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Subcommittee on Oversight**



Statement for the Record

Examining the Social Security Administration's
Representative Payee Program:
Determining Who Needs Help

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Good morning Chairman Johnson, Chairman Buchanan, Ranking Member Larson, Ranking Member Lewis, and members of both subcommittees. Thank you for the invitation to testify today, to discuss the Social Security Administration's (SSA) representative payee program and the agency's beneficiary capability and determination process. It is my pleasure to appear before the 115th Congress and both subcommittees and discuss this vital program.

Some of our most vulnerable citizens—including the young, aged, and disabled—depend on representative payees to receive and manage their Social Security benefits to cover their basic needs and expenses. SSA places its trust in representative payees to manage these payments on behalf of beneficiaries. The Office of the Inspector General (OIG) is committed to overseeing how SSA administers the representative payee program; it is critically important that SSA identify beneficiaries in need of representative payees and appoint trusted individuals to manage their Social Security benefits. My statement will focus on: 1) the many representative-payee-related reviews we have conducted over the years, 2) the recommendations we have made to help SSA improve the capability decision process and identify beneficiaries in need of representative payees, and 3) SSA's responses to our recommendations and the agency's corrective actions.

Determining Beneficiary Capability

SSA currently has about 6.2 million representative payees managing benefits for about 8 million beneficiaries. A representative payee may be an individual or an organization. According to SSA policy, the agency presumes that all adult beneficiaries are capable of managing or directing the management of their benefits unless there are indicators or evidence to the contrary.¹ When SSA learns a beneficiary has a mental or physical impairment that may prevent him or her from managing or directing the management of benefits, it must make a capability determination and decide whether representative or direct payment is in the beneficiary's best interest.

SSA customer service representatives or claims specialists make capability determinations in SSA field offices. SSA staff that make a capability determination must obtain and evaluate evidence from medical providers, family, friends, and other knowledgeable sources. After making a determination, staff must document the decision—whether the beneficiary needs a representative payee—in SSA's Electronic Representative Payee System (eRPS).² Generally, supervisors are not required to approve representative payee determinations.

SSA does not have a schedule to re-evaluate beneficiary capability; however, SSA may evaluate capability during a continuing disability review (CDR) for disabled beneficiaries. SSA may also evaluate capability when it contacts aged beneficiaries to verify they are alive through its Centenarian and Medicare Non-Utilization projects.³ SSA instructs staff to be mindful to changes in circumstances

¹ A representative payee may be needed if the beneficiary has difficulty answering questions, obtaining information necessary for the claim, understanding explanations, or understanding information that needs to be reported to SSA.

² Lay evidence can include direct observation during a face-to-face interview and signed statements from individuals applying to be an individual's representative payee. Although preferred, SSA does not require a face-to-face meeting between an employee and a claimant to determine his or her capability to manage funds. Medical evidence must be based on an examination within the last year.

that may indicate a capability determination is necessary, and agency policy is to re-evaluate a beneficiary's capability when staff receives a valid request for a new determination. Situations in which SSA must consider reviewing capability include:

- CDRs;
- Supplemental Security Income (SSI) redeterminations;
- discovery that a beneficiary manages any other benefit(s) to which he or she may be entitled;
- beneficiary appeal of the appointment of a payee; and
- any other contact with the beneficiary or payee that raises questions about beneficiary capability.

SSA provides initial and ongoing training on representative payee determinations to its employees; it is part of required customer service representative and claims specialist training for entry-level employees and those promoted internally. The initial training consists of at least 40 hours of classroom and on-the-job work and covers all representative payee actions, including determining whether an individual needs a representative payee, evaluating the evidence required to support the determination, and interviewing a representative payee. The training also focuses on documenting the determination and selecting the representative payee in SSA's information systems. The agency conducts periodic refresher training on capability determinations and maintains various representative-payee related training materials on its Intranet site that SSA employees can access anytime.

Improving Capability Determinations

As I noted, according to SSA policy, when there is an indication that a beneficiary's capability has changed, SSA must develop the necessary evidence to make a capability determination and document that decision in eRPS.

As far back as 2004, we reported examples in which SSA did not document capability when there was an indication that the beneficiary could not manage or direct the management of his or her benefits. In that report, we recommended SSA take all feasible steps to ensure vulnerable individuals have representative payees.⁴ However, within the last year alone, our audits have identified several needed improvements with SSA's capability determination processes.

