a capability determination, if (1) the FO requests capability development, (2) a psychiatric or psychological consultative examination is purchased, (3) someone other than claimant filed the claim or (4) the mental or physical impairment results “in severe disorientation, a severe cognitive impairment, a gross deficit in judgment or an inability to communicate with others.”¹⁴⁶

143 Ibid., 25.
 144 SSA, [POMS GN 00502.020](#) (Baltimore: SSA, 2017).
 145 SSA, [POMS GN 00502.020](#).
 146 SSA, [POMS DI 23001.005](#) (Baltimore: SSA, 2017).

The committee found that SSA provides the most in-depth information on potential triggers for capability determination compared to the VA, OPM and Service Canada.¹⁴⁷ The committee described how SSA might use age, gender, education, impairment codes, and other variables to develop a model that it could use to estimate the probability that a given person needs a rep payee. The committee also noted that the presence, nature and severity of symptoms for many psychiatric and cognitive conditions can progress and fluctuate over time. The committee found that SSA lacked a formal process for periodic review of capability. The VA, OPM and Service Canada also do not have a formal process for ongoing review.¹⁴⁸

Gathering evidence

Once a beneficiary has been identified for a capability determination, FO staff are instructed to evaluate any evidence that would help indicate a beneficiary/recipient's capability to manage their benefits. SSA places evidence into three categories: legal, lay and medical.¹⁴⁹

Legal evidence

Legal evidence is the most straightforward in the determination process. Even though it is not required in the statute, SSA always assigns a rep payee to any individual who has been established as legally incompetent in a court order.¹⁵⁰ OPM and Service Canada also have binding legal evidence; however, a finding of legal incompetency for the VA is nonbinding, but will trigger the collection of medical evidence.¹⁵¹

Lay evidence

Lay evidence is required in all cases where a beneficiary/recipient is not legally incompetent. It is nonmedical and non-legal evidence that gives insight into how a

beneficiary/recipient has been able to manage or direct the management of funds that have been available to them to meet their basic and daily needs.¹⁵² One of the most common types of lay evidence is also often the trigger of the assessment: the FO staff's observations of a beneficiary/recipient, specifically, their behavior, ability to reason, ability to function with others and effectiveness in pursuing the claim.¹⁵³

The DDS examiner's opinion on capability is also considered as lay evidence. Other types of evidence include a statement from the beneficiary/recipient regarding their capability, documentation of whether basic needs have been met and statements from third-parties with direct knowledge regarding the beneficiary/recipient's ability to manage benefits and meet daily needs.¹⁵⁴ While OPM also requires lay evidence, VA and Service Canada use, but are not required to use lay evidence.¹⁵⁵

SSA issues guidance to staff conducting face-to-face interviews. Suggested questions address the actual wellbeing of the individual, real-world financial performance, stability in living arrangements, nutrition, medical care, support network and thought process.¹⁵⁶ However, decisions are often made without direct interaction with the beneficiary/recipient. In fact, 67 percent of all DI claims are filed without an office visit. For beneficiaries/recipients with a rep payee, 59 percent do not visit the office.¹⁵⁷

Medical evidence

If available, medical evidence is required in the financial capability determination. It must (1) come from a physician, psychologist or other qualified medical practitioner, based on their evaluation, examination or treatment of a beneficiary/recipient within the last year and (2) give insight to the beneficiary/recipient's ability to manage or direct the management of benefits.¹⁵⁸ SSA considers medical evidence to be very important, but advises FO

147 National Academies, *Informing Social Security's Process for Financial Capability Determination*, 36.

148 Ibid., 56.

149 SSA, [POMS GN 00502.020](#)

150 SSA, [POMS GN 00502.023](#) (Baltimore: SSA, 2017).

151 National Academies, *Informing Social Security's Process for Financial Capability Determination*, 40-41.

152 SSA, [POMS GN 00502.030](#)

153 SSA, [POMS GN 00502.050](#) (Baltimore: SSA, 2017).

154 SSA, [POMS GN 00502.030](#)

155 National Academies, *Informing Social Security's Process for Financial Capability Determination*, 43-44.

156 SSA, [POMS GN 00502.050](#)

157 This is different than the VA, which meets face-to-face with every beneficiary rated incompetent. National Academies, *Informing Social Security's Process for Financial Capability Determination*, 50 and 58; data supplied to the committee by M. Rochowiak, Office of Disability Policy, SSA, October 14, 2015.

158 SSA, [POMS GN 00502.040](#) (Baltimore: SSA, 2017).

staff to make good judgment on the value of evidence, particularly in regards to whether the examiner had limited contact with the beneficiary/recipient or is the beneficiary/recipient's medical provider.

Making a determination

FO staff must carefully evaluate all lay and medical evidence together as lay evidence may support or disprove medical evidence.¹⁵⁹ For this aspect, SSA's determination process differs from VA, OPM and Service Canada since SSA does not require medical evidence to support the final capability determination.¹⁶⁰ The committee found the necessity and independence of lay evidence to be consistent with evidence of financial performance or real-world functioning.

