

# Interaction Between the Social Security Administration's Representative Payment and State Guardianship Programs

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Office of Audit Report Summary

### Objective

To answer congressional questions about the interaction between the Social Security Administration's (SSA) representative payment and State guardianship programs.

### Background

SSA appoints representative payees to receive and manage the payments of those beneficiaries who cannot manage or direct the management of their own benefits because of their youth or mental and/or physical impairments. A representative payee may be an individual or an organization. SSA selects representative payees when it would serve the beneficiaries' interests. Some beneficiaries may have other individuals hold power of attorney or serve as their legal guardian or conservator.

State laws over the appointment and oversight of guardians can vary significantly. A court order is usually required to appoint a legal guardian. If a court establishes a beneficiary is legally incompetent, SSA must select a representative payee for the beneficiary. If a court does not find a beneficiary is legally incompetent, SSA may select a representative payee if it determines the beneficiary is incapable of managing his/her benefits or the court order otherwise indicates the need for a representative payee.

### Conclusions

- The *Privacy Act of 1974*, as amended, and State laws may limit SSA and State courts' ability to share information. SSA and State courts may encounter additional challenges—such as technical, economic, and operational barriers—in implementing data sharing.
- A beneficiary, representative payee, guardian, or other individual or organization generally notifies SSA when a guardian is appointed.
- Before selecting a representative payee, SSA must consider the applicant's relationship to the beneficiary and interest in the beneficiary's well-being as well as whether the applicant has custody of the beneficiary. Generally, a spouse or parent with custody of a beneficiary is the first priority while a guardian with custody of a beneficiary is the second priority.
- SSA policy requires that its employees consider several factors when it evaluates a representative payee applicant. This includes the applicant's relationship to, and custody of, the beneficiary; concern for a beneficiary's well-being; ability to handle his/her own affairs; past payee performance; and criminal history.
- When SSA does not select a guardian as the representative payee, it selects spouses, parents, and other relatives or individuals as well as public or nonprofit agencies or institutions; Federal or State institutions; and private, for-profit institutions.