



SOCIAL SECURITY

MEMORANDUM

Date: June 25, 2002

To: The Commissioner

From: Inspector General

Subject: Analysis of Information Concerning Representative Payee Misuse of Beneficiaries' Payments (A-13-01-11004)

The attached final report presents the results of our evaluation. Our objective was to analyze information concerning representative payee (Rep Payee) misuse of beneficiaries' payments. Specifically, we were to determine whether common characteristics existed for Rep Payees who had misused beneficiary payments.

Please comment within 60 days from the date of this memorandum on corrective action taken or planned on each recommendation. If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.



James G. Huse, Jr.

Attachment

**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**ANALYSIS OF INFORMATION
CONCERNING REPRESENTATIVE
PAYEE MISUSE OF
BENEFICIARIES' PAYMENTS**

June 2002

A-13-01-11004

**EVALUATION
REPORT**



Mission

We improve SSA programs and operations and protect them against fraud, waste, and abuse by conducting independent and objective audits, evaluations, and investigations. We provide timely, useful, and reliable information and advice to Administration officials, the 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:

- Independence to determine what reviews to perform.
- Access to all information necessary for the reviews.
- Authority to publish findings and recommendations based on the reviews.

Vision

By conducting independent and objective audits, investigations, and evaluations, we are agents of positive change striving for continuous improvement in the Social Security Administration's programs, operations, and management and in our own office.

Executive Summary

OBJECTIVE

Our objective was to analyze information concerning representative payee (Rep Payee) misuse of beneficiaries' payments. Specifically, we were to determine whether common characteristics existed for Rep Payees who had misused beneficiary payments.

BACKGROUND

Some individuals cannot manage or direct the management of their benefits because of their youth or mental and/or physical impairments. Congress granted the Social Security Administration (SSA) the authority to appoint Rep Payees to receive and manage these beneficiaries' payments. A Rep Payee may be an individual or an organization. SSA selects Rep Payees for Old-Age, Survivors and Disability Insurance beneficiaries or Supplemental Security Income recipients when representative payment would serve the individual's interests.

A Rep Payee is required to use the benefits only for the beneficiary's use and benefit. Benefit payment misuse occurs when Rep Payees do not use benefit payments for the beneficiary's current and foreseeable needs or do not conserve unused benefits for the beneficiary. SSA is responsible for investigating all allegations of misuse and protecting the beneficiary's best interests. When SSA has determined that misuse has occurred, the suspected violation should be referred to the Office of the Inspector General (OIG) to consider possible criminal, civil, and/or administrative remedies.

To perform our review, we obtained and analyzed a file of 2,417 individuals identified within SSA's Representative Payee System (RPS) as having misused approximately \$12 million in beneficiary payments. SSA rendered these misuse determinations from January 1997 through December 1999.

RESULTS OF REVIEW

Based on our review of data contained in the RPS, we did not identify statistically significant common characteristics that were unique to Rep Payees who misused benefit payments. However, our analysis of the RPS data identified several problems in SSA's monitoring and oversight of these Rep Payees. Specifically, we found the following.

SSA Did Not Always Refer Misuse Cases to the OIG

- Misuse cases we reviewed were not always referred to the OIG for possible criminal, civil, and/or administrative remedies.
- Additional misuse cases may exist that should be referred to the OIG.

SSA Retained Rep Payees Who Committed Misuse

- SSA frequently retained Rep Payees who misused benefit payments.
- Rep Payees who misused payments and were subsequently retained as Rep Payees did not always make mandatory repayment of misused benefit payments.
- Rep Payees who were previously incarcerated misused benefit payments and continued as Rep Payees.

Rep Payees Had Rep Payees

- Rep Payees managed benefits of others when SSA had determined they could not manage their own benefits.

CONCLUSIONS AND RECOMMENDATIONS

When Rep Payees commit misuse, they undermine the trust placed in them to manage beneficiaries' payments. When misuse occurs, SSA has a responsibility to remedy the situation. This includes removing the Rep Payee; obtaining repayment of misused payments; and referring misuse cases to the OIG for possible criminal, civil, and/or administrative remedies. In addition, when SSA decides to retain these Rep Payees, it should closely monitor them to ensure misuse does not occur again. Our review found that increased SSA oversight is needed of Rep Payees who misuse benefit payments.