Measuring and evaluating the accuracy of current capability determinations

The committee was charged with evaluating SSA's capability determination process, but it did not empirically assess the accuracy or efficiency of the current capability determination process. Data are lacking on the reliability and validity of determinations. The committee stated that SSA would need to integrate robust measurement and evaluation processes into their program in order to evaluate the effectiveness of policies.¹⁶¹

Intra-agency communication

The committee highlighted significant differences in policies and procedures between third-party payee systems across the federal government. Inevitably, there are individuals receiving benefits from SSA and other agencies like the VA and OPM. The committee

acknowledged that while there are significant technological, legal and procedural challenges to data sharing, the sharing of this information could increase the likelihood of each agency's identifying potentially incapable beneficiaries. The committee highlighted OPM's use of computerized matching to analyze whether an individual receives other benefits that may affect OPM's benefit as a process government could utilize to facilitate ongoing review of capability determinations.¹⁶²

Surrogate Decision-Making or Supported Decision-Making?

In describing the conceptual model of financial capability, the committee recognized the importance of assessing the social and environmental factors of an individual to determine whether an individual can direct the management of their funds. However, the committee also identified the concept of SDM as one way to preserve an individual's financial autonomy as long as possible, or even, in some cases, to restore that autonomy.¹⁶³ SDM occurs when individuals choose trusted family members, friends, and professionals to help them understand the situations and choices they face.¹⁶⁴ SDM models incorporate three core elements: (1) the recognition of self-determination, or the right to make decisions; (2) the acknowledgement that a person's decision-making rights are not surrendered in such an arrangement; and (3) the understanding that people may sometimes need assistance through interpreters, facilitated communication, assistive technologies.¹⁶⁵

The committee recognized the SDM model as one way to maximize decisional autonomy. This option moves away from a paternalistic approach and encourages beneficiaries' expression of preferences, values and beliefs and, whenever possible, provide opportunities for independent decision-making.¹⁶⁶

159 SSA, [POMS GN 00502.030](#).

160 National Academies, [Informing Social Security's Process for Financial Capability Determination](#), 41.

161 Ibid., 162.

162 Ibid., 158-159.

163 Ibid., 92.

164 Peter Blanck and Jonathan G. Martinis. "'The Right To Make Choices': The National Resource Center for Supported Decision-Making." *Inclusion* 3, no. 1 (2015), 24.

165 Michael Bach, "[Securing Self-Determination: Building the Agenda in Canada](#)," TASH Newsletter, June/July (1998); Robert D. Dinerstein, "[Implementing Legal Capacity Under Article 12 of the UN Convention on the Rights of Persons with Disabilities: The Difficult Road from Guardianship to Supported Decision Making](#)." *Human Rights Brief* 19, no. 2 (2012), 8-12; Blanck and Martinis, "'The Right to Make Choices.'"

166 National Academies, [Informing Social Security's Process for Financial Capability Determination](#), 74-75 and 160-161.

► Appendix C. Overview of the board’s Work on the Rep Payee Program

How the Social Security Administration Can Improve its Service to the Public

In its 1999 publication, the board noted the growth in the rep payee program, specifically referencing that from 1986 to 1998, there was a 23 percent increase in OASDI beneficiaries with a rep payee and a 71 percent increase in SSI recipients with a rep payee.¹⁶⁷ This growth was attributed to an increase in both the diagnosis of “mental impairments,” and the number of children receiving SSI benefits.¹⁶⁸ The report echoed concerns raised by FO staff that were frustrated at not having the time to select the appropriate rep payee, at their inability to deal with the rep payee workload responsibility appropriately and that the agency guidelines for selecting a rep payee were poor.¹⁶⁹

SSI Statement 2002: Integrity of the SSI Program: Overpayments, Representative Payees, Stewardship

In its 2002 annual SSI statement, the board again reported complaints from FO staff that they were not given adequate time to investigate the quality and reliability of potential rep payees. The report cited the OIG’s observation that SSA was not performing basic background checks on rep payees to determine whether they have financial problems, bad credit or have been convicted of a felony.¹⁷⁰

SSA’s Obligation to Ensure that the Public’s Funds are Responsibly Collected and Expended

Another 2002 report entitled SSA’s Obligation to Ensure that the Public’s Funds are Responsibly Collected and

Expended noted areas where the agency’s work urgently needed improvement and cited the accountability of rep payees.¹⁷¹ Specifically, the report noted that OIG had found rep payees improperly collecting benefits on deceased recipients’ records¹⁷² and as a workload, it was often deferred in FOs because of other priorities.¹⁷³ The board report briefly reviewed two major cases of rep payee abuse and raised concerns about rep payee monitoring and oversight workloads being deferred in FOs.¹⁷⁴ The report acknowledged that SSA had taken initiatives to improve oversight of organizational rep payees but included a reminder to the agency of the millions of beneficiaries who rely on individual rep payees. The board encouraged SSA to devote resources to improve monitoring of all rep payees.¹⁷⁵

Disability Programs in the 21st Century: The Representative Payee Program

In a 2010 issue brief, the board examined ways to address challenges in the rep payee program. The brief noted that given the program’s size and potential vulnerability of beneficiaries/recipients that program reform should be an agency priority. The report referenced the findings from the 2007 NRC study, which indicated that the existing methods used by SSA for detecting misuse were largely ineffective.¹⁷⁶ The 2010 board report recommended that SSA establish automatic data exchange arrangements with other agencies whenever possible, noting the importance of improved data analytics. The board also pointed out in the report that information obtained by other agencies could inform SSA’s decision making and provide useful background information about potential rep payees during the selection process.¹⁷⁷

SSI statement 2014: SSI and Foster Care Programs

The board’s 2014 annual SSI statement took a closer look at the rep payee program for children in foster

167 SSAB, *How the Social Security Administration Can Improve its Service to the Public* (Washington, DC: SSAB, 1999), 41.

