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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**BENEFIT PAYMENTS MANAGED BY  
REPRESENTATIVE PAYEES OF  
CHILDREN IN FOSTER CARE**

**June 2010                  A-13-07-17137**

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**EVALUATION  
REPORT**

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- 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.
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## SOCIAL SECURITY

### **MEMORANDUM**

**Date:** June 17, 2010

**Refer To:**

**To:** Laurie Watkins  
Regional Commissioner  
Philadelphia

**From:** Inspector General

**Subject:** Benefit Payments Managed by Representative Payees of Children in Foster Care  
(A-13-07-17137)

### **OBJECTIVE**

The objective of our review was to determine whether children in the Maryland foster care programs had the appropriate representative payees.

### **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' payments.<sup>1</sup>

Payments made to children in foster care are among the most sensitive payments SSA makes. According to SSA policy, it is essential that the Agency do all it can to protect the rights of children who may not be able to rely on their parents to do so. SSA policy further states it is extremely important that SSA follow all legal requirements including conducting a complete investigation of the representative payee applicant; using the representative payee preference list appropriately to identify when other potential representative payees should be considered; and providing due process to the child's parent and/or legal guardian.<sup>2</sup>

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

<sup>2</sup> SSA, Program Operations Manual System (POMS), GN 00502.159.

When a child leaves a representative payee's custody, changes living arrangements, or is no longer the representative payee's responsibility, the representative payee is required to notify SSA.<sup>3</sup> When a child receiving SSA benefits is placed in the State foster care system, the State may not know the child is receiving benefits. The State can determine whether the child is receiving benefits by using SSA's State Verification and Exchange System (SVES). SVES provides Maryland and other authorized State partners with a standardized method of obtaining Social Security benefit information. If a child is receiving benefits, the State agency can apply to SSA to become the child's representative payee. With knowledge the child is in foster care, SSA can determine who is best suited to be the child's representative payee.

SSA reports foster care agencies have traditionally been among its most dependable representative payees. However, their appointment as representative payee is not automatic. According to SSA, each case should be decided on its own merits. Agency policy states, "SSA's primary concern must be to select the representative payee that will best serve the interest of the child."<sup>4</sup>

When a child is removed from parental custody and placed in the custody of a foster care agency, that agency has legal custody of the child. SSA policy states, if the foster care agency places the child in a foster care or group living household, the foster care agency retains legal custody of the child.<sup>5</sup>

SSA has a representative payee preference list. Agency policy states the foster care agency appointed as legal guardian for a child by the court has a much higher standing on SSA's representative payee preference list than anyone having a custodial relationship. In addition, the parent should not be considered a potential representative payee when he or she is barred from having contact with the child or has his or her parental rights terminated.<sup>6</sup>

In February 2009, we performed a computerized comparison of foster care data provided by the State of Maryland Department of Human Resources with SSA's beneficiary records. Based on this comparison, we identified 952 children in Maryland's foster care programs who were receiving SSA benefits managed by representative payees.<sup>7</sup> We found 402 children had representative payees who were neither foster care agencies nor the children's foster care parents. We believe these children's benefits may be at risk of misuse. The representative payees for these children were mothers, fathers, relatives, and others who received and managed about

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<sup>3</sup> SSA, POMS, GN 00502.113.

<sup>4</sup> SSA, POMS, GN 00502.130 A.

<sup>5</sup> SSA, POMS, GN 00502.159 B.2.

<sup>6</sup> *Id.*

<sup>7</sup> These children were in foster care in October 2008. There were 986 records for 952 children because 34 children had concurrent Title II and XVI records.

\$200,000 monthly (about \$2.4 million, annually) in benefit payments. In addition, we found 186 children had representative payees who were their foster care parents. Since the foster care parents have physical custody of the children, we believe the risk of misuse is less when these individuals manage the children's benefits instead of the parents or other relatives who may have no contact with the children. Our review focused on children in foster care whose representative payees were other than foster care agencies or foster care parents. We believe the SSA benefits of these children are at greater risk of misuse. See Table 1 for details.

