

U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Social Security

Statement for the Record

Social Security Representative Payees

The Honorable James G. Huse, Jr.
Inspector General, Social Security Administration

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Good morning, Mr. Chairman and members of the Subcommittee. Thank you for the opportunity to discuss the Social Security Administration's (SSA) Representative Payee (Rep Payee) Program. While the Agency's Rep Payee Program is designed to protect the most vulnerable members of our society, recent events have demonstrated that these laudable goals are sometimes compromised. Today, I would like to focus on some practical solutions that would strengthen the Agency's Rep Payee Program. In particular, I would like to highlight several recent audit recommendations that offer solutions to prevent and detect Rep Payee abuses. Additionally, I would like to discuss several investigations that have highlighted weaknesses in the Rep Payee Program. We are working closely with the Agency to rapidly address the vulnerabilities identified in these reports and investigations, and to implement sensible solutions.

The Rep Payee Program—A Brief Overview

SSA provides Social Security and Supplemental Security Income (SSI) benefits to the most vulnerable members of our society—the young, the elderly, and the disabled. Congress granted SSA the authority to appoint Rep Payees for those beneficiaries that SSA determines to be incapable of managing their own benefit payments. Each Rep Payee has a legal responsibility to use SSA's benefit payments for the use and benefit of the beneficiary only. At the present time, about 6.5 million Social Security and SSI beneficiaries rely on Rep Payees to manage their monthly benefits.

There are two major types of Rep Payees—individual Rep Payees and organizational Rep Payees. Individual Rep Payees are typically relatives of the beneficiary, who are entrusted to use such funds in the best interest of the beneficiary. Although individual Rep Payees may at times provide services to multiple beneficiaries, they are prohibited from charging fees for such services. Organizational Rep Payees are typically large institutions that provide care and treatment for beneficiaries residing in such institutions (e.g., Department of Veterans Affairs hospitals, State psychiatric institutions, nursing homes, and extended care facilities). Other types of organizational Rep Payees may include community groups, charitable organizations, and other nonprofit agencies. The Social Security Act allows qualified and authorized organizational Rep Payees to collect a fee for providing Rep Payee services.

EARLY WARNING SIGNS

Over the last several years, our audits and investigations revealed early warning signs that may have gone unheeded by the Agency. These warning signs existed in both the Rep Payee selection process and during post-selection monitoring process.

Screening and Selection of Rep Payees

When SSA determines that a beneficiary is incapable of managing his or her own benefit payments, SSA searches for a suitable Rep Payee. SSA regulations give preference to family members over friends, third parties, and organizational Rep Payees.

To determine suitability, SSA interviews prospective Rep Payees. This usually consists of a review of documents supplied by the prospective Rep Payee. It is not an investigation, but rather a means to conduct an SSA records verification. Some of the documents that SSA reviews for individual applicants include:

- Drivers licenses;
- State Identification cards;
- Credit cards; or
- Bank books/check books

However, SSA generally does not verify the accuracy of the identification and financial information presented, unless it has reason to question the applicant's suitability. SSA does verify the accuracy of the Rep Payee's income by comparing the information on the Rep Payee application to SSA's records. SSA also verifies with our office that the prospective Rep Payee has not been convicted of a felony against Social Security programs.

For organizational payees, SSA verifies the Employer Identification Number (EIN) of the Rep Payee by comparing the EIN on the Rep Payee application to the EIN contained in SSA's records. SSA does not perform credit or security background checks on prospective individual or organizational Rep Payees. Based on existing regulations, SSA does not determine if the individual Rep Payee or organizational Rep Payee has financial problems, credit problems, or if they, or their employees, may have been convicted of any other felony.

We believe that the selection process, specifically the suitability determination, should be strengthened. This presents SSA with the best opportunity to prevent improper benefit payments before issuance. In a March 1997 evaluation report entitled, *Monitoring Representative Payee Performance: Roll-Up Report*, we recommended that SSA conduct a more thorough screening of potential Rep Payees.

Rep Payee Monitoring and Oversight Activities

SSA has some basic safeguards in place to ensure that Rep Payees do not misuse benefits. SSA requires an annual accounting report from all Rep Payees, for each beneficiary under their care. Additionally, SSA has the ability to conduct on-site reviews of organizational Rep Payees.

Annual Accountability Reports

An annual accounting report form, the “Representative Payee Report”, is sent to every Rep Payee. The form elicits information concerning the dispensation of SSA funds that the Rep Payee has received, on behalf of each beneficiary.

In our December 1996 report entitled, *Monitoring Representative Payee Performance: Nonresponding Payees*, we identified problems with Rep Payees who did not respond to these annual accounting reports. We recommended that SSA determine (1) why Rep Payees did not complete and return these accounting reports; and (2) whether SSA staff properly processed systems-generated alerts for Rep Payees who did not respond. In the intervening 3-year period, there were several organizational Rep Payee fraud cases in which such accounting forms could not be located. Thus, we are extremely pleased that SSA is proposing to conduct Quick Response checks when Rep Payees do not return these financial accounting reports.