168 SSAB, *How the Social Security Administration Can Improve its Service to the Public*, 42.

169 Ibid., 42.

170 SSAB, *SSI Statement: Integrity of the SSI Program: Overpayments, Rep Payees, Stewardship* (Washington, DC: SSAB, 2002), 7.

171 SSAB, *SSA’s Obligation to Ensure that the Public’s Funds are Responsibly Collected and Expended* (Washington, DC: SSAB, 2002), 24.

172 Ibid., 18.

173 Ibid., 24.

174 Ibid., 24-25.

175 Ibid., 25-26.

176 SSAB, *Disability Programs in the 21st Century: The Representative Payee Program* (Washington, DC: SSAB, 2010), 4.

177 Ibid., 4.

care.¹⁷⁸ Some child advocates have criticized SSA for not following its policy in determining the best rep payee, but instead automatically assigning the state foster care agency, which would use Social Security or SSI payments to reimburse itself for the cost of care.¹⁷⁹ The 2014 statement recommended that SSA conduct a comprehensive review of the rep payee program as it relates to serving children in foster care in the most effective way possible.

SSI Statement 2016: A New Approach to Rep Payees for Adult SSI Recipients

The board's 2016 annual SSI statement continued to focus on rep payee issues; it discussed the need for a more nuanced program that coordinates a person's needs with the assistance provided – a departure from the current system's all-or-nothing approach.¹⁸⁰ The 2016 statement raised several issues with the arbitrary manner by which SSA determines if a beneficiary/recipient needs a rep payee; it noted that there are no stipulated rules to determine when an individual is unable to manage their own benefits. Rep payee assignment is not clearly based on diagnosis and there is no procedure in place to re-evaluate beneficiaries' changing competency status.¹⁸¹

Representative Payees: A Call to Action

In the 2016 *Call to Action*, the board acknowledged that SSA had taken important steps to create a predictive model to target cases with a higher risk of misuse. However, the board was concerned that the agency was not able to conduct enough site reviews to accurately assess how that model is performing.¹⁸² In making its recommendations, the board acknowledged that increasing oversight would also impose a greater burden on rep payees. Since this might result in discouraging individuals from becoming rep payees, this added burden must be balanced against the benefits of added accountability.¹⁸³

► Appendix D. Synopsis of the board's March 2017 forum – *Joining Forces to Improve the Rep Payee Program*

(Note: The ideas of the speakers reflect their own views and do not reflect any endorsement of those ideas by the board)

On March 27, 2017, the board hosted a public forum to bring together organizational payees, advocacy groups, academics, researchers, SSA employees and government agencies to discuss SSA's rep payee program. Our most vulnerable citizens depend on rep payees to manage Social Security benefits and payments to meet their basic needs. This forum highlighted concerns surrounding the selection, administration and monitoring of this vital program.

Approximately 130 attendees provided insights and exchanged views at the forum. Each session was structured to encourage dynamic interactions among presenters, moderators and participants. This document reflects the main themes of the discussion and summarizes key ideas, major challenges and potential recommendations that were identified during the event.

Introduction and opening remarks

Henry J. Aaron, Chair, SSAB; Bruce and Virginia MacLaury Senior Fellow, Economic Studies Program, the Brookings Institution

Opening Remarks

The Honorable Sam Johnson, Chairman, House Ways and Means Subcommittee on Social Security

Aaron commenced the forum by welcoming attendees. He introduced a video of Johnson, who stated his support of raising awareness of the rep payee program. Johnson said that when Social Security decides someone needs a rep payee, the agency needs to get the decision right because it has real consequences. He also highlighted the need to work with other organizations, such as state courts, that need to make similar decisions. Finally, he stressed the importance of monitoring rep payees

178 SSAB, *SSI Statement: SSI and Foster Care Programs*.

179 Ibid., 6.

180 SSAB, *SSI Statement: A New Approach to Rep Payees for Adult SSI Recipients*.

181 SSAB, *SSI Statement: A New Approach to Rep Payees for Adult SSI Recipients*, 2.

182 SSAB, *Representative Payees: A Call to Action*, 6.

183 Ibid., 2.

and cited the Linda Weston case. Johnson conveyed Congress' concern and highlighted joint hearings of the House Ways and Means Subcommittees on Social Security and Oversight, which addressed: how the rep payee program is working, what SSA is doing to improve the program and whether there are changes that Congress should codify to ensure SSA is providing the services that Americans expect and deserve. Johnson then described his request to SSA for a report to Congress that addressed the main themes from the hearings: examining challenges of the representative payee program; describing changes the agency is making and specifying any legislative changes necessary to assist with SSA's ongoing efforts. Johnson thanked the board for holding the forum, stating "We all need to work together to make sure the rep payee program meets today's challenges. It's too important to not get it right."