Capability Determinations Not Always Documented

SSA needs to improve controls to ensure it makes and documents all capability determinations. As one of our recent reviews found, in many cases when a capability determination should have occurred, SSA did not document the decision in its electronic systems.

Specifically, in our December 2016 review, we identified about 100,000 disabled beneficiaries who had a mental impairment, previously had a representative payee, but were now receiving direct payments from SSA.

³ Through the Centenarian Project, SSA contacts beneficiaries who are at or near age 100, or the beneficiaries' representative payees, to verify the beneficiary is alive. Through the Medicare Non-Utilization Project, SSA compares its records to data from the Centers for Medicare & Medicaid Services to identify beneficiaries over 90 who have not used Medicare for more than three years, and contacts those beneficiaries to verify they are alive.

⁴ SSA OIG, [The Social Security Administration's Representative Payee Selection Process](#), May 2004.

Based on our review of a sample of these beneficiaries, we estimated SSA lacked a capability determination for 44,000 disabled beneficiaries who had a representative payee but later received direct payment.

If these beneficiaries were incapable, SSA should not have paid them an estimated \$2.8 billion in direct payments; however, if they were capable and SSA simply did not document its capability determinations, the payments to these beneficiaries would have been proper. SSA's determination of these beneficiaries' capability is particularly essential given that the agency previously determined they needed a representative payee and could not manage their benefits. We recommended that SSA obtain evidence of capability and make capability determinations for the beneficiaries identified by our audit.

To prevent this from occurring again, we also recommended that SSA improve controls to ensure agency employees document their capability determinations. For example, SSA could improve controls by requiring a second review and approval of capability determinations, or by establishing a systems alert to ensure employees document their capability determinations. SSA agreed with our recommendations,⁵ but it has not reported whether it implemented them in the two months since we issued our report.⁵

Beneficiaries Receive Direct Payments for One Benefit, Representative Payments for Other Benefit

If a beneficiary is entitled to benefits under the Old-Age, Survivors and Disability Insurance (OASDI) program and the SSI program and is determined incapable, SSA employees should appoint a representative payee for both benefits. Conversely, if a beneficiary is capable, SSA should issue both benefits directly to the beneficiary.

However, in a May 2016 report, we found that for some beneficiaries who were entitled to OASDI and SSI, SSA improperly issued one payment directly to a beneficiary and one payment to a representative payee. In this review, we estimated that 11,000 beneficiaries received approximately \$78 million in direct payments for one of their benefits, and a representative payee received about \$137 million for their other benefit.

This occurred because SSA employees did not correct payment discrepancies when they processed initial benefit awards, and they did not use eRPS, when required, for representative payee actions. We also found that SSA's systems did not produce alerts to identify these payment discrepancies.

To address our findings, we recommended that SSA assess whether it should develop a systems alert and conduct payment-record matches to identify and correct these payment discrepancies. SSA agreed with our recommendations and stated that it is discussing a possible solution to address this issue.⁶

Further, I should note this was the fourth audit since 2006 that the OIG has conducted related to this issue, in which we identified these conditions. In each of our subsequent audits, we found that SSA took

⁵ SSA OIG, [*Disabled Beneficiaries Receiving Direct Payments Who Previously Had a Representative Payee*](#), December 2016.

⁶ SSA OIG, [*Concurrently Entitled Beneficiaries Receiving Representative Payee and Direct Payments*](#), May 2016.

corrective actions for the population of beneficiaries we identified, but the agency did not implement appropriate controls to prevent these payment discrepancies from occurring again.

Incapable Beneficiaries Selected to Serve as Representative Payees

We also reported that beneficiaries that SSA determined were incapable of managing their own benefits were serving as representative payees for other beneficiaries. In an August 2016 review, we estimated that SSA paid \$6.3 million to about 400 incapable beneficiaries who were serving as representative payees for other beneficiaries.

This occurred because SSA employees incorrectly selected incapable beneficiaries as representative payees, and SSA's systems did not always produce alerts when needed. Also, SSA did not always stop beneficiaries from serving as representative payees when it determined they were no longer capable of managing their own benefits.

To address our findings, we recommended that SSA take appropriate action for the incapable beneficiaries identified by our audit. We also recommended that SSA determine if it should develop additional systems controls to prevent incapable beneficiaries from serving as representative payees. SSA agreed with our recommendations and reported that it took corrective action for the beneficiaries in our sample, but it has not completed its review of the larger population of incapable beneficiaries identified by our audit. Finally, SSA stated after it completes its evaluation of the beneficiary cases, it would determine the need for additional systems controls and enhancements.⁷

Benefits Withheld from Presumed Capable Beneficiaries

We have also found that SSA did not always pay beneficiaries who no longer required a representative payee that the agency presumed were capable of managing their benefits. In this September 2016 review, we found that SSA did not pay about \$9.2 million in benefits to an estimated 6,600 child beneficiaries when they attained age 18 and no longer required a representative payee.