We recommend that SSA:

1. Develop and implement a process to identify and refer prior known instances of Rep Payee misuse to the OIG for possible criminal, civil, and/or administrative remedies.
2. Follow existing policy for referring all future Rep Payee misuse cases to the OIG for possible criminal, civil, and/or administrative remedies.
3. Comply with Agency policy that Rep Payees are rarely retained after misuse has occurred.
4. Periodically assess the continued suitability of Rep Payees that previously misused benefit payments. SSA should closely monitor these Rep Payees to detect and prevent the misuse of benefit payments belonging to its most vulnerable beneficiaries.
5. Create and implement management controls to ensure compliance with mandatory repayment of misused benefit payments when Rep Payees are retained after benefit payment misuse has occurred.

6. Automate the process that identifies incarcerated Rep Payees. This process should alert SSA of the need to assess an individual's continued suitability to serve as a Rep Payee.
7. Implement management controls to prevent the appointment of individuals as Rep Payees who have a Rep Payee managing their own benefits, and identify individuals currently serving as Rep Payees that become incapable of managing their own benefits.

AGENCY COMMENTS

In response to our draft report, SSA agreed with all of our recommendations. (See Appendix B for the full text of SSA's comments.)

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Acronyms

OI	Office of Investigations
OIG	Office of the Inspector General
POMS	Program Operations Manual System
RPS	Representative Payee System
Rep Payee	Representative Payee
SSA	Social Security Administration

Introduction

OBJECTIVE

Our objective was to analyze information concerning representative payee (Rep Payee) misuse of beneficiary payments. Specifically, we were to determine whether common characteristics existed for Rep Payees who had misused beneficiary payments.

BACKGROUND

Some individuals cannot manage or direct the management of their benefits because of their youth or mental and/or physical impairments. Congress granted the Social Security Administration (SSA) the authority to appoint Rep Payees to receive and manage these beneficiaries' payments.¹ A Rep Payee may be an individual or an organization. SSA selects Rep Payees for Old-Age, Survivors and Disability Insurance beneficiaries or Supplemental Security Income recipients when representative payment would serve the individual's interests.

Rep Payee Responsibilities

Rep Payees are responsible for using benefits in the beneficiary's best interests. Their duties² include:

- using benefits to meet the beneficiary's current and foreseeable needs,
- conserving and investing benefits not needed to meet the beneficiary's current needs,
- maintaining accounting records,
- reporting events to SSA that may affect the beneficiary's entitlement or benefit payment amount,
- reporting any changes in circumstances that would affect their performance as a Rep Payee, and
- providing SSA an annual Representative Payee Report accounting for how benefits were spent and invested.

¹ The Social Security Act, as amended, §§ 205(j)(1)(A), 42 U.S.C. 405 and 1631(a)(2)(ii), 42 U.S.C. 1383.

² Program Operations Manual System (POMS), GN 00502.113B.

Rep Payees who misuse³ benefit payments are indebted to the beneficiaries and have an obligation to make repayment to these beneficiaries. Rep payees may accomplish this by:

- returning the payments to SSA, in whole or in installments, to reissue to the new Rep Payee or to the beneficiary, as appropriate;
- voluntarily allowing withholding of funds from their own Social Security benefits; or
- repaying the beneficiary or new Rep Payee directly.

SSA Responsibilities

SSA must investigate allegations of benefit misuse, determine the facts, and protect the beneficiary's best interests. SSA prepares "misuse determinations," which are comprehensive statements that document its decision as to whether the Rep Payee misused benefit payments. Separate misuse determinations are prepared for each affected beneficiary. Once it is determined that a Rep Payee misused benefit payments, SSA must take action to remedy or correct the beneficiary's situation. Those actions include the following:

- appointing a new Rep Payee;
- determining a Rep Payee is no longer needed and initiating "direct payment"⁴ to the beneficiary;
- making repayment⁵ of misused benefits; and
- referring instances of benefit payment misuse to the Office of the Inspector General (OIG) for possible criminal, civil and/or administrative remedies.

To assist in investigations of the suitability of Rep Payee applicants, the Omnibus Budget Reconciliation Act of 1990⁶ requires SSA to develop and maintain a centralized system identifying Rep Payees and the beneficiaries they serve. As a result, SSA created the Representative Payee System (RPS). The RPS is an automated system for entering and retrieving information about Rep Payees and Rep Payee applicants. The RPS also maintains information about beneficiaries in the Rep Payee's care and the

³ POMS, GN 00604.001 B. 4., *Misuse of Benefits* – Misuse of benefits refers to the misappropriation of benefits by the Payee. Misuse of benefits occurs when the Payee neither uses benefits for the current and foreseeable needs of the beneficiary nor conserves benefits for the beneficiary.

