
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**INDIVIDUAL REPRESENTATIVE PAYEES
SERVING MULTIPLE BENEFICIARIES**

July 2009

A-13-08-28089

AUDIT REPORT



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.

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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.

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- Access to all information necessary for the reviews.
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SOCIAL SECURITY

MEMORANDUM

Date: July 31, 2009

Refer To:

To: The Commissioner

From: Inspector General

Subject: Individual Representative Payees Serving Multiple Beneficiaries (A-13-08-28089)

OBJECTIVE

Our objectives were to determine whether selected individual payees (1) operated as organizations or group homes, (2) met the needs of the beneficiaries being served, and/or (3) misused Social Security benefits.

BACKGROUND

Some individuals cannot manage or direct the management of their finances because of their youth or mental and/or physical impairments. Congress granted the Social Security Administration (SSA) the authority to appoint representative payees to receive and manage these beneficiaries' benefit payments.¹ A representative payee may be an individual or an organization. SSA selects representative payees for Old-Age, Survivors and Disability Insurance (OASDI) program² and/or Supplemental Security Income (SSI) program³ beneficiaries when representative payments would serve the individual's interests.⁴

The *Social Security Protection Act of 2004*, Public Law 108-203, mandates that SSA conduct periodic reviews for the following types of representative payees: individuals who serve 15 or more beneficiaries; certified community-based nonprofit social service agencies; or other agencies that serve as representative payee for 50 or more

¹ *Social Security Act* §§ 205(j)(1) and 1631(a)(2); 42 U.S.C. §§ 405(j)(1) and 1383(a)(2).

² The OASDI program provides benefits to qualified retired and disabled workers and their dependents as well as to survivors of insured workers. *Social Security Act* § 201 et seq., 42 U.S.C. § 401 et seq.

³ The SSI program provides payments to individuals who have limited income and resources and who are either age 65 or older, blind, or disabled. 20 C.F.R. § 416.110.

⁴ The term "beneficiary" is used generically in this report to refer to both OASDI beneficiaries and SSI recipients.

individuals.⁵ Under its Expanded Monitoring Program, SSA conducts four types of reviews. The reviews are: (1) site reviews, (2) “quick response check” site reviews, (3) educational visits, and (4) random reviews. Random reviews and quick response check site reviews may be completed for individuals who serve as payees for 14 or fewer beneficiaries.⁶

SSA’s policy for scheduling random reviews states,

In FY [Fiscal Year] 2005 and FY 2006, SSA reviewed a random sample of 15% of volume and FFS [fee for service] payees that were not selected for a site review in the current year. Beginning FY 2007, organizational representative payees serving less than 50 beneficiaries and individual payees serving less than 15 beneficiaries who should be scheduled for a random review are listed on the Philadelphia RO’s [Regional Office] Representative Payee Monitoring Application. To manage the size of this workload, the total number of payees selected approximates the number of volume and FFS payees that were due for a random review in FY 2006.⁷

In July 2007, the National Research Council of the National Academies (National Academies) issued a report, *Improving the Social Security Representative Payee Program: Serving Beneficiaries and Minimizing Misuse*. In its report, the National Academies discussed the results of its national survey including payee performance, prevention and detection of payee misuse, and SSA’s Representative Payment Program policies and practices. The study was restricted to individual payees serving fewer than 15 beneficiaries and non-fee-for-service organizational payees serving fewer than 50 beneficiaries.

The National Academies’ study of payees found several cases where individuals were payees for numerous beneficiaries while also affiliated with organizations that served the beneficiaries, possibly as fee-for-service organizations. It was reported in many of these cases that the representative payee was not only the disburser of Social Security benefits but also the provider of services, including shelter and food. Further, it was reported that when a representative payee is a creditor of a beneficiary, either as a landlord or as a provider of board and care, it is unclear whose interests are being served.

The study concluded that SSA’s current designation of “individual payee” is too broad, encompassing payees who served a single or a few beneficiaries with those who operated group homes for up to 14 beneficiaries. The National Academies’ report also indicated that individual payees who are owners or administrators of group homes have

⁵ Pub. L. No. 108-203 § 102. The mandatory on-site review provisions were incorporated into sections 205(j)(6) and 1631(a)(2)(G) of the *Social Security Act*, 42 U.S.C. §§ 405(j)(6) and 1383(a)(2)(G).

⁶ SSA, Program Operations Manual System (POMS), General 00605.400 D.2. and D.3.

⁷ SSA, POMS, GN 00605.405 C.

an inherent conflict of interest. It was also concluded that payees of this type require special monitoring. See Appendix B for the report's recommendations concerning these issues and the Agency's responses.

