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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**GENESIS ELDERCARE CATONSVILLE COMMONS,  
AN ORGANIZATIONAL REPRESENTATIVE PAYEE FOR  
THE SOCIAL SECURITY ADMINISTRATION**

**December 2012**

**A-13-12-11267**

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**AUDIT REPORT**

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## **Mission**

**By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.**

## **Authority**

**The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:**

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

**To ensure objectivity, the IG Act empowers the IG with:**

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- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

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**MEMORANDUM**

**Date:** December 10, 2012

**Refer To:**

**To:** Terry Stradtman  
Regional Commissioner  
Philadelphia

**From:** Inspector General

**Subject:** Genesis Eldercare Catonsville Commons, an Organizational Representative Payee for the Social Security Administration (A-13-12-11267)

**OBJECTIVE**

Our objectives were to determine whether Genesis Eldercare Catonsville Commons (Genesis), a representative payee for the Social Security Administration (SSA), (1) had effective safeguards over the receipt and disbursement of Social Security benefits, (2) used and accounted for Social Security benefits in accordance with SSA's policies and procedures, and (3) adequately protected beneficiaries' personally identifiable information.

**BACKGROUND**

Some individuals cannot manage or direct the management of their finances because of their youth and/or mental or physical impairments. Congress granted SSA the authority to appoint representative payees to receive and manage these beneficiaries' payments.<sup>1</sup> A representative payee may be an individual or an organization. SSA selects representative payees for Old-Age, Survivors and Disability Insurance (OASDI)<sup>2</sup> and/or Supplemental Security Income (SSI)<sup>3</sup> beneficiaries<sup>4</sup> when representative

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<sup>1</sup> *Social Security Act* §§ 205(j)(1) and 1631(a)(2)(A)(ii)(I); 42 U.S.C. §§ 405(j)(1) and 1383(a)(2)(A)(ii)(I).

<sup>2</sup> The OASDI program provides retirement and disability benefits to qualified individuals and their dependents as well as to survivors of insured workers. *Social Security Act* § 201 *et seq.* and 42 U.S.C. § 401 *et seq.*

<sup>3</sup> The SSI program provides payments to individuals who have limited income and resources and who are age 65 or older, blind, or disabled. *Social Security Act* §1601 *et seq.* and 42 U.S.C. 1381 *et seq.*

<sup>4</sup> We use the term "beneficiary" generically in this report to refer to both OASDI beneficiaries and SSI recipients.

payments would serve the individual's interests.<sup>5</sup> Representative payees are responsible for managing benefits in the beneficiary's best interest.<sup>6</sup> See Appendix B for additional representative payee responsibilities.

Genesis is an organizational representative payee. Genesis is a skilled nursing, medical, and rehabilitative care service provider. During our audit period, October 1, 2010 to September 30, 2011, Genesis served as representative payee for 56 beneficiaries and received approximately \$421,300 in Social Security benefits for them. See Appendix C for the scope and methodology of our review.

## RESULTS OF REVIEW

Generally, Genesis had effective safeguards over the receipt and disbursement of Social Security benefits, used and accounted for Social Security benefits in accordance with SSA's policies and procedures, and adequately protected beneficiaries' personally identifiable information. However, we found instances where Genesis could have improved its performance as payee. Specifically, Genesis did not notify SSA when six beneficiaries left its care and did not return those beneficiaries' conserved funds<sup>7</sup> to SSA. We also found SSA had not taken action to determine the disposition of a payment made before the beneficiary's death and returned by the bank after Genesis closed the beneficiary's bank account. In addition, SSA did not issue Representative Payee Reports (RPR) to Genesis for two beneficiaries who were receiving OASDI benefits.

### Notification by Payee When Beneficiaries Left its Care

Genesis did not notify SSA that six beneficiaries left its care between October 1, 2010 and September 30, 2011. When the beneficiaries left Genesis' care, it did not return \$4,782 in conserved funds to SSA. Instead, Genesis forwarded the conserved funds to the new payees or beneficiaries.

According to a Genesis official, the third-party company that handled Genesis' financial services, the beneficiary's court-appointed guardian, or the beneficiaries themselves should have notified SSA about the six beneficiaries. However, based on information in SSA's automated records, the Agency was not notified by a third-party company, court-appointed guardian, beneficiary, or Genesis that the six beneficiaries had left its care. See Table 1 for more information.