⁴ A "direct payment" occurs when a benefit payment is issued directly to a beneficiary.

⁵ The term "repayment" is used to denote when SSA directs Rep Payee to pay misused funds to the beneficiary or if SSA reissues benefit payments because of negligence (POMS GN 00604.060D.2).

⁶ The Social Security Act, as amended, § 205(j)(3)(E), 42 U.S.C. 405.

relationship between Rep Payees and beneficiaries. In addition, SSA uses the RPS to collect and maintain information on Rep Payees who have misused benefits.

SSA uses the information maintained within RPS to prevent selection of Rep Payees who have been convicted of committing SSA-related fraud, improve its selection process, prepare annual reports to Congress on Rep Payee activities, and obtain data for workload projections. The RPS is intended to provide all known information about Rep Payee applicants so a well-informed assessment of applicants' suitability can be made.

SCOPE AND METHODOLOGY

To accomplish our objective, we:

- Reviewed SSA's POMS and the Social Security Handbook pertaining to the policies and procedures applicable to the Representative Payment Program.
 - Obtained and analyzed data elements contained within the RPS information regarding 2,696 misuse determinations (involving 2,417 Rep Payees) made from January 1997 through December 1999.
- Performed the following tests for the 2,417 Rep Payees:
 - determined whether misuse cases over \$5,000 were referred to the OIG, Office of Investigations (OI) for possible criminal, civil and/or administrative remedies;
 - determined the number of Rep Payees who were retained as Rep Payees after misuse occurred;
 - determined whether Rep Payees made mandatory repayment of misused funds;
 - identified the number of Rep Payees who were incarcerated after the misuse occurred and determined whether SSA continued to make payments to the affected Rep Payees; and
 - identified the number of Rep Payees who had Rep Payees managing their own Social Security benefits.

We performed our review in Baltimore, Maryland, from December 2000 to December 2001. The entity reviewed was the Office of Operations under the Deputy Commissioner for Operations. We conducted our evaluation in accordance with Quality Standards for Inspections issued by the President's Council on Integrity and Efficiency.

Results of Review

Based on our review of data contained in the RPS, we did not identify statistically significant common characteristics⁷ that were unique to Rep Payees that misused benefit payments. However, our analysis of the RPS data identified several problems in SSA's monitoring and oversight of these Rep Payees. Specifically, we found the following.

SSA Did Not Always Refer Misuse Cases to the OIG

- Misuse cases we reviewed were not always referred to the OIG for possible criminal, civil, and/or administrative remedies.
- Additional misuse cases may exist that should be referred to the OIG.

SSA Retained Rep Payees Who Committed Misuse

- SSA frequently retained Rep Payees who misused benefit payments.
- Rep Payees who misused payments and were subsequently retained as Rep Payees did not always make mandatory repayment of misused benefit payments.
- Rep Payees who were previously incarcerated misused benefit payments and continued as Rep Payees.

Rep Payees Had Rep Payees

- Rep Payees managed benefits of others when SSA had determined they could not manage their own benefits.

SSA Did Not Always Refer Misuse Cases to the OIG

When SSA makes a misuse determination, the suspected violation should be referred to the OIG for further review and investigation. Failure to refer misuse cases to OIG precludes potential development of criminal, civil and administrative investigations that could yield court-ordered restitution, fines/penalties, and administrative action to prevent loss, achieve savings, or recover fraud loss.

⁷ Examples of common characteristics reviewed include mailing address types (for example, Post Office Box, street address, etc.), felony status, and program type (Old-Age, Survivors and Disability Insurance or Supplemental Security Income).

Misuse Cases We Reviewed Were Not Always Referred to the OIG for Possible Criminal, Civil, and/or Administrative Remedies

referred to the OIG for possible criminal, civil and/or administrative remedies. Those cases represented over \$5.9 million in misused benefits.

Specifically, in one situation, a Rep Payee misused \$36,456 from June 1990 through February 1997. This individual was receiving benefits for a child even though the child was in the custody of a State foster care agency for the entire period. SSA did not refer this situation to the OIG for investigation, and, according to SSA's records, the child was never compensated for the misused funds. During our review, we referred the 521 misuse cases to the OIG's Office of Investigations. We are working with the Agency to determine why these cases were not referred to the OIG.