Remarks

Henry J. Aaron

Aaron followed with his own remarks, which were personal and should not be perceived as representative of the board's position. He raised eight issues with the representative payee program:

1. Currently, there is no assistance given to people before a rep payee is appointed. Retaining autonomy should be the first priority; the appointment of a payee should not be an on/off decision.
2. The process for appointing payees works better for some classes of beneficiaries (such as children with parents serving as rep payees) than others. A conflict of interest occurs when children are in foster care and the state becomes the payee. Finally, there is no way to identify if a payee is needed later in life once a beneficiary is on SSA's roles.
3. Payee selection is based on a preference list. However, SSA does not apply this rule consistently.
4. Being a rep payee is a huge responsibility, yet SSA provides little training.
5. Rep payee monitoring is negligible; the current process is costly and ineffective in identifying poorly performing payees.
6. The system for on-site review is too infrequent to be adequate.
7. SSA may not be running the rep payee system as well as it could under current law. Processes may

differ from office to office and there is no staff dedicated to the rep payee workload.

8. SSA is not a social services agency. Its primary job is to pay the right person the right benefit at the right time. Is SSA the right agency to administer the rep payee program?

Panel One: Sounding the Alarm

Moderator - Henry J. Aaron

Adult Old-Age, Survivors and Disability Insurance Beneficiaries and SSI Recipients Who Need Rep Payees: Projections for 2025 and 2035

Robert Weathers, Supervisory Economist, Office of the Chief Actuary, SSA

Cognitive Decline and Financial Decision Making in Old Age

Duke Han, Diplomate, American Board of Professional Psychology; Director of Neuropsychology, Department of Family Medicine, and Associate Professor of Family Medicine, Neurology, Psychology, and Gerontology, Keck School of Medicine, University of Southern California

This panel made the case for timely reform by foreshadowing the future need for rep payees due to demographic changes and the declining health of older adults. Changes in the size and composition of the beneficiary population may pose significant challenges for SSA's administration of its rep payee workload.

According to Weathers, the number of adults who need a rep payee is projected to increase from 2.94 million in 2013 to 3.27 million by 2025 and then to 3.56 million by 2035. This projected increase is driven initially by growth in the retired-worker beneficiary population and subsequently by growth of the 85-or-older age group.

Han stated that older adults hold approximately one-third of the nation's wealth – a proportion that is expected to increase. Han's presentation imparted that many older adults, however, do not make good financial decisions. This is not entirely due to cognitive factors and some people with mild cognitive impairments make sound financial decisions. Han stressed that there are other factors, like emotional functions, that also have an impact and should be considered when assessing the need for a rep payee, such as: loneliness, a decline in

social networks and major life changes. Han's research indicates that financial decision making should be viewed as a complex interaction of cognitive, affective, and contextual factors.

Remarks

Kathryn Olson, Democratic Staff Director, House Ways and Means Subcommittee on Social Security

Olson, who spoke on behalf of the Honorable John Larson, ranking member on the House Ways and Means Subcommittee on Social Security, provided closing remarks. Olson emphasized the bipartisan support that exists to improve the rep payee program. She stressed the need to strengthen the algorithm and predictive model used to select organizational payees for review. Olson also voiced her interest in revisiting SSA's work with advocates, namely those associated with the protection and advocacy system (P&A). In 2009, SSA worked with P&As to conduct additional discretionary reviews. P&As were more knowledgeable in selecting organizations because of their ties to the community. SSA's predictive model and the P&As complimented each other.

Olson posed a few questions for consideration:

1. What is the best way to monitor? Should it be one size fits all? What skills are necessary to conduct these reviews?
2. What about children and beneficiaries who have family members as payees? Should there be a different set of rules or a different system for them? The current annual accounting process is not effective, so what is the alternative?
3. Is SSA selecting the right payee?
4. What about data-sharing surrounding allegations/findings of misuse? How is information shared and what is the privacy trade-offs?
5. How does SSA accommodate those who age into needing assistance? Is representative payment the best model? What about advanced designation? How could we protect the elderly from coercion and what would SSA's oversight role be?
6. Given the budget cuts the agency has sustained, how can SSA expand its role with rep payees?

Olson concluded by stating that the agency has lost 10 percent of its core operating budget since 2010. According to Olson, this lack of funding has affected

agency services and has contributed to larger backlogs. Resource constraints limit SSA's ability to administer their entire program, not just the rep payee workload.

Panel Two: Identifying Who Needs a Rep Payee

Moderator – *Bernadette Franks-Ongoy*, Board Member, SSAB; Executive Director, Disability Rights Montana

Cognitive Impairment and Social Security's Rep Payee Program

Geoffrey T. Sanzenbacher, Research Economist, Center for Retirement Research at Boston College

Informing Social Security's Process for Financial Capability Determination

Paul S. Appelbaum, Elizabeth K. Dollard Professor of Psychiatry, Medicine, and Law, and Director, Division of Law, Ethics, and Psychiatry, Department of Psychiatry, College of Physicians and Surgeons, Columbia University

Panelist

Ari Ne'eman, Chief Executive Officer, MySupport.com; Policy Consultant, American Civil Liberties Union

This panel addressed how a beneficiary's financial capability is evaluated, how changes in capability are addressed and assessment of the validity of SSA's determinations, with the underlying understanding that beneficiary autonomy ought to be maintained, when possible.