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<sup>5</sup> *Social Security Act* §§ 205(j)(1) and 1631(a)(2)(A)(ii)(I), 42 U.S.C. §§ 405(j)(1) and 1383(a)(2)(A)(ii)(I), 20 C.F.R. §§ 404.2001(a) and 416.601(a).

<sup>6</sup> 20 C.F.R. §§ 404.2035(a) and 416.635(a).

<sup>7</sup> Title II and XVI benefits must be used for the beneficiary's immediate or reasonably foreseeable needs. Any remaining benefits must be conserved or invested for the beneficiary. SSA, POMS, GN 00603.001 A. (November 15, 2004).

**Table 1: Beneficiaries Who Left Payee's Care**  
(October 1, 2010 Through September 30, 2011)

Beneficiary	Conserved Funds Not Returned to SSA	Conserved Funds Provided to New Payee or Beneficiary
1	\$ 1,716	Payee
2	558	Beneficiary
3	87	Payee
4	213	Beneficiary
5	46	Payee
6	2,162	Beneficiary
<b>Total</b>	<b>\$4,782</b>	

Federal regulations require that a representative payee notify SSA of any change in its circumstances that would affect its performance as a representative payee.<sup>8</sup> Also, Federal regulations state a representative payee has a responsibility to notify SSA of any event or change in beneficiary circumstances that will affect the amount of benefits a beneficiary receives, their right to receive benefits, or how they receive benefits.<sup>9</sup> Therefore, Genesis had a duty to notify SSA that beneficiaries were no longer in its care.

SSA's policy states when a payee who has conserved funds for a beneficiary stops serving as payee, they generally must return those funds to SSA.<sup>10</sup> Policy further states that SSA may permit a former payee to transfer conserved funds directly to a new payee or capable beneficiary instead of returning the funds to SSA, if it serves the beneficiary's best interests.<sup>11</sup> However, SSA will allow such transfers on a case-by-case basis.<sup>12</sup>

On July 12, 2012, SSA personnel stated that SSA did not give Genesis approval to forward the funds to the new representative payee or beneficiaries for the six beneficiaries we identified. Also, SSA did not receive notification that these beneficiaries were no longer in Genesis' care.

<sup>8</sup> 20 C.F.R. §§ 404.2035(f) and 416.635(f).

<sup>9</sup> 20 C.F.R. §§ 404.2035(d) and 416.635(d).

<sup>10</sup> SSA, POMS, GN 00603.055 A (December 6, 2010).

<sup>11</sup> Id.

<sup>12</sup> Id.

## Disposition of Payment Returned to SSA

During our review, we identified an underpayment on SSA's records for a deceased beneficiary. SSA direct deposited the beneficiary's \$1,081 in OASDI benefits on July 1, 2011.<sup>13</sup> The beneficiary died on July 2, 2011. The bank returned the funds to SSA on July 5, 2011 because the beneficiary's bank account was closed. Subsequently, SSA posted a \$1,081 underpayment on the beneficiary's Master Beneficiary Record. No further action was taken.

Although the funds were recorded as an underpayment, SSA policy states that payments deposited before a beneficiary's death that the bank returns after a beneficiary's death are an asset to the estate, not an underpayment.<sup>14</sup> SSA policy cites two examples in which the beneficiary died after the direct deposit of a payment, and the bank returned the funds to SSA.<sup>15</sup> In both examples, the policy states this was an asset to the estate since the deposit was a pre-death payment.<sup>16</sup>

We contacted SSA to determine whether it had taken action regarding the payment deposited before the beneficiary's death. On August 29, 2012, SSA staff reported the Agency would take action to determine whether this beneficiary had an estate. However, if there is no estate SSA would attempt to locate the next of kin under the "small estate" statutes.<sup>17</sup>

## RPRs Not Issued

We found SSA did not issue RPRs to Genesis for two beneficiaries receiving OASDI benefits. For one beneficiary, SSA did not issue an RPR for several years, although Genesis was serving as her payee. For the other beneficiary, SSA issued the RPR to the former payee although Genesis was serving as her payee for the reporting period. The RPR is intended to assist SSA in determining how a representative payee used a beneficiary's Social Security payments for a 12-month period. Agency policy requires,

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<sup>13</sup> According to Genesis staff, on March 31, 2011, the beneficiary left Genesis' care. Genesis closed the beneficiary's bank account on June 7, 2011 and forwarded the \$2,162 in conserved funds to the beneficiary. Distribution of those conserved funds was previously discussed.