Additional Misuse Cases May Exist that Should Be Referred to the OIG

exist concerning misuse determinations made after December 1999 that were not referred to the OIG for possible criminal, civil and/or administrative remedies.

From January 1997 through December 1999, SSA made misuse determinations involving 2,417 Rep Payees. Since our review was limited to 670 of these Rep Payees, we may not have identified all misuse cases that should have been referred to the OIG. Furthermore, cases may

SSA Retained Rep Payees Who Committed Misuse

Generally, a Rep Payee who misuses benefit payments is no longer suitable to act as a Rep Payee. According to SSA's policy, in rare cases, SSA may determine that payment should continue to the same Rep Payee. However, SSA policy permits this only if the Rep Payee has made repayment of the misused benefits (or has a definite plan to do so) and there is good reason to believe the Rep Payee will use benefits properly in the future.⁸

SSA Frequently Retained Rep Payees Who Misused Benefit Payments

2 of the 29 individuals, SSA continued to retain the individuals as Rep Payees, although SSA determined that subsequent misuse occurred. By retaining these 418 Rep Payees, \$3.5 million⁹ of beneficiary payments is at-risk of misuse.

We found that SSA retained 418 of 2,417 (17.3 percent) Rep Payees after determining they had misused benefit payments. Of these, there were 29 individuals who misused benefit payments for multiple beneficiaries. For

⁸ POMS, GN 00604.045.

⁹ Yearly projected amounts are based on the assumption that all variables remain constant.

Rep Payees Who Misused Payments and Were Subsequently Retained as Rep Payees Did Not Always Make Mandatory Repayment of Misused Benefit Payments

When a Rep Payee misuses beneficiary payments, the Rep Payee becomes indebted to the beneficiary. A Rep Payee who has misused beneficiaries' payments may be retained only if the Rep Payee has made repayment of the misused benefit payments (or has a definite plan to do so). A Rep Payee's unwillingness or inability to repay misused funds increases the risk of future misuse.

Our review found that Rep Payees who were retained as a Rep Payee after committing misuse did not always make the mandatory repayment of misused benefit payments. The 418 Rep Payees SSA retained had misused benefit payments totaling \$1.8 million during our review period. According to SSA's records, the following chart shows the recovery status for the misused benefits as of September 2000.

Recovery Status	Amount	Dollar Percentage
Unpaid	\$ 1,461,000	79
Currently Being Repaid	363,000	19.7
Fully Repaid	24,000	1.3
Total Misuse Amount	\$ 1,848,000	100

For example, during our review, we identified a Rep Payee who misused \$35,077 in benefit payments intended for the use of a minor child. The misuse determination was made in July 1997, and there has been no collection activity to date. As of November 2001, this same individual continued to receive benefits for another minor child.

Rep Payees Who Were Previously Incarcerated Misused Benefit Payments and Continued as Rep Payees

Incarceration and/or having a criminal history does not necessarily prevent an individual from serving as a Rep Payee. However, we believe it is a strong indication the individual may no longer be suitable to continue as a Rep Payee. To identify incarcerated Rep Payees, SSA performs periodic matches of prisoner records with the

RPS. During our review, we learned this match produces an alert¹⁰ that requires a manual review of RPS information to determine whether the individual is serving as a Rep Payee.

We found that 11 Rep Payees were receiving benefits on behalf of other beneficiaries after the Rep Payee misused the benefits. These Rep Payees were subsequently incarcerated. However, SSA continued to retain these individuals as Rep Payees. SSA

¹⁰ An alert is an automated or paper notification that a situation/problem requires attention.

should have been aware from the matches of prisoner records and RPS information that these individuals were incarcerated. As of June 2001, the match of prisoner records indicated these Rep Payees were no longer incarcerated, and SSA continued to pay \$87,484 in benefits per year to these 11 Rep Payees.

In one instance, we identified an individual serving as a Rep Payee who misused beneficiary payments, was retained as a Rep Payee, and was subsequently convicted of an unrelated felony and confined to prison on October 26, 1999. On June 4, 2001, we notified SSA that this individual was still serving as a Rep Payee.¹¹ As a result, SSA appointed the beneficiary a new Rep Payee.