We identified 910 individual representative payees having certain characteristics who served fewer than 15 beneficiaries. Of the 910 payees identified, 16 payees were reviewed. See Appendix D for our Sampling Methodology.

Specifically, we reviewed payees⁸ who (1) served between 4 and 14 beneficiaries; (2) handled payments for at least 3 non-relatives; and (3) managed a minimum of \$800 in monthly benefit payments. In addition, payees selected for review were:

- age 50 and older with wages less than \$9,973 in 2005;⁹
- any age with wages greater than \$9,973 in 2005; or
- convicted felons or those who served time in prison or had previously misused benefits and who were also (a) over age 50 with wages less than \$9,973 in 2005 or (b) any age with wages greater than \$9,973 in 2005.

Some of the characteristics we used to select payees for review were identified as indicators of possible misuse in the National Academies' study.¹⁰ See Table 1 for the 16 individual representative payees selected for review.

⁸ At the time of selection for inclusion in our review, the individuals met the characteristics identified.

⁹ The \$9,973 dollar amount represents the poverty threshold for 2005 for a one-individual household as reported by the Department of Health and Human Services. Also, at the time of payee selection, Tax Year 2005 earnings was the most recent year that all earnings information was posted to SSA's Master Earnings File. Individual payees with no obvious means of supporting themselves may have a higher risk of misuse of benefits.

¹⁰ Characteristics identified in the report of the National Academies as indicators of possible misuse included payee is a nonrelative; payee serves four or more beneficiaries; payee is a convicted felon; and payee served time in prison.

Table 1: Individual Representative Payees¹¹		
SSA Region	Payees Reviewed	Beneficiaries Served in 2007
Boston	2	27
Philadelphia	4	27
Atlanta	3	39
Chicago	2	27
Dallas	1	14
San Francisco	4	37
Total	16	171

Our review examined benefit payments received by the payees and the beneficiaries served for the period January 1 to December 31, 2007.

RESULTS OF REVIEW

Of the 16 individual representative payees reviewed, we found 3 payees operated group homes or assisted living facilities, and 7 were guardians. Of the seven guardians, three had business licenses for the services provided to the beneficiaries. Based on conditions found, we believed a separate review was warranted for one payee.¹² Generally, based on our review, we found the remaining 15 individual representative payees met the needs of the beneficiaries being served and did not misuse Social Security benefits. However, we did find two payees charging unauthorized fees. See Table 2 for details.

¹¹ A separate review of one payee and the beneficiaries served was subsequently initiated. See Appendix C for additional information on our Scope and Methodology, and Appendix D for our Sampling Methodology.

¹² *Organizational Representative Payee Serving as an Individual Representative Payee in Philadelphia, Pennsylvania (A-03-09-29094).*

Table 2			
Payee (by Region and Location)	Payee Operated Group Home or Assisted Living Facility	Number of Beneficiaries' Clothing/Shelter Needs Not Met	Payee Charged Unauthorized Fees
1-Boston (Waban, MA)			
2-Boston (Nashua, NH)			
3-Philadelphia (Baltimore, MD)		1	X
4-Philadelphia (Glenside, PA)	X		
5-Philadelphia (Wilmington, DE)			
6-Philadelphia (Philadelphia, PA)	X	Separate Review Conducted	
7-Atlanta (Douglasville, GA)			
8-Atlanta (Port Charlotte, FL)		1	X
9-Atlanta (Venice, FL)			
10-Chicago (Detroit, MI) ¹³			
11-Chicago (Mullet Lake, MI)			
12-Dallas (Fort Worth, TX)		1	
13-San Francisco (Berkeley, CA)			
14-San Francisco (Roseville, CA)			
15-San Francisco (San Francisco, CA)			
16-San Francisco (San Bernardino, CA) ¹³	X		
TOTAL	3	3	2

Some Payees Operated Group Homes and Assisted Living Facilities

Of the 16 individual representative payees reviewed, we found 2 payees operated group homes and 1 payee operated an assisted living facility. Several of the beneficiaries served by these payees lived in the facilities. These payees were creditors of the beneficiaries they served, either as a landlord or as a provider of board and care. Nothing came to our attention that would lead us to believe the remaining 13 payees operated group homes or assisted living facilities.

Of the 13 representative payees, 7 were court-appointed guardians.¹⁴ Three of these seven payees had business licenses as guardians. SSA policy lists an unrelated guardian as a type of individual representative payee.¹⁵ In addition, we found one payee had a business license for a nonprofit pantry.

¹³ Individual payee was a convicted felon.

¹⁴ SSA, POMS, GN 00602.040 A. states "Conservator and conservatorship are the same as guardian and guardianship."

¹⁵ SSA, POMS, GN 00501.013 B.1.