<sup>14</sup> SSA, POMS, GN 02408.650 B. (August 31, 2010).

<sup>15</sup> SSA, POMS, GN 02408.650 H.2. and H.4. (August 31, 2010).

<sup>16</sup> Id

<sup>17</sup> Agency policy states, "If the claimant seeking payment of an underpayment can qualify only as the legal representative of the deceased's estate and there is no appointed executor or administrator of the estate, he/she may qualify to receive the underpayment as legal representative under the 'small estate' statutes." SSA, POMS, GN 02315.005 A. (May 9, 1996).

with one exception, that SSA send an RPR to representative payees if any benefits are paid during the 12-month period.<sup>18</sup> For the applicable reporting periods, Genesis received \$32,657 for the two beneficiaries (see Table 2).

**Table 2: SSA Benefits Paid but RPR Not Issued to Genesis**

Beneficiary	No Representative Payee Report Issued	SSA Benefits Paid
Beneficiary A <sup>19</sup>	August 1, 2004 to July 31, 2011	\$29,270
Beneficiary B <sup>20</sup>	April 1, 2010 to March 31, 2011	3,387
<b>Total</b>		<b>\$32,657</b>

SSA staff confirmed the Agency did not generate an RPR for one beneficiary and issued the RPR to the former payee for a second beneficiary. In June 2012, SSA staff advised us that these errors occurred because of certain coding on the beneficiaries' Supplemental Security Records. Previously, both beneficiaries concurrently received SSI and OASDI benefits. The SSI payments ended; however, the Supplemental Security Records remained active, and SSA's system that generates RPRs ignored information on the Agency's Master Beneficiary Record—the automated record where information about OASDI benefits are maintained. We identified a similar issue during a prior audit.<sup>21</sup>

Since RPRs were not issued to Genesis for the two beneficiaries, Genesis did not report how the OASDI benefits were used. For our audit period, we determined that the benefit payments for these two beneficiaries were used in accordance with SSA's policies and procedures.

## CONCLUSION AND RECOMMENDATIONS

Generally, Genesis had effective safeguards over the receipt and disbursement of Social Security benefits, used and accounted for Social Security benefits in accordance with SSA's policies and procedures, and adequately protected beneficiaries' personally identifiable information. However, we found instances where Genesis could improve its performance as a payee. Specifically, Genesis did not notify SSA when six beneficiaries left its care and did not return those beneficiaries' conserved funds to SSA. We also found SSA had not taken action to determine the disposition of a payment

<sup>18</sup> The Agency does not send RPRs to representative payees who are State mental institutions participating in the Onsite Review Program. SSA, POMS, GN 00605.001 B.1. (November 7, 2008).

<sup>19</sup> An RPR was not issued for this beneficiary. Genesis was selected as the representative payee on July 20, 2004.

<sup>20</sup> One RPR was issued to the former payee for the reporting period April 1, 2010 to March 31, 2011. Genesis was selected as representative payee on February 23, 2010.

<sup>21</sup> SSA OIG, *Emerge, Incorporated, an Organizational Representative Payee for the Social Security Administration (A-13-10-21087)*, March 2011, pages 5 and 6.

made before the beneficiary's death and returned by the bank after Genesis closed the beneficiary's bank account. In addition, SSA did not issue RPRs to Genesis for two beneficiaries receiving OASDI benefits.

We recommend that SSA:

1. Remind Genesis to (a) notify the Agency timely when a beneficiary is no longer in its care and (b) obtain SSA's approval of transfers of conserved funds to a new payee or beneficiary. SSA should assess Genesis' compliance during its next site review.
2. Follow through with its planned action to determine if there is an estate for the deceased beneficiary and take action as appropriate.

## **AGENCY COMMENTS**

SSA agreed with our recommendations (see Appendix D).

A handwritten signature in black ink, appearing to read "Patrick P. O'Carroll, Jr.", with a stylized flourish at the end.

Patrick P. O'Carroll, Jr.