Rep Payees Had Rep Payees

Before a Rep Payee is appointed, SSA must evaluate the applicant's ability to handle his/her own affairs. Specifically, SSA policy¹² states "...Never appoint as payee someone who has a payee."

Rep Payees Managed Benefits of Others When SSA Had Determined They Could Not Manage Their Own Benefits

During our review, we identified 30 individuals who had Rep Payees, had misused another beneficiary's benefits, and were acting as Rep Payees. These Rep Payees misused over \$156,000 in benefit payments. This occurred because RPS does not prevent the appointment of individuals who have a Rep Payee as a Rep Payee. During the Rep Payee application process,

RPS generates an alert "RP has RP," which indicates the applicant has a Rep Payee managing their benefit payments. However, RPS does not prevent the selection of such an individual.

In addition, if an individual who is serving as a Rep Payee becomes incapable of managing his/her own benefits, RPS does not generate an alert to bring attention to this condition. Such an alert could bring about the removal of beneficiaries from the Rep Payee's care.

On March 2, 2001, we issued an Early Alert, *Representative Payees Who Have Representative Payees*, to SSA (Appendix A). As a result of the information provided in our Early Alert, SSA has taken the following corrective actions. Specifically, SSA:

- Identified approximately 3,800 Rep Payees who had Rep Payees.
- Issued a memorandum to Regional Commissioners identifying the Rep Payees that had Rep Payees located within their respective regions and a draft of guidance for addressing this issue.

¹¹ Memorandum to Acting Deputy Commissioner for Operations, June 4, 2001; Subject: Incarcerated Representative Payee.

¹² POMS, GN 00502.130.

- Developed an Agency Intranet site for accessing and updating information pertaining to the corrective actions taken to remove these individuals as Rep Payees (appointing a new Rep Payee or making direct payment to the beneficiary).
- Initiated action to implement changes to RPS intended to prevent the selection of individuals as Rep Payees that have Rep Payees managing their own benefits.

SSA has informed us that the changes to RPS will be complete in the near future.

Conclusions and Recommendations

When Rep Payees commit misuse, they undermine the trust placed in them to manage beneficiaries' payments. When misuse occurs, SSA must take action to remedy or correct the beneficiary's situation. This includes removing the Rep Payee; obtaining repayment of misused benefit payments; and referring misuse cases to the OIG for possible criminal, civil, and/or administrative remedies. In addition, when SSA decides to retain these Rep Payees, close monitoring of such Rep Payees may be required to ensure benefit payment misuse does not occur again. Our review found that increased SSA oversight is needed of Rep Payees who misuse benefit payments.

We recommend that SSA:

1. Develop and implement a process to identify and refer prior known instances of Rep Payee misuse to the OIG for possible criminal, civil and/or administrative remedies.
2. Follow existing policy for referring all future Rep Payee misuse cases to the OIG for possible criminal, civil and/or administrative remedies.
3. Comply with Agency policy that Rep Payees are rarely retained after misuse has occurred.
4. Periodically assess the continued suitability of Rep Payees that previously misused benefit payments. SSA should closely monitor these Rep Payees to detect and prevent the misuse of benefit payments belonging to its most vulnerable beneficiaries.
5. Create and implement management controls to ensure compliance with mandatory repayment of misused benefit payments when Rep Payees are retained after benefit payment misuse has occurred.
6. Automate the process that identifies incarcerated Rep Payees. This process should alert SSA of the need to assess an individual's continued suitability to serve as a Rep Payee.
7. Implement management controls to prevent the appointment with individuals as Rep Payees who have a Rep Payee managing their own benefits, and identify individuals currently serving as Rep Payees that become incapable of managing their own benefits.

AGENCY COMMENTS

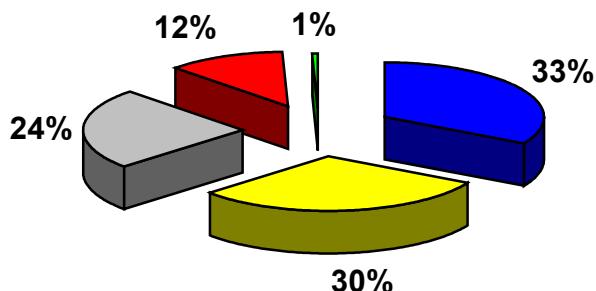
In response to our draft report, SSA agreed with all of our recommendations. (See Appendix B for the full text of SSA's comments.)