Sanzenbacher suggested that beneficiaries should maintain autonomy as long as possible, but that SSA must monitor them to ensure benefits are spent in their best interest. Based on his research, Sanzenbacher stated that: most individuals with dementia have either a rep payee or some other form of help; those with less education and those with no children nearby are more likely to need a payee. Life events may trigger the need for additional support and the rep payee program serves an important role as assistance of last resort.

SSA commissioned the National Academies to evaluate the agency's process for capability determination, compare processes to similar benefit programs and provide recommendations to the agency for improved accuracy and efficiency. Appelbaum chaired this

committee and spoke to the key recommendations for SSA:

1. Provide detailed guidance to professional and lay informants regarding the information SSA would find most helpful for making capability determinations.
2. Create a data-driven process to support the development of approaches, including screening criteria for identifying people who are high risk for financial incapability.
3. Ensure intra-agency communication regarding capability determinations within its different programs. SSA should collaborate with other relevant federal agencies to identify incapable beneficiaries who are receiving benefits from more than one agency and explore mechanisms to facilitate ongoing inter-agency communication regarding their capability.
4. Develop systematic mechanisms for recognizing and responding to changes in capability over time.
5. Implement a demonstration project to evaluate the efficacy of a supervised direct payment option for qualified beneficiaries.
6. Develop and implement an ongoing measurement and evaluation policies and procedures for identifying beneficiaries who are incapable of managing or directing the management of their benefits.

Ne’eman’s advocacy has focused on the autonomy of non-elderly people. He discussed his support for bringing an SDM model to SSA. He suggested establishing a continuum of decision-making support which would allow individuals to exercise legal decision making, but also grant individuals access to help as needed and the right to terminate the support arrangement.

Ne’eman explained that there is a distinction between SDM as a service versus a legal arrangement. As a service, SDM involves a state government agency or a well-structured system of volunteers (who may be service providers) that are available upon request to assist individuals with disabilities. This system typically requires some degree of government funding to implement. Conflicts can exist if the supporter is affiliated with a service provider that is paid for services to the beneficiary. On the other hand, as a legal arrangement, SDM does not involve compensation to the supporter and typically requires an individual to select family or friends willing to provide uncompensated support services. SDM as a legal arrangement is the most common structure. Texas and Delaware both have created SDM

legal arrangements. Ne’eman recommended that if SSA conducts an SDM pilot, the pilot should be based as a legal arrangement.

Panel Three: Perspectives from the Front Line

Moderator – *Bernadette Franks-Ongoy*

Panelist

Ed Doonan, Chairman, National Association of Organizational Representative Payees (NAORP); Government Affairs Liaison, Benefits Management Corporation/Living in Familiar Environments

Bread for the City Rep Payee Program

Susanne Horn, Rep Payee Program Manager, Bread for the City

Panelist

Lawrence L. Sharp, III, Chief Executive Officer and Founder, SMILE Payee Services and Using Money Wisely

This panel brought together organizational payees who assist beneficiaries with managing their benefits. During this discussion, panelists provided insight on their organizations, interactions with SSA and recommendations on how to improve processes and relations with their clients and with SSA.

Doonan gave a description of the services offered by his organization and then he presented recommendations on behalf of NAORP that SSA should: establish an Office of Fiduciary Services to deal with all rep payee issues; conduct a study to raise the SSI resource limit; develop policies and procedures that differentiate individual and organizational rep payees; recruit more nonprofit community-based organizations to serve as rep payees; and expand the use of “lay” evidence for capability determination, particularly when evaluating a homeless SSI recipient. Additionally, Doonan recommended that FFS and nonprofit community-based organizations be given more priority in the rep payee selection process due to the fact that they have vetted employees and comprehensive fiduciary insurance.

Horn spoke of her responsibilities as a program manager. She agreed with Doonan on increasing the \$2000 resource limit. This change, as well as others in SSA policies and procedures, would support the ability of beneficiaries to remain in their communities with or without the assistance of rep payees. Horn went on to

identify specific issues her organization faces with the rep payee program. She stated that SSA should recognize the advantages of dedicated staff to support the mission of the rep payee program and similar efforts. Effectively, dedicated staff would lower the burden on FOs by reducing the frequency of initial and follow-up visits from beneficiaries. Horn also advocated for SSA to develop new online resources for organizational payees. This would reduce the burden on SSA staff and also increase the capacity among organizational payees to serve more clients.

Sharp began by crediting the local SSA FO for his organization's ability to perform successfully as a rep payee. Sharp echoed the concern that organizational payees are entrusted with managing beneficiaries' money, yet they cannot access mySocial Security accounts online. Sharp agreed that SSA should expand online resources. He also expressed apprehension that SSA, upon receiving a beneficiary complaint, often does not contact the rep payee before making changes to their status.

Panel Four: Monitoring Rep Payee Performance

Moderator – *Kim Hildred*, Board Member, SSAB; and President, Hildred Consulting, LLC

Strengthening the Rep Payee Program

Eric Ice, Director, Office of Representative Payee and Due Process Policy, Office of Income Security Programs, SSA

Minnesota's Online System for Conservators: MyMNConservator

Cate Boyko, Manager, Minnesota Judicial Branch Statewide Conservator Account Auditing Program

National Disability Rights Network Representative Payee Monitoring Initiative

Curt L. Decker, Executive Director, NDRN

Panelist

Jim Klein, Director, San Francisco Audit Division, OIG, SSA

This panel brought together individuals with insight on monitoring of rep payees; those individuals offered suggestions for improving SSA's processes and policies.