In our September 1999 report entitled, *Nonresponder Representative Payee Alerts for Supplemental Security Income Recipients*, we found that the field offices lacked supporting documentation for the failure to timely complete accountability forms. This lack of documentation resulted in an inability to identify the reasons that Rep Payees had not completed their accounting forms as required. We recommended that SSA instruct field offices to improve controls over the retention of supporting documentation and obtain accounting forms from Rep Payees. SSA disagreed with our recommendation and stated that field offices are required to send these documents to an outside storage facility. We believe that the retention of these documents, and their ability to be easily retrieved, is essential to the identification, and ultimate prosecution, of Rep Payee's for fraud or misuse. Indeed, this is consistent with SSA's written policy. SSA's Program Operations Manual System (POMS) states that payee accounting reports must be retrievable in the event that the form must be reviewed for a misuse or fraud allegation.

On-site Reviews of Representative Payees

Another part of SSA's oversight and monitoring of Rep Payees involves on-site reviews. State institutions that participate in the on-site review program are reviewed once every 3 years. In addition, SSA may conduct an on-site review if a problem with a payee is brought to its attention. On-site reviews are visits with the Rep Payee or the administrators of such organizations, and they consist of an examination of the relevant accounting records. Additionally, interviews with beneficiaries are conducted to determine if their needs are being met. Unfortunately, these reviews may not identify Rep Payee abuses until after the fraud has occurred. Further, many beneficiaries are incapable of communicating any problems due to their disabilities—the basis of their need for a Rep Payee in the first place.

In our March 1997 Roll-up report, we made several recommendations to improve the efficiency and effectiveness of SSA's Rep Payee monitoring program. Included in the report were recommendations for SSA to conduct periodic reviews of selected Rep Payees and to change the focus of the current process from accounting to monitoring and compliance.

Finally, in our September 1999 report, *The Social Security Administration's Procedures to Identify Representative Payees Who Are Deceased*, we reported that benefit payments were

sometimes made to deceased Rep Payees. In some cases, SSA could not be sure that the funds were ever used on behalf of the beneficiaries for which they were intended. We also reported that SSA does not ensure that new Rep Payees are selected when former Rep Payees have died. In July 1998, from a review of SSA's Death Master File, we estimated that 2,091 deceased Rep Payees received about \$17 million in Social Security and SSI payments. We recommended that SSA: (1) conduct routine computer matches to ensure that SSA promptly identifies Rep Payees who are deceased and; (2) select new Rep Payees in a more timely manner. SSA agreed with our assessments and plans to implement our recommendations.

FRAUD CASES HIGHLIGHT PROGRAM VULNERABILITIES

While the vast majority of Rep Payees are honest, trustworthy people, several recent cases have demonstrated that key controls could have prevented major fraud cases. No case better exemplifies this point than the Aurora Foundation case, which was the subject of a television news magazine segment in January 2000, entitled "When Nobody's Looking." Aurora Foundation, Inc. was a high-volume, organizational Rep Payee that served over 140 disabled individuals in West Virginia. Although Aurora had been a fee-for-service Rep Payee since 1995, SSA had not yet performed an on-site review. However, at the time of our investigation, SSA had notified Aurora, by mail, of a pending review based on complaints.

Our investigation revealed that the head of the Aurora Foundation, Gregory Gamble, had embezzled over \$300,000 between April 1995 and May 1999. The majority of these diverted funds were SSA payments. Mr. Gamble has since pleaded guilty to embezzlement of Social Security benefits, Veterans Affairs benefits, and private funds. Mr. Gamble is scheduled for sentencing on June 5, 2000.

During the course of our investigation, my office asked SSA to retrieve all of the financial accounting forms submitted by Aurora. SSA was only able to secure 12 of the accounting forms that were submitted by the Aurora Foundation during its final year of operation. The missing forms reflect a lack of program oversight on behalf of SSA. It still remains unclear as to whether the remaining accounting forms were submitted and subsequently misplaced, or never submitted in the first place by the Aurora Foundation. We continue to believe that SSA needs to conduct regular inspections and reviews of organizational Rep Payees, especially those Rep Payees who do not submit the required financial accounting forms.

From November 1996 to February 1997, a SSA Field Office (FO) received approximately 45 complaints of funds being mismanaged by Ivy's Social Services, Incorporated (Ivy's), a fee-for-service Rep Payee located in Phoenix, Arizona and Denver, Colorado. Upon receiving this information from the FO, my office promptly opened an investigation. Our investigation revealed that Ivy's was an organizational Rep Payee for 330 individuals from March 1996 to May 1997. During this short period of time, the head of Ivy's spent approximately \$274,000 of the beneficiaries' money to make personal purchases. In addition to paying off \$65,000 in personal credit card debt, the subject of the investigation also used the funds to furnish, and pay the rent for, three personal residences. In May 1999, the head of Ivy's was sentenced to 18 months imprisonment, and ordered to pay full restitution of \$274,000 to SSA.