# *Appendices*

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APPENDIX A – Acronyms

APPENDIX B – Representative Payee Responsibilities

APPENDIX C – Scope and Methodology

APPENDIX D – Agency Comments

APPENDIX E – OIG Contacts and Staff Acknowledgments

## Acronyms

C.F.R.	Code of Federal Regulations
Genesis	Genesis Eldercare Catonsville Commons
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
POMS	Program Operations Manual System
RPR	Representative Payee Report
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

# Representative Payee Responsibilities

Representative payees are responsible for using benefits to serve the beneficiary's best interests. The responsibilities include the following.<sup>1</sup>

- Determine the beneficiary's current needs for day-to-day living and use his/her payments to meet those needs.
- Conserve and invest benefits not needed to meet the beneficiary's current needs.
- Maintain accounting records of how the benefits are received and used.
- Report events to the Social Security Administration (SSA) that may affect the individual's entitlement or benefit payment amount.
- Report any changes in circumstances that would affect their performance as a representative payee.
- Provide SSA an annual Representative Payee Report to account for benefits spent and saved.
- Return any payments to SSA for which the beneficiary is not entitled.
- Return conserved funds to SSA when no longer serving as the representative payee for the beneficiary.
- Be aware of any other income that Supplemental Security Income recipients may have and monitor their conserved funds to ensure they do not exceed resource limits.

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<sup>1</sup> 20 C.F.R. §§ 404.2035 and 416.635. See also SSA's *Guide for Organizational Representative Payees*, pages 16 and 48, <http://www.ssa.gov/payee/NewGuide/toc.htm>.

# Scope and Methodology

Our audit covered the period October 1, 2010 through September 30, 2011. To accomplish our objectives, we:

- Reviewed applicable Federal laws and regulations and Social Security Administration (SSA) policies and procedures pertaining to representative payees.
- Reviewed prior work performed by the Office of the Inspector General and SSA in the representative payee area.
- Compared and reconciled the payee's list of SSA beneficiaries in the Genesis Eldercare Catonsville Commons' (Genesis) care to a list obtained from SSA's Representative Payee System.
- Reviewed effectiveness of Genesis' safeguards over the receipt and disbursement of Social Security benefits.
- Reviewed 56 beneficiaries who were in Genesis' care during our audit period and performed the following tests.
  - ✓ Compared and reconciled benefit amounts received according to Genesis' records to benefit amounts paid according to SSA's records.
  - ✓ Reviewed Genesis' records to determine whether benefits were properly spent on the individual's behalf.
  - ✓ Traced a sample of recorded expenses to source documents and examined the underlying documentation for reasonableness and authenticity.
- Determined whether Genesis reported any changes or events for its beneficiaries that could affect the amount of, or entitlement to, Old-Age, Survivors and Disability Insurance or Supplemental Security Income benefits.
- Visited and interviewed 10 randomly selected beneficiaries to determine whether their basic needs were being met.
- Reviewed the Representative Payee Reports (Form SSA-6234) for 35 beneficiaries to determine the completeness and appropriateness of the information provided.
- Determined whether the organization was complying with its policies, and those set by SSA, for protecting personally identifiable information.

We performed our audit in Baltimore, Maryland, between March and July 2012. We tested the data obtained for our audit and determined them to be sufficiently reliable to meet our audit objectives. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Agency Comments

November 07, 2012

**Subject:** Philadelphia Response - Signed Draft Report (A-13-12-11267) "Genesis Eldercare Catonsville Commons, an Organizational Representative Payee for the Social Security Administration"

Thank you for the opportunity to comment on the draft report of OIG Audit A-13-12-11267, "Genesis Eldercare Catonsville Commons, an Organizational Representative Payee for the Social Security Administration." We fully concur with both recommendations of the audit and have already completed one of them. The following shows the actions that we have taken on the recommendations:

1. Remind Genesis to (a) notify the Agency timely when a beneficiary is no longer in its care and (b) obtain SSA's approval of transfers of conserved funds to a new payee or beneficiary. SSA should assess Genesis' compliance during its next site review.

The Columbia, MD field office reminded the manager of Genesis Eldercare that they should notify SSA timely when a beneficiary is no longer in its care and to obtain SSA's approval of transfers of conserved funds to a new payee or beneficiary. We will assess Genesis' compliance during our next site review.

2. Follow through with its planned action to determine if there is an estate for the deceased beneficiary and take action as appropriate.

The field office is working with the payee to determine if there is an estate for this beneficiary.

Terry M. Stradtman  
Philadelphia Regional Commissioner

## OIG Contacts and Staff Acknowledgments

### ***OIG Contacts***

Shirley E. Todd, Director, Evaluation Division

Randy Townsley, Audit Manager

### ***Acknowledgments***

In addition to those named above:

Donna Parris, Auditor-In-Charge

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## **Overview of the Office of the Inspector General**

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