**Table 1: Children with Representative Payees in Maryland Foster Care Programs**

Type of SSA Benefit Payment	Children with Foster Care Agency as Payee	Children with Foster Care Parents as Payee	Children with Other Payees	Total Number of Children
Title II	154	105	169	428
Title XVI	195	79	216	490
Both Title II and XVI	15	2	17	34
Total	364	186	402	952

We requested SSA review payees serving all 402 children we identified. Because these 402 children had representative payees who were not the foster care agency or the custodial foster care parent, we were concerned these children may not have had the appropriate representative payees to manage their benefit payments. Therefore, we requested SSA review the representative payees we identified. We provided SSA information from the 402 children's records. Of the 402 we provided, SSA selected 50 children in foster care and assessed the suitability of their representative payees. All 50 children were receiving Title II benefits. Two children had the same representative payee; therefore, SSA reviewed 49 representative payees for these 50 children. See Appendix A for our Scope and Methodology.

## **RESULTS OF REVIEW**

Of the 50 children's representative payee suitability assessments conducted, SSA determined 10 representative payees possibly misused the children's benefits. We requested that SSA provide a basis for its decision to allow most of the representative payees to continue serving the children. However, as of March 2010, SSA had not provided support for its suitability decisions. Without information detailing the basis for these decisions, we cannot determine whether the Agency's assessments of the representative payees were in accordance with its policies and procedures. In addition, SSA had only reviewed 50 of the 402 children's representative payees we identified and referred to the Agency. The Agency had not yet assessed the suitability of the remaining 352 children's representative payees who were receiving benefit payments

on behalf of children who were in the foster care agency's custody. Also, as of February 2010, the Agency had not assessed the suitability of the 186 representative payees who were foster care parents.

## Foster Care Children's Benefit Payments

SSA conducted suitability assessments for 49 representative payees identified by our comparison of Maryland foster care data and Agency records. The 49 representative payees were receiving benefit payments for 50 children in the Maryland foster care agency's legal custody (1 of the 49 payees was serving more than 1 child).

SSA reported it found 10 of the representative payees misused (6 payees) or "possibly misused" (4 payees) a total of about \$42,000 of the children's benefit payments.<sup>8</sup> For the 10 children involved, as of March 2010, the Agency had (1) suspended benefit payments for 3 children, and the representative payee was not changed; (2) terminated benefits for 1 child because of age; (3) allowed the payee to continue to serve 1 child and receive benefits; and (4) assigned the State foster care agency as the representative payee for 5 children. Of the six payees who misused benefits, as of March 2010, the Agency had referred five payees to our Office of Investigations for appropriate action.<sup>9</sup>

The following illustrates a case where SSA determined the representative payee had misused benefits. A child was determined to have been abused by his mother and her boyfriend and entered court-ordered foster care. The mother, as the representative payee, continued collecting about \$6,000 of the child's benefit payments. At our request, SSA performed a representative payee suitability assessment and determined the mother misused these benefits. SSA changed the representative payee to the State agency.

A representative payee must use the benefits received on behalf of a beneficiary only for the beneficiary's use and benefit<sup>10</sup> and notify SSA when a child beneficiary is no longer in his or her care.<sup>11</sup> In addition to not being suitable representative payees, we believe these individuals may not have notified SSA when the children were removed from their care and placed in foster care.

SVES is one tool that could possibly prevent children in Maryland foster care programs from having non-suitable representative payees. If the State does not use SVES to

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<sup>8</sup> For three of the six payees that misused children's benefit payments, on March 9, 2010, Agency staff stated they are taking action to "re-develop" the assessments of the payees.

<sup>9</sup> As of March 30, 2010, of the 39 payees where SSA concluded no misuse occurred, 7 represented children no longer receiving benefit payments. SSA's automated records indicated benefits were terminated for these seven children because they attained age 18.

<sup>10</sup> SSA, POMS, GN 00602.001.

<sup>11</sup> SSA, POMS, GN 00502.113.

identify those foster care children receiving benefits from SSA and apply to be the representative payee, the benefits may continue to be paid to an inappropriate representative payee and misuse may occur.

The State of Maryland Department of Human Resources may not have determined whether the children in its custody were receiving SSA benefits through SVES. During our January 2006 review, *Representative Payees Receiving Benefits for Children in Foster Care*, we found the Baltimore City Department of Social Services did not always apply to serve as representative payee for children in foster care. A Social Services agency official explained that they did not always use SVES to determine whether children entering foster care were receiving benefits from SSA.