This occurred because 1) SSA did not generate a systems alert to identify beneficiaries who should be paid withheld benefits, and 2) employees did not pay withheld benefits when they selected a representative payee or made direct payments to child beneficiaries over age 18.

To address our findings, we recommended that SSA take corrective actions to pay, as appropriate, the beneficiaries identified by our audit and to implement controls to ensure it pays withheld benefits to child beneficiaries when they attain age 18 and no longer need a representative payee. SSA agreed with our recommendations, but it has not reported whether it has taken corrective actions for the beneficiaries identified by our audit. SSA also stated it would evaluate and determine the feasibility of implementing additional controls for paying withheld benefits to child beneficiaries.⁸

⁷ SSA OIG, [*Beneficiaries Serving as Representative Payees Who Have a Representative Payee*](#), August 2016.

⁸ SSA OIG, [*Benefits Payable to Child Beneficiaries Whose Benefits Were Withheld Pending the Selection of a Representative Payee*](#), September 2016.

SSA Internal Review of Capability Determinations

These OIG reports followed a June 2015 SSA internal quality review, which found similar problems. In SSA's review, it found that 71 percent of beneficiary reviews did not have a documented capability determination. The review also noted that SSA's capability determinations were underdeveloped, undocumented, or insufficiently documented.

The report included the following recommendations for SSA:

1. Conduct a full review of policy surrounding capability and determine if the policy is too complex and in need of clarification.
2. Provide training to SSA field offices on developing and properly documenting capability determinations after the policy is reviewed.
3. Edit eRPS to make it mandatory for field offices to document capability determinations when a representative payee application is initiated.
4. Add language to eRPS to ensure field office employees include all pertinent facts when documenting a capability determination.⁹

In October 2016, SSA issued an action plan to improve capability determinations. Below are the actions SSA said it would take and the status of those actions.

- Publish an administrative message to provide reminder instructions on the policies and procedures for making and documenting capability determinations in eRPS. **SSA issued a reminder in May 2016.**
- Streamline and improve capability policy instructions to help ensure field office employees consistently develop and document capability determinations. **SSA issued an updated capability determination policy in January 2017.**
- Enhance eRPS with new functionality to ensure that all capability determinations are properly developed and documented. **SSA plans to implement these enhancements in fiscal years 2017 and 2018.**
- Develop a new interactive video training to ensure field office employees understand how to develop and document capability determinations. **SSA has planned a new training course on the topic to broadcast in April 2017.**

⁹ SSA, Office of Budget, Finance, Quality, and Management, Office of Quality Review, *Representative Payee Capability Review Report*, June 2015.

Identifying Beneficiaries Who May Need a Payee

Another significant challenge that SSA needs to address is identifying beneficiaries who—after their initial entitlement to benefits—may have become incapable over time and need a representative payee.

Identifying Aged Beneficiaries in Need

In April 2010, we completed a review to examine a concern that SSA may not be aware of aged beneficiaries who need a representative payee. We conducted this review because medical statistics indicated that up to 50 percent of individuals over age 85 might suffer from Alzheimer’s disease or dementia. However, at the time of our review, 5 million Social Security beneficiaries were over age 85, but only 4.6 percent of those beneficiaries had representative payees.

Based on our review of a sample of aged beneficiaries who did not have a representative payee, we estimated that about 1 million beneficiaries over age 85 might have been incapable and had individuals or organizations managing their benefits without SSA’s knowledge or approval. We also reported that SSA could not ensure these individuals or organizations were suitable and were using the benefits received for the beneficiaries’ needs and best interests.

To address this issue, we recommended that SSA establish additional controls to better identify aged beneficiaries in need of representative payees. In our report, we identified several possibilities for SSA’s consideration. For example, we suggested that SSA:

1. identify Social Security benefits that it sends directly to nursing homes for beneficiaries who do not have a representative payee;
2. match representative payee addresses to beneficiary addresses to determine if they are the same;
3. send periodic mailings or an enclosure with annual Cost-of-Living Adjustment notices to aged beneficiaries and their families to inform them of the representative payee program; and
4. perform educational outreach with the medical community, nursing homes, and retirement communities to inform them of the representative payee program.