Separate Review of Payee Was Warranted

For one individual representative payee in the Philadelphia Region, we found the payee also served as an organizational representative payee for two group homes. During our limited review, we found conditions that led us to believe a separate, detailed review of the payee's operations was warranted. We initiated a review of the representative payee's activities for the period January 1, 2007 to September 30, 2008.

Most Beneficiaries Had Their Needs Met

For the remaining 15 individual representative payees, we determined whether the needs of 125 beneficiaries were met.¹⁶ Based on personal observations and interviews of the beneficiaries, we concluded the food, clothing, and shelter needs of 122 beneficiaries were being met at the time of our review. For these individuals, nothing came to our attention that would lead us to believe the representative payees did not use the Social Security benefits received for the beneficiaries' needs. However, some beneficiaries served by the same payee expressed concerns about their living conditions and their payee. Those concerns included problems at the nursing facilities where the beneficiaries lived; telephone calls from vendors about unpaid bills; inability to make contact with their payees; and the lack of personal spending allowances. We reported the concerns expressed by the beneficiaries to SSA staff.

For the remaining three beneficiaries, we concluded the food needs were being met at the time of our review. However, we questioned whether the payees met the shelter and/or clothing needs of these beneficiaries.

- We questioned whether the shelter needs of two beneficiaries were met. At payee locations in the Atlanta and Philadelphia Regions, we observed living conditions that were unhealthy. For the beneficiary in the Atlanta Region, we observed unclean and unsanitary conditions. During our interview with another beneficiary in the Philadelphia Region, we observed the home was in very poor condition, the rooms were dirty, trash was on the floors throughout the home, and the beneficiary had to lock his bedroom door to prevent theft of personal items. In both instances, the beneficiaries stated they had not had recent contact with their representative payees. We shared this information with local SSA field office staff.
- For one beneficiary, we questioned whether her clothing needs were being met. During the interview of a beneficiary in the Dallas Region, the beneficiary reported wearing donated clothing. We found the representative payee received \$1,649 per month in Social Security retirement benefits on behalf of this beneficiary. At the time of our visit, the representative payee maintained a checking account for the beneficiary that contained more than \$4,500 in conserved Social Security funds. Further, the representative payee managed a separate savings account for this

¹⁶ Of the 171 beneficiaries served by the 16 payees during the period January 1 to December 31, 2007, we did not assess whether the needs of 46 beneficiaries were met. See Appendix C for our detailed Scope and Methodology, and Appendix D for our Sampling Methodology.

beneficiary that contained more than \$32,000. This beneficiary also expressed concerns about the nursing facility where she lived; an inability to make contact with her payee; and the lack of a personal spending allowance. We reported this situation to SSA regional office staff.

Representative Payees Charged Unauthorized Fees

SSA policy states a representative payee is required to use the benefits only for the use and benefit of the beneficiary.¹⁷ Misuse occurs when the payee uses the benefits for any other purpose.¹⁸ Agency policy indicates compensating an individual or entity from benefits for serving as a representative payee; that is, compensating a payee for his/her time and effort or administrative expenses, is not allowed.¹⁹ The *Social Security Act* provides an exception by stating, "...a qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee...."²⁰ Of the 15 individual representative payees reviewed, we found 2 payees charged 9 beneficiaries' fees for which the payees were not authorized by SSA.

- One individual representative payee was a court-appointed guardian for all but one of the beneficiaries she served. For the one beneficiary for whom the payee was not appointed as guardian, the payee charged \$65 per hour for services provided to the beneficiary. We estimate the payee inappropriately charged the beneficiary about \$2,070 in fees during the period January 1 to December 31, 2007.
- In the Philadelphia Region, an individual representative payee served eight beneficiaries. Each beneficiary was charged a fee of \$29 per month to manage their benefit payments. The payee was not a fee-for-service or court-appointed guardian for the beneficiaries. For our audit period, we estimate the payee inappropriately charged beneficiaries about \$2,780 in fees.

Information for both payees was reported to the appropriate SSA field offices.

Payees Did Not Always Comply with SSA's Policies and Procedures

During our review of the 15 individual representative payees, we found payees did not always comply with SSA's policies and procedures. Specifically, we found (1) two payees acted as conduit payees for several beneficiaries; (2) one payee failed to report significant events to SSA; (3) one payee had not established a separate bank

¹⁷ SSA, POMS, GN 00604.001 A.

¹⁸ SSA, POMS, GN 00604.001 C.3 for SSA's definition of misuse of benefits.

¹⁹ SSA, POMS, GN 00602.110 A.

²⁰ *Social Security Act* §§ 205(j)(4)(A)(i) and 1631(a)(2)(D)(i) and Id.

account for beneficiaries' funds; and (4) two payees did not maintain receipts or other documentation to account for how the beneficiaries' monthly benefit payments were spent during our audit period. See Table 3 for information concerning payees who did not comply with SSA's policies and procedures.