## **SSA Representative Payee Suitability Assessments**

SSA did not provide us sufficient and reliable information to support its suitability decisions for the representative payees reviewed. Therefore, we could not independently determine whether the suitability assessments were conducted in accordance with Agency policy and supported the decisions made. As a result, we have no basis to determine whether the Agency's decision to allow 34 of the 49 representative payees to continue serving as payees was the correct decision. Nor could we determine why SSA determined five representative payees were unsuitable but found no misuse.

We requested documentation supporting SSA's suitability assessments of the representative payees. The Agency only provided brief summaries of the decisions made, not the basis for those decisions. SSA staff reported no documentation or further information for the suitability assessments could be located.

According to Office of Management and Budget (OMB) Circular A-123, the Agency should have maintained appropriate documentation.<sup>12</sup> Circular A-123 defines management's responsibility for internal control and requires that Federal agencies maintain appropriate documentation and access to that documentation. In addition, SSA must fully investigate and develop every reasonable allegation of misuse. A formal misuse determination documenting the facts of each case and the decision about whether benefits were misused must be prepared. Another claims representative or higher position must review and approve every formal misuse determination.

We did not independently assess SSA's suitability decisions. Without information detailing the basis for these decisions, we question the Agency's assessments of the representative payees. We believe such decisions should be completely and accurately recorded to ensure decisions are based on adequate and appropriate information. As such, SSA should document the misuse decisions, why the other representative payees reviewed were found to be suitable, and reasons for finding five representative payees unsuitable when no misuse was found.

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<sup>12</sup> OMB Circular A-123, *Management's Responsibility for Internal Control*, II.C.,

## **CONCLUSION AND RECOMMENDATIONS**

Our comparison of data from the State of Maryland and SSA identified 402 children whose benefit payments were managed by representative payees who were not the foster care agency or foster care parent. SSA conducted representative payee suitability assessments for 50 of the 402 children we identified. Those suitability assessments determined possible misuse had occurred for 10 children's benefits.

Based on the information provided, SSA had not yet performed representative payee suitability assessments for the remaining 352 children we referred. In addition, SSA had not provided us documentation to support the suitability assessments it performed for the 50 children. Without appropriate documentation, we cannot determine whether the correct decision was made in these cases to allow 34 representative payees to continue to serve the children. As a result, we are concerned that more children's benefits may have been used for purposes other than support of the children. We also do not know whether the Maryland foster care agencies were aware that the foster care parents were serving as representative payees for an additional 186 children receiving benefits from SSA.

We recommend SSA:

1. Partner with the State of Maryland Department of Human Resources to increase opportunities to share information, such as using SVES to decrease instances of benefit payment misuse and non-suitable representative payees managing benefits for children in foster care.
2. Document appropriately its suitability assessments of representative payees.
3. Conduct suitability assessments for the representative payees associated with the remaining 352 children with payees who are neither the foster care agency nor the foster care parents.
4. Ensure the State of Maryland is aware that the foster care parents are serving as representative payees for the 186 children we identified.

## **AGENCY COMMENTS**

The Agency agreed with our recommendations. See Appendix B for the full text of the Agency's comments.



Patrick P. O'Carroll, Jr.

# **Appendices**

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[\*\*APPENDIX A\*\*](#) – Scope and Methodology

[\*\*APPENDIX B\*\*](#) – Agency Comments

[\*\*APPENDIX C\*\*](#) – OIG Contacts and Staff Acknowledgment

# **Scope and Methodology**

To accomplish our objective, we:

- Reviewed applicable Federal laws and sections of the Social Security Administration's (SSA) regulations, policies, and procedures.
- Identified and reviewed prior relevant audits.
- Interviewed SSA officials and State of Maryland Department of Human Resources officials.
- Performed a computerized comparison, in February 2009, of foster care data provided by the State of Maryland Department of Human Resources with SSA's beneficiary and recipient records. The State data were as of October 2008. Based on this comparison, we identified 986 records of children in Maryland's foster care programs receiving SSA payments managed by representative payees.<sup>1</sup>
- From this file, we identified 402 children with representative payees other than the foster care agency or the foster parent and requested SSA review the representative payees serving the children we identified. SSA selected information for 50 children that identified 49 representative payees managing Title II benefit payments.
- Requested information from SSA regarding the suitability assessments it completed for the 49 representative payees reviewed.