SSA did not agree with our recommendation to establish additional controls to better identify aged beneficiaries in need of representative payees. In response to our report, SSA stated implementing the recommendation would require a significant increase in the number of capability determinations, and it could not justify the investment of resources. SSA also stated that targeting aged beneficiaries for capability reviews could be perceived as discriminatory and interfering with the beneficiaries’ rights.

In response to SSA’s comments, we noted that SSA already had plans to review beneficiaries based on age while conducting the Centenarian Project. We also noted the sample of beneficiaries over age 85 that we reviewed had shown that a need for representative payment exists. We acknowledge SSA’s resource challenges and believe that automating some of these actions could help to address this concern. Finally, we noted that our recommendation did not intend to target aged beneficiaries over age

85, but rather to ensure payments to aged beneficiaries—a population expected to increase to about 21 million by 2050—are used for their intended purpose.¹⁰

We are planning a follow-up review of this issue this year to provide updated information concerning the number of beneficiaries over age 85 who may need a representative payee.

Identifying Disabled Beneficiaries in Need

Further, in 2012, we conducted a review to determine whether disabled beneficiaries who had a mental impairment but did not have representative payee were capable of managing their benefits.

For our review, we identified a population of about 895,000 of these beneficiaries. We then contacted a sample of these beneficiaries, observed their living conditions, and interviewed them by asking questions similar to the questions SSA asks when conducting a capability determination. Based on our sample results, we estimated that about 208,000 disabled beneficiaries with a mental impairment who did not have a representative payee received more than \$200 million in monthly benefits, but they may have been incapable of managing those benefits.

We recommended that SSA consider several options to make the public aware of the representative payee program, through mailings, outreach, and other projects.¹¹ In response to our recommendation, SSA added language to the [representative payee page](#) on the agency's website, to make the public aware that a payee may be needed if situations change and an individual becomes incapable of managing or directing the management of his or her benefits.

Other Reviews of the Representative Payee Program

Before I conclude, I want to note that the Social Security Advisory Board (SSAB) in March 2016 issued a report on the representative payee program. The SSAB suggested that SSA should place a higher priority on training employees and developing modeling systems that screen representative payee applications and provide indicators for potential misuse.

The SSAB noted that the representative payee program will only grow and become more complex in the future, thus SSA must address the challenges we have discussed today, as well as others.¹²

Finally, SSA also contracted with the Institute of Medicine (IOM) to review the agency's capability determination process and provide recommendations to improve decision-making policies and procedures. The May 2016 IOM report cited several OIG reports that I have noted above in its review and made several recommendations to SSA. The agency cited the IOM report and its recommendations in its 2016 action plan to improve capability determinations.

¹⁰ SSA OIG, [Aged Beneficiaries in Need of a Representative Payee](#), April 2010.

¹¹ SSA OIG, [Disabled Individuals with Mental Impairments in Need of a Representative Payee](#), September 2012.

¹² Social Security Advisory Board, *Representative Payees: A Call to Action*, March 2016.

Included in the IOM report were recommendations that SSA:

- provide detailed guidance to professional and lay informants regarding the information it would find most helpful for making capability determinations;
- create a data-driven process to support the development of approaches, including screening criteria, for identifying people at high risk of incapability;
- develop systematic mechanisms for recognizing and responding to changes in beneficiaries' capability over time; and
- develop and implement an ongoing measurement and evaluation process to quantify and track the accuracy of capability determinations, and to improve its policies and procedures for identifying beneficiaries who are incapable of managing or directing the management of their benefits.¹³

Conclusion

SSA's representative payee program serves a vital purpose for some of our most vulnerable citizens, and the agency must make the administration of the program a top priority. The OIG has made many recommendations to SSA over the years to ensure it is properly identifying beneficiaries who need representative payees, ensuring the integrity of its decision-making process, appointing and monitoring trusted payees, and making proper payments. As the OIG and other interested parties have recommended, SSA should continue the development and implementation of systems enhancements to ensure all beneficiary capability determinations are thorough, supported with appropriate evidence, and recorded.

The OIG will continue to work with SSA and your subcommittees to improve the representative payee program and ensure beneficiaries receive the assistance they need. Thank you for the invitation to testify, and I am happy to answer any questions.

¹³ Institute of Medicine, *Informing Social Security's Process for Financial Capability Determination*, May 2016.