Table 3. Three Payees' Noncompliance with SSA's Policies and Procedures				
Payee (by Region and Location)	Conduit Payee	Did not Report Significant Events	Bank Account not Titled Properly	Insufficient Documentation
1-Boston (Waban, MA)				
2-Boston (Nashua, NH)				
3-Philadelphia (Baltimore, MD)	X	X	X	X
4-Philadelphia (Glenside, PA)				
5-Philadelphia (Wilmington, DE)	X			
6-Atlanta (Douglasville, GA)				
7-Atlanta (Port Charlotte, FL)				
8-Atlanta (Venice, FL)				
9-Chicago (Detroit, MI) ²¹				X
10-Chicago (Mullet Lake, MI)				
11-Dallas (Fort Worth, TX)				
12-San Francisco (Berkeley, CA)				
13-San Francisco (Roseville, CA)				
14-San Francisco (San Francisco, CA)				
15-San Francisco (San Bernardino, CA) ²¹				
TOTAL	2	1	1	2

Conduit Payees

SSA policy indicates that a conduit payee is a payee who does not exercise control of the funds and cannot accurately account for how benefits were used.²² Agency policy further states a conduit payee situation may indicate lack of payee interest, or it may suggest the beneficiary is capable of managing his or her own benefits.²³ When a conduit payee situation is identified, SSA policy indicates that appointing a successor payee will be considered if funds are being turned over to a third party, and direct payment will be considered if funds are being turned over to the beneficiary.²⁴ We found two payees²⁵ functioned as conduit payees by providing the beneficiaries the entire amount or part of the monthly benefit payment without instruction. These payees managed about \$98,600 annually in benefit payments for 12 beneficiaries.

²¹ Individual payee was a convicted felon.

²² SSA, POMS, GN 00605.067 D.1.

²³ Id.

²⁴ Id.

²⁵ These payees were located in SSA's Philadelphia Region.

After paying the beneficiaries' rent, we found one representative payee turned over all or a portion of the remaining funds of the monthly benefit payments to three beneficiaries. Another payee allowed a beneficiary to manage the entire monthly benefit payment for herself and her two children. The payee provided the beneficiary no direction or instruction on how to spend the funds.

We discussed these payees with SSA staff who indicated additional action would be taken regarding these payees. We believe the Agency should determine whether the beneficiaries continue to require a representative payee to manage their respective benefit payments.

[Payee Failed to Report Significant Events to SSA](#)

One of a representative payee's primary responsibilities is to notify SSA of any event that would affect the amount of benefits the beneficiary receives or the beneficiary's right to receive benefits.²⁶ We determined one representative payee did not timely notify SSA of events that affected beneficiary eligibility or benefit amount. As a result, about \$620 in improper payments may have occurred. The representative payee, in the Philadelphia Region, did not inform SSA that the beneficiary was incarcerated in August 2008. We attempted to contact the beneficiary for an interview during this period. Once the beneficiary was released, we conducted our interview in September 2008. We provided this information to the appropriate SSA field office.

[Bank Account Not Properly Titled and Non-Beneficiaries' Funds Included In Account](#)

Social Security regulations indicate that any benefits that are not needed for the beneficiaries' current or reasonably foreseeable needs must be conserved or invested.²⁷ All investments must show that the representative payee holds the benefits in trust for the beneficiary.²⁸ SSA policy indicates that field offices may approve representative payees to establish collective checking and savings accounts to hold monies belonging to several beneficiaries.²⁹ However, to protect the beneficiaries' funds, the account title must show that (1) the payee holds the account in a fiduciary capacity on behalf of the beneficiaries; (2) the beneficiaries must own the account without having access to it; (3) the payee cannot have a personal interest in the account; and (4) any interest earned belongs to the beneficiaries and must be credited to each beneficiary on a prorated basis.³⁰

²⁶ SSA POMS GN 00502.113 C.1. *Interviewing the Payee Applicant* and SI 02301.005 A and B.2--*SSI Posteligibility - Recipient Reporting*.

²⁷ 20 C.F.R. §§ 404.2045, 416.645.

²⁸ *Id.*

²⁹ SSA, POMS, GN 00603.020 B.

³⁰ *Id.*

A representative payee cannot mix the beneficiary's funds with the payee's funds.³¹ In addition, SSA policy states, "The account must be separate from the institution's, agency's or individual payee's operating account."³² Without identifying the beneficiaries' ownership interest, funds belonging to Social Security beneficiaries contained in an account are at risk.