Ice highlighted SSA's accomplishments in strengthening their monitoring process, which included a redesign of the onsite monitoring program. Ice stated that the new program will increase the oversight of payees by using a trained and skilled contractor to conduct all site reviews. SSA will also form a centralized monitoring team to provide effective oversight of the program and construct a rep payee monitoring control database to house information.

Boyko focused on the state of Minnesota, which she characterizes as a prime example of how courts can provide sufficient oversight for growing populations of vulnerable people. In fact, the state court is one of only a few courts that know how much money is under its jurisdiction. The Minnesota judicial branch developed a multipronged approach to ensure sufficient oversight of those under conservatorship. This approach includes background checks, online training, auditing of accountings and court hearings to address audit findings. Boyko explained how the state tracks and audits conservator transactions to minimize fraud and misuse.

Decker shared NDRN's experience conducting rep payee reviews. In 2009, SSA contracted with NDRN and a national network of P&As to conduct reviews of organizational rep payees. P&As advocate for protecting the rights of individuals with disabilities and have extensive experience in monitoring as well as investigating allegations of abuse and neglect of individuals with disabilities.

Between fiscal years 2009 and 2016, the P&A network completed over 4,000 payee monitoring reviews and interviewed over 19,700 beneficiaries. P&As also initiated "wild card reviews" where they identified rep payees who were not selected by SSA's predictive modelling for additional review. Wild card reviews were chosen based on P&A experience working with beneficiaries, knowledge of payees in their states and relationships within their communities. These selections proved to be more accurate, according to Decker: wild card reviews detected problems in 84 percent of the selected payees, compared to the algorithm and predictive model which detected problems in 65 percent of the selected payees.

Klein offered his perspective as an OIG auditor on rep payee monitoring and reviews. SSA uses information from these audits to identify frequent problems and to develop and target policies and procedures needed to resolve the issues. Since 2000, OIG has increased both their oversight of SSA's monitoring of rep payees and the number of rep payee investigations conducted due to high-profile fraud cases and congressional concern.

Before expounding on the issues, Mr. Klein offered the caveat that OIG typically reviews the worst cases.

Common negative findings from OIG's audits include:

- ◆ Receipts for beneficiary expenditures are not maintained
- ◆ Beneficiary payments are comingled with operating funds
- ◆ Unallowable rep payee fees are present
- ◆ Bond amounts are insufficient
- ◆ Payees act as conduits by giving funds to beneficiaries, but do not ensure funds are spent judiciously
- ◆ Rep payees fail to report when beneficiaries leave or other changes in circumstances
- ◆ Individuals manage funds for beneficiaries, but are not designated the rep payee
- ◆ SSA is unaware the beneficiary is incapable
- ◆ Incidents involving misuse of funds are not reported
- ◆ Rep payees are not returning conserved funds to SSA or to a new payee
- ◆ SSI resource limits are imprecisely monitored

During OIG's site reviews, auditors often observe that: underpayments are spent on improper purchases; there is no recovery or reissuance of misused funds by SSA or no explanation as to why rep payees who committed misuse were allowed to remain as payee; misuse is not always reported to OIG; there are insufficient bond amounts or incorrect titling of bonds (SSA not named as a lost party) and no documentation of recertification to ensure bonds remained current.

Klein closed by accentuating another issue uncovered during audits: foster children. OIG reviewed five states and their foster care agencies. When children are in foster care, the foster care agency should be the payee. Often, the previous guardian did not report the change in custody and remained the payee, which signals a very high likelihood of misuse of funds. States have a vehicle to access SSA records and identify children in their care who are beneficiaries, but are not utilizing it uniformly. Mr. Klein recommended that SSA be more proactive in educating states to minimize these cases.

Panel Five: The Way Forward

Moderator – *Kim Hildred*

Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS)-SSA Collaboration

Sally Balch Hurme, Member, National Guardianship Association Board of Directors

State Guardianship Laws and Judicial Practices,

Matthew Lee Wiener, Vice Chairman and Executive Director, ACUS

Panelist

Nyree Ryder Tee, Assistant Director, Education, Workforce, and Income Security, GAO

Panelist

Gale Stallworth Stone, Acting Inspector General, OIG, SSA

This panel considered ideas that would increase communication and collaboration with entities that have similar functions to SSA's rep payee program.

Hurme described the collaboration between SSA and WINGS. WINGS is a court-community partnership whose function is to curtail abuse and put effective guardianship practices in place. The program operates in 17 states; SSA designated regional representatives for each state. The primary goal of this collaboration is to lay groundwork for increased communication and data sharing between state courts and SSA.

Hurme described the 2011 GAO report that revealed gaps in information sharing and demonstrated how this adversely affects incapacitated adults who are vulnerable to financial exploitation by fiduciaries and guardians. If a rep payee is misusing benefits and is also a court-appointed guardian, it is highly likely that other assets are at risk. Conversely, if a guardian is sanctioned or removed by a court for cause and that individual is also serving as a rep payee, SSA should be informed of potential fraud or misuse. Hurme further explained that as the population ages and the number of incapacitated adults grow, agencies and state courts must find better ways to share information to protect these adults from financial exploitation. Hurme stressed that SSA has information that could help state courts avoid appointing individuals with a history of misuse

and also provide state courts with potential candidates for guardianship when there are no clear options.