We have also encountered significant abuses by individual Rep Payees who are not affiliated with an organization. Ms. Jean Bote acted as professional guardian and Rep Payee for approximately 20 recipients of Social Security benefits. Several of the beneficiaries for whom she collected benefits were elderly veterans with mental disabilities. In response to a complaint received by the Veterans Affairs Inspector General, my office opened an investigation and determined that she misused over \$200,000 in SSA and VA benefits for her own personal gain. Subsequently, Ms. Bote was sentenced to 37 months incarceration and 3-years supervised release. She was also ordered to make restitution totaling \$200,000 to the five victims. Prior to sentencing, Ms. Bote presented the probation office with a \$200,000 check in anticipation of the restitution ordered.

Since Fiscal Year 1998, our office has opened 1,352 Rep Payee investigations, which have led to 313 convictions and identified over \$7,500,000 in fraud losses. The vast majority of these investigations have involved individual Rep Payees acting on behalf of one individual, as opposed to organizational Rep Payees that are responsible for multiple individuals.

WORKING TOGETHER TO FIND COMMON SENSE SOLUTIONS

As SSA has acknowledged the need to address Rep Payee oversight issues, we have agreed to work together with the Agency and provide our expertise and assistance. Specifically, over the next several months, we will work with the Agency to:

- Identify and recommend appropriate improvements to the program;
- Provide support to SSA staff during on-site reviews of selected Rep Payees;
- Conduct periodic audits of the program, including Agency adherence to program policies and procedures; and
- Evaluate, on an ongoing basis, the need for revised policies and procedures.

We hope that this type of fraud, which so often victimizes the most vulnerable in our society, will be more quickly discovered and referred to us for investigation and prosecution.

We also believe that with additional Civil Monetary Penalty (CMP) authority, SSA can make sure that Rep Payees who abuse the system are punished, even when they are not prosecuted. The CMP program has proved to be enormously valuable both in preventing fraud from occurring, and in recovering monies stolen from SSA. However, there are currently limitations to pursuing CMPs in the Rep Payee Program.

I would like to illustrate this point by telling you about a father who applied to be the Rep Payee for his disabled minor son in 1996. He received approximately \$10,713 in SSI disability payments for his son's benefit and care. Later, in July 1998, the child's mother applied to be his Rep Payee. It became apparent that the father never had custody of the child, and that he used the payments designated for his son for his personal use for almost 2 years. The father refused to repay the funds to SSA. Because the dollar loss fell below the prosecutive threshold, both the criminal and civil divisions of the U.S. Attorneys Office declined the case for prosecution. At that point, our Office of Investigations referred the case to our Office of Counsel for possible action under the CMP program. Unfortunately, we could take no action in this case because the

son was eligible for the payments. Therefore, under existing law, the funds were properly paid despite the fact the child most likely never benefited from them. The father's conversion of these benefits did not constitute a false statement made in order to obtain or retain the benefits—as I said, the benefits themselves were proper. In the absence of specific CMP language pertaining to theft or misuse, the father's theft of his disabled child's benefits had to go unpunished.

Finally, I would like to comment on an important Agency legislative proposal that would counter organizational and individual Rep Payee abuses. In February 2000, SSA submitted a draft Rep Payee bill for consideration by this Congress. This draft legislation would require, among other things, that organizational Rep Payees be licensed and bonded. It also seeks to expand the CMP program to address the improper conversion of benefits by Rep Payees—a scenario described earlier in my testimony. I applaud SSA's recent efforts in this area to deter and detect Rep Payee abuse before it starts.

While I strongly support SSA's recent legislative efforts, there are additional front-end safeguards that may be appropriate. Specifically, individual Rep Payee identity and financial documents should be verified thoroughly, prior to selection of a Rep Payee. Further, large organizational Rep Payees should be subject to financial and background screening prior to selection.

Once a Rep Payee has been selected, more rigorous monitoring would be beneficial. SSA's current business process, for collecting and retrieving Rep Payee accounting forms, should be examined carefully. Additionally, I look forward to SSA's planned on-site reviews, as mentioned earlier. These reviews will be more detailed and thorough than any prior reviews conducted by SSA.

Mr. Chairman, we look forward to working with the Agency and this Committee to improve this vital program. We need to be sure that appropriate Rep Payees are selected and that the benefits are used for the purpose they were originally intended.

Thank you for holding this hearing. At this time I will be happy to answer any questions that you may have.