We found that one representative payee in the Philadelphia Region had not properly titled the beneficiaries' bank account. A separate bank account for the beneficiaries in the payee's care was not established. Instead, beneficiary funds were deposited into the payee's account. As a result, the account was not properly titled to show the funds belonged to the beneficiaries. A properly titled account is important because if the representative payee has financial problems and/or files for bankruptcy, beneficiary funds may not be protected.

In addition, funds belonging to the payee were deposited into this account. The payee did not follow SSA's procedures to keep Social Security beneficiaries' funds separate from other monies. Instead, the individual representative payee deposited benefit payments and maintained personal funds in the same bank account. This account was used to pay beneficiaries' and the payee's personal expenses. We shared this information with the local field office staff.

[Insufficient Supporting Documentation](#)

Federal regulations³³ require that representative payees account for the use of benefits, keep records of the funds received and spent, and make those records available upon request. For our review, we examined beneficiaries' files as maintained by the representative payees. Two representative payees did not maintain receipts or other documentation to account for how the beneficiaries' monthly benefit payments were spent during our audit period. We could not locate sufficient supporting documentation for some of the beneficiaries' expenses. As a result, SSA does not have reasonable assurance that the benefit payments were used to meet the beneficiaries' needs.

We found that one individual representative payee in the Chicago Region had documentation for beneficiaries' rent, but not for other expenses such as cable, telephone, medical premiums, and church offerings. An individual representative payee in the Philadelphia Region did not have documentation for beneficiaries' housing, utilities, and food expenses. The payee stated these costs were included in the rental fee charged to the beneficiaries. However, the payee did not have documentation to indicate these costs were included in the rental fee. We shared this information with the local SSA field office staff.

³¹ SSA Publication No. 05-10076, *Social Security: A Guide for Representative Payees*, January 2009.

³² POMS, GN, 00603.020.

³³ 20. C.F.R. §§ 404.2065 and 416.665.

CONCLUSIONS AND RECOMMENDATIONS

Generally, the individual representative payees we reviewed were meeting the needs of the beneficiaries being served. Based on personal observations and interviews, we determined the food, clothing, and shelter needs for 122 beneficiaries were being met. However, we questioned whether the shelter or clothing needs of three beneficiaries were met. In addition, we identified two were payees charging unauthorized fees. Finally, we identified three payees who were not complying with SSA's policies and procedures.

Our review focused on individual representative payees with certain characteristics. We reviewed payees who served between 4 and 14 beneficiaries; handled payments for at least 3 non-relatives; and managed a minimum of \$800 in monthly benefit payments. In addition, payees selected for review also had certain characteristics concerning age, wages, incarceration, or benefit payment misuse. Our review, with the exception of one payee for which we initiated a separate review, did not identify significant problems with the payees. Based on our results, we do not believe payees with only these characteristics should be targeted for special monitoring by SSA. However, when a payee selected for examination under the Agency's random review efforts is determined to be a creditor of the beneficiary, we believe the Agency should take extra care in reviewing this payee's performance.

We recommend SSA:

1. Include steps to determine whether payees are operating group homes when individual representative payees are selected for review. If the payees are operating group homes, take additional steps to verify the needs of the beneficiaries are met and the expenses are reasonable and supported.
2. Review the concerns reported to Agency staff regarding the specific payees we reviewed and take appropriate action.

AGENCY COMMENTS

SSA agreed with our recommendations. The Agency's comments are included in Appendix E.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Excerpt from the National Research Council of the National Academies Report, *Improving the Social Security Representative Payee Program: Serving Beneficiaries and Minimizing Misuse* and the Social Security Administration's Responses

APPENDIX C – Scope and Methodology

APPENDIX D – Sampling Methodology

APPENDIX E – Agency Comments

APPENDIX F – OIG Contacts and Staff Acknowledgments

Acronyms

C.F.R.	Code of Federal Regulations
National Academies	National Research Council of the National Academies
OASDI	Old-Age, Survivors and Disability Insurance
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

Excerpt from the National Research Council of the National Academies Report, *Improving the Social Security Representative Payee Program: Serving Beneficiaries and Minimizing Misuse* and the Social Security Administration's Responses

In 2004, Congress required the Commissioner of the Social Security Administration (SSA) to conduct a one-time survey to determine how payments to individual and organizational representative payees were being managed and used on behalf of the beneficiaries. To carry out this work, SSA requested a study by the National Research Council of the National Academies (National Academies). SSA set four objectives for the study: (1) assess the extent to which representative payees were not performing their duties in accordance with SSA's standards for representative payee conduct, (2) learn whether the representative payment policies were practical and appropriate, (3) identify the types of representative payees that had the highest risk of misuse of benefits, and (4) find ways to reduce the risk of misuse of benefits and ways to better protect beneficiaries. As mandated by Congress, the National Academies restricted the national survey to individual payees serving fewer than 15 beneficiaries and non-fee-for-service organizational payees serving fewer than 50 beneficiaries.