Other Matters

SSA SHOULD HAVE AUTHORITY TO COLLECT MISUSED FUNDS

A Rep Payee who misuses benefit payments becomes indebted to the beneficiary and has an obligation to make repayment to the beneficiary. SSA rendered determinations that 2,417 Rep Payees misused benefit payments from January 1997 through December 1999. These Rep Payees misused beneficiary payments totaling almost \$12 million. According to RPS, the recovery status for the \$12 million is as follows.

RECOVERY STATUS



- **Fully recovered (1 percent)** - the misused amount has been completely repaid.
- **Abandoned (12 percent)** – SSA has determined that efforts to recover misused payments are futile and further efforts cannot be justified.
- **Being recovered (24 percent)** - an agreement for repayment has been reached.
- **Deferred (30 percent)** - SSA suspended collection activity.
- **Refund requested (33 percent)** – SSA notified the Rep Payee and requested repayment of the misused benefit payments.

Although SSA has broad authority to recover overpayments (such as, tax refund offsets, referral to contract collection agencies, notifying credit bureaus, and administrative offsets of future federal benefit/payments), these debt collection tools cannot be used to recover benefits misused by Rep Payees. As a result, most misused funds are not recovered and repaid to the affected beneficiaries. We support legislative proposals that would treat misused benefits as overpayments to the Rep Payee. Thus providing SSA the necessary means for recovering the misused payments.

Appendices

Appendix A

MEMORANDUM

Date: March 2, 2001

Refer To:

To: William A. Halter
Acting Commissioner
of Social Security

From: Inspector General

Subject: EARLY ALERT: Representative Payees Who Have Representative Payees

While conducting a review of Representative Payees (Rep Payees) who have misused beneficiaries' funds, we found there were individuals serving as Rep Payees who had a Rep Payee to manage their own Social Security benefits. Since the Social Security Administration (SSA) has determined these individuals cannot manage their own benefits, we question why they have been selected as a Rep Payee to manage the benefits of other beneficiaries.

As part of our efforts to assist SSA in improving its oversight of Rep Payees, we have initiated the review, Analysis of Information Concerning Representative Payees Misuse of Beneficiaries' Payments (A-13-01-11004). This review includes an analysis of Rep Payees who have a misuse indicator reflected in the Representative Payee System (RPS) for the period January 1997 through December 1999. During our initial review of this information, we identified 30 Rep Payees who had Rep Payees to manage their own SSA benefits. SSA policy precludes individuals from serving as a Rep Payee who have a Rep Payee for their own benefits.

In addition, according to the information in the RPS, these individuals misused \$156,891 in benefits intended for their beneficiaries. Of that, SSA has recovered only \$10,778. We are particularly concerned that individuals who are determined to be incapable of managing their own benefits and who have misused another beneficiary's benefits are approved to serve as a Rep Payee for other individuals.

We note that SSA has taken corrective action to remove most of these individuals from serving as a Rep Payee. As of January 2001, only one individual was active as a Rep Payee. We recommend SSA take prompt action to select a new Rep Payee for this beneficiary and institute adequate controls to ensure this condition does not reoccur.

Page 2 – William A. Halter

We will make ourselves available to assist you in determining the extent of this condition. If you have any questions concerning this matter, please contact me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.

/s/
James G. Huse, Jr.

Appendix B

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: June 3, 2002

Refer To: S1J-3

To: James G. Huse, Jr.
Inspector General

From: Larry Dye /s/
Chief of Staff

Subject: Office of the Inspector General Draft Report, "Analysis of Information Concerning Representative Payee Misuse of Beneficiaries' Payments" (A-13-01-11004)—INFORMATION

We appreciate OIG's efforts in conducting this review. Our comments on the report content and recommendations are attached.

Please let us know if we can be of further assistance. Staff questions can be referred to Dan Sweeney on extension 51957.

Attachment:
SSA Response

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT,
“ANALYSIS OF INFORMATION CONCERNING REPRESENTATIVE PAYEE MISUSE OF
BENEFICIARIES' PAYMENTS” (A-13-01-11004)**

Recommendation 1

Develop and implement a process to identify and refer prior known instances of representative payee (Rep Payee) misuse to the OIG for possible criminal, civil and/or administrative remedies.

Comment

We agree that all cases involving Rep Payee misuse should be referred to OIG for investigation. This is SSA's current policy. We will issue a reminder, on a priority basis, to field offices (FO) to ensure that this policy is followed and that these cases are coded appropriately in the Representative Payee System (RPS).