Wiener summarized a study conducted by ACUS on state guardianship laws and practices which was requested by SSA. In carrying out this study, ACUS was tasked with conducting: legal research to catalog the guardianship laws and the practices on all 50 states; a survey to capture information on state guardianship procedures and practices and interviews with guardianship and foster care agencies to evaluate their practices and identify the challenges they face. The report found that it is difficult for guardians to obtain information from local SSA FOs because of the absence of a national policy, especially regarding when and how to apply for benefits. The study also found that there are barriers to information sharing among stakeholders due to the decentralized recordkeeping practices of courts, state agencies and private organizations. For example, there is no national database containing information on incapacitated persons, their guardian and re payee status or disciplinary records on guardians. Wiener concluded by stressing the need for information sharing between SSA and state court systems to allow both to carry out their functions and objectives – a collaboration that would require congressional action.

Ryder Tee started her presentation by referring to findings in a 2013 GAO report on the rep program, as well as some broader work on elder justice programs. GAO’s report generally covered day-to-day challenges for SSA in three areas—identifying, selecting and monitoring payees. GAO had several recommendations for a long-term plan and strategy for SSA:

- ◆ increase the pool of rep payees by developing and certifying a list of readily available payees
- ◆ allow more organizations to collect fees or increase fees
- ◆ reduce monitoring of certain payees (for example, custodial parents) to free up resources for more targeted monitoring and enhance coordination with entities that provide similar services like adult protective service agencies, courts and social services agencies.

Ryder Tee acknowledged that since the report, SSA has taken action to implement some of the recommendations, such as forming an intra-agency strategic team to conduct a comprehensive review of the rep payee program and develop a plan for implementation.

Stallworth Stone expressed the need to strike a balance between the rights of a beneficiary for self determination and the requirement for SSA to monitor the way benefits are used. She cited a recent OIG audit report that showed SSA does not follow its current mandates, such as recording rep payee Social Security numbers and developing automation that retains complete and accurate information to ensure policy compliance. For example, SSA systems should prevent a deceased person from continuing to be a rep payee or someone who has a payee to be a payee for another beneficiary. The report also indicated that SSA did not document a capability determination for almost half of their beneficiaries. Capability determinations or decisions on whether a beneficiary can manage or direct the management of his/her benefits should be on record for all beneficiaries.

Stone said that OIG audits have also identified beneficiaries in need of payees. Medical statistics indicate about 50 percent of people over 85 might suffer from Alzheimer’s disease or dementia and possibly need financial assistance. There are about five million beneficiaries over age 85, but only about five percent of those people had payees and there is a population of disabled beneficiaries with mental impairments who do not have payees.

Stone established that oversight of the program presents a unique challenge for SSA. OIG recommends that SSA could identify beneficiaries potentially in need of payees by: analyzing agency data and trends; increasing program awareness through public outreach, like targeted mailings and proactively alerting beneficiaries and their family about the program.

Closing remarks

Henry J. Aaron

Aaron ended the forum by complimenting SSA on administering this enormous task with limited funding. In conclusion, Aaron identified two broad categories that the board could address: How the program might run better under the current statute; and how the program could be improved through statutory modification. Aaron stressed that statutory changes should address how to integrate the concept of SDM, given the importance of exercising extreme care when deciding to remove a person’s personal autonomy.

► Appendix E. Rep payee chart collection

With this report’s release, an interactive chart collection has been simultaneously published on the board’s website. The chart collection first highlights data related to the administration of the program and then emphasizes the growing need for rep payees in the future.

At its core, there are 12 interactive charts; however, many of the charts are dynamic and allow users to dictate the parameters of a figure by selecting a particular age group or program. In total, users can view 31 different figures that reflect their choices.

The chart collection shows the size and share of rep payee appointment across programs and within programs – by examining each eligibility category. It also illustrates the interaction between aging and rep payee appointment. One chart displays the distribution of relationships between payees and beneficiaries/recipients. The final charts display the growth of the rep payee program over the past 30 years and illustrate how demographic changes will exacerbate the need for rep payees in the future.

Rep payee chart collection

<http://ssab.gov/Details-Page/ArticleID/1238/IsPreview/true/Representative-Payee-Charts>

► Appendix F. Relevant SSA rep payee forms

- ◆ Form SSA-11-BK
Application to become a Representative Payee
- ◆ Form SSA-6230-F6
Annual accounting form for parents, step-parents and grandparents of minor children
- ◆ Form SSA-6234-F6
Annual accounting form for organizational payees
- ◆ Form SSA-623-F6
Annual accounting form for all other payee types

Application to become a Representative Payee (Form SSA-11-BK)