In July 2007, the National Academies issued its report, *Improving the Social Security Representative Payee Program: Serving Beneficiaries and Minimizing Misuse*. In addition to summarizing its survey results, the report contained conclusions and recommendations intended to improve SSA's Representative Payment Program. On April 15, 2008, SSA issued its response to the National Academies report. In its response, SSA addressed the 28 recommendations made for its Representative Payment Program.

The following are excerpts of the National Academies' conclusions and recommendations and SSA's responses.

National Academies' Conclusion

The designation of "individual payee" is too broad a category. The designation mixes payees who serve a single or even a few beneficiaries with payees who operate group homes for up to 14 beneficiaries. Individual payees who are owners or administrators of group homes have an inherent conflict of interest. Payees of this type require special monitoring.

Recommendation 6.5

SSA should develop policies that define and treat as an organizational payee an individual who serves multiple, unrelated beneficiaries and who is also the owner, administrator, or provider of a room-and-board facility.

SSA Response:

SSA stated that this recommendation appeared to be based on an assumption that SSA allows individual payees to serve no more than 14 beneficiaries at a time and that SSA would automatically provide more monitoring to these payees if they were defined as an organization. In fact, SSA selects individual payees serving fewer than 15 beneficiaries for random reviews as part of its payee monitoring program. SSA does not currently select organizational payees serving fewer than 43 beneficiaries for random reviews. Therefore, treating these providers as organizational payees would not ensure increased monitoring and SSA did not believe that redefining them in this way was the best solution.

However, SSA recognized the need to scrutinize this type of payee more closely and began such efforts. SSA also planned to expand its payee recruitment efforts to identify more suitable payees who are not creditors.

Recommendation 6.6

SSA should reevaluate its policies that permit creditors and administrators of facilities to serve as payees.

SSA Response:

SSA's current policy is that creditors are prohibited from serving as representative payees with certain statutorily-defined exceptions, such as facilities that are licensed or certified as a care facility under State law. SSA stated it believed these protections, which follow current law, were sufficient.³⁴

However, SSA agreed that more needed to be done to investigate the issue of group home administrators as payees. In Fiscal Year 2008, SSA requested that the Office of the Inspector General audit representative payees for beneficiaries who reside in facilities that provide room and board. SSA planned to use this audit to identify any weaknesses in its policy. If the audit identifies a problem, SSA stated it would pursue policy changes.

³⁴ Social Security Act sections 205(j)(2)(C) and 1631(a)(2)(B)

National Academies' Conclusion

The guardianship and fee-for-service aspects of the program conflict with the congressional intent that individual payees not receive fees from Social Security funds. Although SSA's Program Operations Manual System (POMS) provides policy guidance for allowing fees when there is court oversight, this broad allowance of such a practice is not in the best interests of beneficiaries and conflicts with legislative intent.

Some beneficiaries have SSA-appointed payees who are different from the people who hold their power of attorney or serve as legal guardian, or conservator. This causes potential conflicts, violations of SSA's rules, inefficiencies and inaccuracy in reporting, delays in payee selection, and duplication of effort.

There is a lack of communication between SSA and state courts with regard to beneficiaries who might have both a guardian and a representative payee. This lack of communication has led to misunderstandings as to the authority, or lack thereof, for paying fees for representative payee services.

Recommendation 6.7

SSA should change POMS to state that when a beneficiary already has an individual with power of attorney, a legal guardian or conservator, there is a preference (with flexibility) for selecting that individual as the beneficiary's representative payee.

SSA Response:

SSA agreed that guardians should have preference, but does not automatically assume the guardian is the best representative payee available. SSA's regulations and POMS instructions currently identify guardians as preferred representative payees. However, to apply the same preference to conservators, SSA would have to find that the two groups are identical. This approach will not produce a uniform national policy because, in some States, conservators do not have the same legal standing as guardians. Accordingly, POMS states that, in selecting a payee, SSA employees must consider the fact that there is a conservator and determine whether his or her appointment would be in the beneficiary's best interest. SSA also does not recognize the power-of-attorney for purposes of negotiating benefit payments. This granting of authority does not diminish the rights of the beneficiary and usually does not convey the right to manage a beneficiary's income.

However, SSA stated it would revise the provisions in POMS that explain and define the special relationships between beneficiaries and their conservators and those holding power-of-attorney to make sure that the policy is clear, and to ensure that SSA employees who assess these types of payee applicants consider this relationship when making a payee determination.

Recommendation 6.8

SSA, in consultation with the States, should eliminate inconsistencies between State and Federal practices regarding the calculation of payee fees and financial oversight.