We are working with OIG's Office of Investigations to identify and formally refer all cases involving misuse, including the ones OIG identified in this audit.

Recommendation 2

Follow existing policy for referring all future Rep Payee misuse cases to the OIG for possible criminal, civil and/or administrative remedies.

Comment

We agree with this recommendation. As indicated above, we will issue a reminder to FOs to ensure this policy is followed.

Recommendation 3

Comply with Agency policy that Rep Payees are rarely retained after misuse has occurred.

Comment

We agree that Rep Payees who have previously misused a beneficiary's benefits should be retained as a payee only in unusual circumstances. In those rare instances in which the Rep Payee is retained after misuse has occurred, it may be the case that the custodial parent or (other close relative) is the payee and we have determined that this person is the best payee for that beneficiary. We will issue a reminder to FOs that particular care must always be taken in retaining any payee who has previously misused benefits.

Recommendation 4

Periodically assess the continued suitability of Rep Payees that previously misused benefit payments. SSA should closely monitor these Rep Payees to detect and prevent the misuse of benefit payments belonging to its most vulnerable beneficiaries.

Comment

We agree to the need to periodically assess the continued suitability of Rep Payees who have previously misused benefit payments. This recommendation is consistent with current policy and procedures. A payee who is retained should be monitored closely and should repay the misused benefits or have a plan to do so. We will review current instructions to clarify and emphasize these requirements and issue reminders to the FOs. We will explore the use of systems controls to ensure follow-up reviews to assess the continued suitability of payees who have misused benefits. We are considering periodically using the RPS database to identify those current payees who have previously misused benefits and sending the listing to the FOs for follow-up reviews. We will also examine the feasibility of an automatic diary to ensure that follow-up reviews are conducted.

Recommendation 5

Create and implement management controls to ensure compliance of mandatory repayment of misused benefit payments when Rep Payees are retained after benefit payment misuse has occurred.

Comment

We agree. Our current policy is that a Rep Payee who has misused benefits should only be retained if he/she has repaid the misused benefits or has established a repayment plan. Under these policies, the FO or Payment Service Center (PSC) is responsible for ensuring controls on payee repayments of the misused benefits. We will issue a reminder to FOs and PSCs on the importance of these controls.

To provide additional tools, i.e., offset of tax refunds, for collection of the repayments, we have a proposal in our fiscal year 2003 legislative package to treat misused benefits as overpayments and subject them to overpayment recovery authority. This legislative change was also included in H.R. 4070, which was adopted by the House Ways and Means Committee, Social Security Subcommittee, on April 25, 2002.

We will evaluate the extent to which the existing system of controls for overpayments can be applied to Rep Payees who are required to repay benefits—without subjecting them to overpayment recovery tools for which there is no authority.

Recommendation 6

Automate the process that identifies incarcerated Rep Payees. This process should alert SSA of the need to assess an individual's continued suitability to serve as a Rep Payee.

Comment

We agree that a person who is incarcerated cannot properly manage someone else's benefits and would not be a suitable payee. We will clarify this policy and issue a reminder. As indicated in the OIG report, we have conducted periodic matches to identify incarcerated Rep Payees. The full automation of this process is scheduled to take place in November 2002. At that time, prison data will be passed against the RPS on a daily basis. If a match is found, the RPS will produce an alert to the field and establish a diary for control purposes.

Recommendation 7

Implement management controls to prevent the appointment of individuals as Rep Payees who have a Rep Payee managing their own benefits, and identify individuals currently serving as Rep Payees that become incapable of managing their own benefits.

Comment

We agree. It is our policy that individuals who have a Rep Payee should not be selected as a payee for someone else. We have established systems controls that will prevent this from occurring.

Beginning in September 2001, an alert is generated by RPS when 1) a payee applicant is a current beneficiary with a payee or 2) a person is applying to serve as payee for a beneficiary who is a payee for another individual. If the user ignores the alert and attempts to process the payee selection anyway, RPS blocks the selection.

Regarding beneficiaries having a payee who may have already been selected to be someone else's payee prior to the September 2001 process described above, files that potentially identified Rep Payees with Rep Payees were sent to the FOs for investigation. We plan to run another match, later in 2002, to identify any remaining inappropriate selections.

Appendix C

OIG Contact and Staff Acknowledgments

OIG Contacts

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Acknowledgments

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