We performed our evaluation between March 2009 and March 2010 in Baltimore, Maryland. We tested the data obtained for our review and determined them to be sufficiently reliable to meet our objective. The entities reviewed were SSA field offices under the Deputy Commissioner for Operations. We conducted our review in accordance with the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Inspections.

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<sup>1</sup> These children were in foster care as of October 2008. There were 986 records for 952 children—34 children had both Title II and Title XVI records.

# **Agency Comments**

Date: June 7, 2010  
To: Office of the Inspector General  
From: Deputy Commissioner for Operations  
Subject: Draft Report, "Benefit Payments Managed by Representative Payees of Children in Foster Care." (A-13-07-17137)

Thank you for the opportunity to review and provide comments on the draft report and recommendations. We have the following comments.

**Recommendation 1 – Partner with the State of Maryland Department of Human Resources to increase opportunities to share information, such as using SVES to decrease instances of benefit payment misuse and non-suitable representative payees managing benefits for children in foster care.**

The Philadelphia Region has made several contacts with the State of Maryland Department of Human Resources (DHR), advising them of their ability to use the State Verification and Exchange System (SVES) to obtain entitlement information on the clients they serve, thus reducing the risk of benefit payment misuse and having the opportunity to apply to be representative payee, when appropriate.

Maryland Foster Care is under the jurisdiction of DHR, and has access to SVES information. For all cases, DHR queries SVES and transfers the information into a system called Maryland Cares. The Foster Care agency has query access to Maryland Cares and can easily obtain entitlement information along with payee name and address for their clients.

Regional Data Exchange staff visited DHR in April 2010. In the course of their visit, they asked DHR leadership to educate caseworkers on how to obtain entitlement information for use in administering their programs. DHR has, in turn, assured us that they will provide information to their caseworkers to ensure they are aware of their ability to obtain entitlement and payee information for their clients. We will re-contact the state in September to verify that the training was conducted.

**Recommendation 2 – Document appropriately the suitability assessments of representative payees.**

The Philadelphia Region previously submitted an annotated spreadsheet that was used to provide consolidated documentation of the determinations made either to retain or change payees for the 50 sample cases. Subsequently, OIG in the draft report dated May 6, 2010, requested that the region provide suitability documentation, beyond what was already submitted. It is expected that these cases along with the additional 352 will be completed by the end of the fiscal year. We will be forwarding to OIG the revised regional instructions for documenting suitability and will

look for concurrence to ensure the documentation prescribed by the region satisfies the audit findings. (Original regional guidance was shared with OIG in August 2009)

**Recommendation 3 – Conduct suitability assessments for the representative payees associated with the remaining 352 children with payees who are neither the foster care agency nor the foster care parents.**

The Philadelphia Region is in the process of conducting suitability assessments, as mentioned above, for the representative payees associated with the remaining 352 children identified. Of those, 18 were out of the Philadelphia region and those cases were sent to the servicing regions for development. We will monitor the cases for completion.

**Recommendation 4 – Ensure the State of Maryland is aware that the foster care parents are serving as representative payees for the 186 children we identified.**

The listing of the 186 children for whom the foster care parents are serving as payees will be shared with Maryland Foster Care. In the cover letter we will explain that we are sharing the information to ensure they are aware that these foster care parents are representative payees for children under their jurisdiction. Although not required, Maryland Foster Care may exercise the option to apply for benefits on behalf of these children. Because there will be PII on the list, the letter and list will be sent via FED-EX.

Questions concerning these comments may be addressed to Robert Raughley, of the Center for Program Support in the Philadelphia Region, at 215-597-0738.

Roger McDonnell for Mary Glenn-Croft

## **Appendix C**

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# OIG Contacts and Staff Acknowledgment

### ***OIG Contacts***

Shirley Todd, Director, Evaluation Division

Randy Townsley, Audit Manager

### ***Acknowledgment***

In addition to those named above:

Alan Carr, Auditor-in-Charge

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