SSA Response:

Each State has its own laws governing guardianship duties and fees. Guardians may perform very different duties than representative payees. It would be nearly impossible to find one standard that would align SSA's national program with the law of 50 different States. Current SSA policy allows part of the beneficiary's funds to be used for customary guardianship or conservator costs, proceedings, and court-ordered fees in most cases. In cases where it appears that the payee is deducting excessive fees from a benefit payment, SSA reviews the case considering the relevant State law guidelines and the court order, and works with the payee to try to resolve the issue. SSA stated it would review its policies and update them as necessary to ensure that the Agency is doing all it can to provide adequate protection for the beneficiaries.

Scope and Methodology

Our review included the population of individual representative payees in the contiguous 48 States serving 14 or fewer beneficiaries as of September 2007. To accomplish our objective, we:

- Reviewed applicable Federal laws and regulations and the Social Security Administration's (SSA) policies and procedures for monitoring representative payees and their responsibilities for the beneficiaries in their care.
- Obtained from SSA's payment records and Representative Payee System a data extract of approximately 5.2 million individual representative payees who were serving 14 or fewer beneficiaries as of September 2007. From this file, we identified representative payees who (1) served between 4 and 14 beneficiaries, (2) served at least 3 beneficiaries who were not family members of the payees, and (3) managed over \$800 in monthly benefit payments.
- Selected a sample of 17 representative payees from 3 sampling frames of individual representative payees (see Appendix D for our Sampling Methodology).
- Verified the identities of the representative payees being reviewed and the beneficiaries they served.
- Interviewed 16 individual representative payees.
- Determined whether the food, clothing, and shelter needs of the beneficiaries served by the individual representative payees were being met, based on interviews and observations.
 - Of the 16 individual representative payees selected for review, we determined whether 15 payees met the needs of the beneficiaries served. Based on conditions found, we determined a separate, detailed review was warranted for one payee. As a result, during this review, we did not determine whether the needs of the beneficiaries served by this payee were met. See Appendix D for our Sampling Methodology.
 - For the remaining 15 individual representative payees, 162 beneficiaries were served during the period January 1 to December 31, 2007. Of these, we determined whether 125 beneficiaries' needs were met, based on personal observations and interviews.
 - Of the 162 beneficiaries served by the 15 payees, 37 were not observed or interviewed during our audit period. We did not observe or interview these

beneficiaries because the beneficiaries were incarcerated (two beneficiaries); no longer served by the payees and could not be contacted (eight beneficiaries); or had mental health issues (one beneficiary). In addition, 17 beneficiaries from our data file were deceased by the time of our site visits in 2008. Further, we limited the number of beneficiaries observed or interviewed when we did not identify any concerns with the payees based on the interviews we conducted. For example, for 1 payee serving 15 beneficiaries, we interviewed 10 beneficiaries who reported that their needs were being met. As a result of those interviews, we did not interview four beneficiaries being served by that payee. One beneficiary was deceased as reported above. In total, nine beneficiaries were not observed or interviewed because we did not identify any concerns with the payees based on interviews with other beneficiaries in the payees' care.

- Assessed the financial records of selected representative payees.
 - Of the 16 individual representative payees selected for review, we determined whether 15 payees misused benefit payments. Based on conditions found, we determined a separate, detailed review was warranted for one payee. As a result, during this review, we did not determine whether that payee misused benefit payments. See Appendix D for our Sampling Methodology.
 - Our review focused on benefit payments received by the 15 payees for the period January 1 to December 31, 2007.

We determined the data extracted from the Representative Payee System to be sufficiently reliable for their intended use. Further, any data limitations are minor in the context of this assignment, and the use of the data should not lead to an incorrect or unintentional message.

The principal entities audited were the regional offices under the Deputy Commissioner for Operations. We performed our review in Baltimore, Maryland, from August 2008 to February 2009. In addition, we reviewed 16 representative payees in California, Delaware, Florida, Georgia, Maryland, Massachusetts, Michigan, New Hampshire, Pennsylvania and Texas. 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.

Sampling Methodology

We obtained from the Social Security Administration's (SSA) payment records and Representative Payee System a list of approximately 5.2 million individual representative payees who served 14 or fewer beneficiaries during the period January through December 2007. From this file, we identified a population of 910 representative payees who had the following characteristics.

- Served at least three beneficiaries who were not family relatives.
- Managed more than \$800 in monthly benefit payments.

From this population, we identified the following three groups of representative payees.

- 119 payees with no indication they were convicted felons, served time in prison, or misused benefits; who were age 50 or older; and had less than \$9,973¹ in wages in 2005 (Sampling Frame A);
- 780 payees with no indication they were convicted felons, served time in prison, or misused benefits with wages greater than \$9,973 in 2005 (Sampling Frame B); and
- 11 payees with an indication they were convicted felons, served time in prison, or misused benefits who were (a) over age 50 with wages less than \$9,973 in 2005 or (b) any age with wages greater than \$9,973 in 2005 (Sampling Frame C).