SOCIAL SECURITY ADMINISTRATION	TOE 250	Form Approved OMB No. 0980-0014							
REQUEST TO BE SELECTED AS PAYEE	FOR SSA USE ONLY								FOR SSA USE ONLY
	Name or Bene. Sym.	Program	Date of Birth	Type	Odn.	Cus.	Inst.	Nam.	
									DISTRICT OFFICE CODE
									STATE AND COUNTY CODE:
PRINT IN INK:									
The name of the NUMBER HOLDER									SOCIAL SECURITY NUMBER
The name of the PERSON(S) (if different from above) for whom you are filing (the "claimant(s)")									SOCIAL SECURITY NUMBER(S)
Answer item 1 ONLY if you are the claimant and want your benefits paid directly to you.									
1. I request that I be paid directly.									
CHECK HERE <input type="checkbox"/> and answer only items 3, 5, 6, and 8 before signing the form on page 4.									
I REQUEST THAT THE SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, OR SPECIAL VETERANS BENEFITS FOR THE CLAIMANT(S) NAMED ABOVE BE PAID TO ME AS REPRESENTATIVE PAYEE.									
2. Explain why you think the claimant is not able to handle his/her own benefits. (In your answer, describe how he/she manages any money he/she receives now.)									
<input type="checkbox"/> Claimant is a minor child.									
3. Explain why you would be the best representative payee. (Use Remarks if you need more space.)									
4. If you are appointed payee, how will you know about the claimant's needs?									
<input type="checkbox"/> Live with me or in the institution I represent.									
<input type="checkbox"/> Daily visits.									
<input type="checkbox"/> Visits at least once a week.									
<input type="checkbox"/> By other means. Explain:									
5. Does the claimant have a court-appointed legal guardian/conservator? <input type="checkbox"/> YES <input type="checkbox"/> NO									
IF YES, enter the legal guardian/conservator's:									
NAME _____									
ADDRESS _____									
PHONE NUMBER _____									
TITLE _____									
DATE OF APPOINTMENT _____									
Explain the circumstances of the appointment. (Use remarks if you need more space.)									

Social Security Administration

Representative Payee Report

Why You Received This Form

We must regularly review how representative payees, including parents, stepparents, and grandparents with custody of minor children, used the benefits they received on behalf of the Social Security and/or Supplemental Security Income (SSI) beneficiaries. We do this to ensure the benefits are used properly. When you were appointed representative payee, you were informed of the duties and responsibilities of a representative payee, including keeping records and reporting on the use of benefits.

What You Need To Do

You must report to SSA on your use of benefits if you received any Social Security and/or SSI payments during the 12 month period shown on the enclosed form. You must do this if you wish to continue receiving benefits on behalf of another person. You should use the records you have saved to answer the questions on the enclosed form. The name(s) of the child(ren) we are asking about are shown in item 3 on the form. If you receive benefits for children not named in item 3, we will send you another form. **Use this form only for the child(ren) named in item 3.**

You may submit this form online via www.ssa.gov/payee. Please follow the instructions for Internet Payee Accounting Report. If you complete the form online, you will be able to print a receipt and a copy of your report. If you report online, you should have all your records and the enclosed form handy to help you answer the questions. You should not send in a paper form if you complete the online version.

Any records you have saved such as bank statements, cancelled checks, receipts for rent, etc., should be kept for two years from the time you file your report with SSA. You should not send in any of these records with your report form. If we have any questions or require proof, we will contact you.

General Instructions

Please read these instructions before you complete the enclosed report form or submit your report online. You should either complete and return the report form or submit the online report, within 30 days.

To help us process your report, please follow these instructions:

1. Use black ink.
2. Keep your numbers and "X's" inside the boxes.
3. Do not use dollar signs.
4. Show money amounts in dollars only. Do not show cents.

For example, show \$1,540.30 like this:

DOLLAR AMOUNT

		1	,	5	4	0
--	--	---	---	---	---	---

5. Use the REMARKS section on the back of the form to provide additional information as requested.
6. Review the payee mailing address and correct if necessary. If you change the payee mailing address to a P.O. Box, show the payee's actual physical address in REMARKS.
7. Be sure you, the representative payee, sign the form.

Social Security Administration Representative Payee Report

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7. Print job title in the boxes provided using capital letters.
For example, print "Administrator" like this:

A	D	M	I	N	I	S	T	R	A	T	O	R
---	---	---	---	---	---	---	---	---	---	---	---	---

8. Be sure you, the representative payee, sign the form.

Social Security Administration Representative Payee Report

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7. **Be sure you, the representative payee, sign the form.**

Acknowledgements

Hundreds of hours have gone into the study of the rep payee program over the past two and a half years, by current and former board members, as well as the board's staff, SSA detailees, summer interns, and fellows. The board gives special thanks to the staff who participated in ensuring completion of this project, including, Claire Green, Staff Director; and in alphabetical order, Diane Brandt, Senior Advisor, Bethel Dejene, Management Analyst, Conway Reinders, Policy Analyst, and Caitlyn Tateishi, Management Analyst.

Additionally, the board would like to acknowledge SSA executives, congressional staff, advocacy groups, academics, stakeholders, and others who met with board members and/or staff and offered insight and proposed solutions as the board undertook an exhaustive review of the rep payee program. Special thanks to the SSA staff that met with the board, provided data and answered questions, and NCSSMA who provided tremendous insight into the process and proposals for change.

Social Security Advisory Board

The Social Security Advisory Board (board) is a bipartisan, independent federal government agency established in the Social Security Independence and Program Improvements Act of 1994 to advise the president, the Congress and the Commissioner of Social Security on matters of policy and administration of the Old-Age, Survivors and Disability Insurance and the Supplemental Security Income programs. Members of the board are appointed by the president, the Senate and the House of Representatives.

Kim Hildred, Chair

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Nancy J. Altman • Jagadeesh Gokhale • Bernadette Franks-Ongoy