From the 3 sampling frames, we selected a total of 17 individual representative payees for review. We selected seven individual representative payees managing the highest amount of total benefit payments that exceeded the payees' annual earnings from Sampling Frame A. For Sampling Frame B, we selected eight payees managing the highest amount of total benefit payments that exceeded the payees' annual earnings. Finally, from Sampling Frame C, we selected two payees who managed the highest amount of total benefit payments that exceeded their annual earnings.

Of the 17 representative payees selected, 1 payee in the Boston Region was being reviewed under SSA's triennial monitoring program at the time of our review. Therefore, we removed this payee from our audit.² As a result, our review initially examined 16 individual representative payees.

¹ This amount represents the poverty threshold for 2005 for one individual household as reported by the Department of Health and Human Services.

² After completing its review, SSA staff informed us no issues were found with this payee.

During our review, we determined a separate, detailed review of one payee was warranted. This individual representative payee was located in the Philadelphia Region. We found the payee also served as an organizational representative payee for two group homes. Our limited review found the payee: (1) did not have adequate internal controls for the receipt and disbursement of Social Security benefits, (2) maintained a collective bank account that may not have met SSA's requirements, and (3) failed to notify SSA that a beneficiary in his care had been missing. A full review of the representative payee's activities for the period January 1, 2007 to September 30, 2008 was initiated by our Philadelphia Audit Division. Therefore, for the purposes of this review, we did not determine whether the beneficiaries' needs were being met, or whether the payee misused beneficiaries' funds. The results of this review will be reported separately as *Organizational Representative Payee Serving as an Individual Representative Payee in Philadelphia, Pennsylvania (A-03-09-29094)*.

As a result of excluding these 2 payees and the beneficiaries they served, we reviewed a total of 15 individual representative payees serving 162 beneficiaries during the period January 1 to December 31, 2007. We were able to interview and/or observe 125 of these beneficiaries to determine whether their needs were being met (see Appendix C for our Scope and Methodology). Of the 125 beneficiaries, we question whether the needs were met for 3 beneficiaries being served by 3 payees. Also, we believe two payees charged nine beneficiaries fees for which they were not authorized. Generally, nothing came to our attention that would lead us to believe the 15 individual representative payees reviewed did not meet the needs of the beneficiaries being served or misused Social Security benefits other than charging a fee for which the payee was not authorized.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: July 23, 2009 **Refer To:** S1J-3

To: Patrick P. O'Carroll, Jr.
Inspector General

From: James A. Winn //s//
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Individual Representative Payees Serving Multiple Beneficiaries" (A-13-08-28089)—INFORMATION

Thank you for the opportunity to review and comment on the draft report. We appreciate the comprehensive work that the OIG auditing team did on this report. Our response to the report findings and recommendations is attached.

Please let me know if we can be of further assistance. Staff inquiries may be directed to Candace Skurnik, Director, Audit Management and Liaison Staff, at (410) 965-4636.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
“INDIVIDUAL REPRESENTATIVE PAYEES SERVING MULTIPLE BENEFICIARIES”
(A-13-08-28089)**

We have reviewed the draft report and agree with the report’s contents and findings. Our responses to the specific recommendations are provided below.

Recommendation 1

Include steps to determine whether payees are operating group homes when we select individual representative payees (Rep Payees) for review. If Rep Payees are operating group homes, take additional steps to verify the needs of the beneficiaries are met and the expenses are reasonable and supported.

Comment

We agree. We do not have the administrative data to determine if an individual Rep Payee is operating a group home at the time we select a Rep Payee for review. However, we will examine our procedures to determine if there is a way we can identify if a Rep Payee is operating a group home. We will also identify any additional steps we can take to verify that the Rep Payee is meeting the needs of the beneficiaries and that the expenses are reasonable and supported. We expect to complete these actions by December 31, 2009.

Recommendation 2

Review the concerns reported to our staff regarding the specific payees OIG reviewed and take appropriate action.

Comment

We agree. We will pursue the appropriate action for the specific Rep Payees.

[In addition to the information listed above, SSA provided technical comments which have been addressed, where appropriate, in this report.]

OIG Contacts and Staff Acknowledgments

OIG Contacts

Shirley E. Todd, Director, Evaluation Division

Randy J. Townsley, Audit Manager

Acknowledgments

In addition to those named above:

Linda Webester, Auditor-in-Charge

Atlanta Audit Division

Boston Audit Division

Chicago Audit Division

Dallas Audit Division

Evaluation Division

Philadelphia Audit Division

San Francisco Audit Division

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OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

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