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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**AN INDIVIDUAL REPRESENTATIVE  
PAYEE FOR THE SOCIAL SECURITY  
ADMINISTRATION IN THE  
SAN FRANCISCO REGION**

**July 2007**

**A-09-07-17063**

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**AUDIT REPORT**

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## SOCIAL SECURITY

### **MEMORANDUM**

**Date:** July 3, 2007

**Refer To:**

**To:** Peter D. Spencer  
Regional Commissioner  
San Francisco

**From:** Inspector General

**Subject:** An Individual Representative Payee for the Social Security Administration in the San Francisco Region (A-09-07-17063)

### **OBJECTIVE**

Our objectives were to determine whether the representative payee (1) had effective safeguards over the receipt and disbursement of Social Security benefits and (2) ensured Social Security benefits were used and accounted for in accordance with the Social Security Administration's (SSA) policies and procedures.

### **BACKGROUND**

Some individuals cannot manage or direct the management of their finances because of their youth or mental and/or physical impairments. Congress granted SSA the authority to appoint representative payees to receive and manage these beneficiaries'<sup>1</sup> payments.<sup>2</sup> A representative payee may be an individual or an organization. SSA selects representative payees for Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries or Supplemental Security Income (SSI) recipients when representative payments would serve the individuals' interests. Representative payees are responsible for managing benefits<sup>3</sup> in the best interest of the beneficiary. Refer to Appendix B for additional representative payee responsibilities.

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<sup>1</sup> We use the term "beneficiary" generically in this report to refer to both OASDI beneficiaries and SSI recipients.

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

<sup>3</sup> We use the term "benefits" generically in this report to refer to both OASDI benefits and SSI payments.

Since 1981, the representative payee has provided services to SSA beneficiaries who receive payments under the OASDI and SSI programs. In 1993, the representative payee we reviewed established the Conservatorship and Resources for the Elderly, Inc., which provides conservatorship, guardianship, trust management, probate administration, and fiduciary services to incapacitated individuals. From July 1, 2005 to June 30, 2006, the representative payee received \$482,485 in Social Security benefits for 56 beneficiaries.

## RESULTS OF REVIEW

Generally, the representative payee (1) had effective safeguards over the receipt and disbursement of Social Security benefits and (2) ensured Social Security benefits were used in accordance with SSA's policies and procedures. Except for the items noted below, the representative payee maintained sufficient records of benefit receipts, disbursements, and conserved fund balances for the 56 beneficiaries in her care. Specifically, we found the representative payee

- did not complete a Representative Payee Application for 3 beneficiaries;
- did not maintain adequate documentation to fully support 1 or more expenditures for 16 beneficiaries;
- did not report special needs trusts<sup>4</sup> (SNT) and/or life insurance funded burial contracts<sup>5</sup> (LIFBC) to SSA for 8 beneficiaries;
- incorrectly reported the conserved fund balances on the Representative Payee Reports (RPR) for 5 beneficiaries;
- did not return conserved funds to SSA for 2 beneficiaries who were no longer in its care;
- did not maintain accounting records for 1 beneficiary; and
- charged telephone calls and/or case management fees for 14 beneficiaries.

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<sup>4</sup> An SNT is a trust established under Section 1917(d)(4)(A) of the Act that (1) contains the assets of an disabled individual under age 65; (2) is established for the benefit of such individual by a parent, grandparent, legal guardian, or court on or after January 1, 2000; and (3) provides for the State to receive all amounts remaining in the trust upon the death of the individual up to an amount equal to the total medical assistance paid on behalf of the individual under a State Medicaid plan.

<sup>5</sup> An LIFBC involves an individual purchasing a life insurance policy on his or her life and then assigning, revocably or irrevocably, either the proceeds or ownership of the policy to a third party (generally a funeral provider) to fund a burial contract.

## **COMPLETION OF REPRESENTATIVE PAYEE APPLICATIONS**

The representative payee did not complete a Representative Payee Application for three beneficiaries in its care. The representative payee assumed responsibility for the care of these beneficiaries after their previous representative payee died. SSA was unaware that two of the three beneficiaries were in the representative payee's care. From July 1, 2005 to June 30, 2006, these beneficiaries received \$30,462 in Social Security benefits. However, neither the representative payee nor SSA could locate a Representative Payee Application for these beneficiaries. As a result, SSA was unaware of the actual number of beneficiaries and amount of Social Security benefits the representative payee had managed.

SSA's procedures require that a representative payee complete an application to receive benefits on a beneficiary's behalf. SSA uses the information on the application to evaluate the applicant's qualifications and suitability to serve as a representative payee.<sup>6</sup>

The representative payee had acted as conservator for these beneficiaries because the previous representative payee was terminally ill and died in October 2003. However, according to SSA's Representative Payee System (RPS), two beneficiaries were still in the previous representative payee's care. The remaining beneficiary had not been entered into RPS. The representative payee stated that a Representative Payee Application was not completed after the previous representative payee's death. Without such information, SSA is unable to make an informed decision about the representative payee's qualifications and suitability. During our audit, the representative payee initiated action to submit Representative Payee Applications for these beneficiaries.

## **SUPPORTING DOCUMENTATION FOR EXPENDITURES**

The representative payee did not maintain adequate documentation to fully support 1 or more expenditures for 16 beneficiaries. In some instances, the supporting documentation was not obtained or retained. The representative payee believed that such information may have been misfiled. In other instances, the supporting documentation was altered and did not always reconcile to the check amount. As a result, we were unable to determine the reasonableness of 54 checks for \$34,033 in expenditures.

SSA's procedures state that representative payees are responsible for keeping detailed and accurate records of how benefits are used.<sup>7</sup> SSA's procedures also require that

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<sup>6</sup> SSA, Program Operations Manual System (POMS) GN 00502.107.A.

<sup>7</sup> SSA, POMS GN 00502.113.D.1.

representative payees use the benefits they receive to meet the beneficiary's needs and best interests. Representative payees are responsible for keeping records and reporting on the use of benefits.<sup>8</sup>

For 16 beneficiaries, we identified 54 checks, totaling \$34,033, without sufficient documentation to fully support payments to vendors, employees, and family members for such items as room and board, transportation, clothing, cigarettes, and hygiene supplies. Of this amount, the representative payee issued 27 checks, totaling \$29,350, to a room and board facility it owned. The representative payee did not maintain documentation of the rent amounts for the four beneficiaries who lived at the facility. The facility manager (a member of the representative payee's family) stated that rent agreements were not prepared and monthly rates were based on what each beneficiary could afford to pay.

The representative payee also issued four checks, totaling \$1,145, to another family member for property clean-up and transportation services. However, we found the representative payee had adjusted the amount requested for payment on the "Manual Check Request Form" without additional explanation or justification for the adjustment. In these instances, the amount of the check was higher than the family member initially requested.

### **SPECIAL NEEDS TRUSTS AND LIFE INSURANCE FUNDED BURIAL CONTRACTS**

The representative payee did not report SNTs and/or LIFBCs to SSA for eight recipients. The representative payee believed it was not necessary to notify SSA about the establishment of SNTs and LIFBCs for its recipients because these items were exempt from SSI resource limits. We found that SSA was unaware of two recipients with SNTs, four recipients with LIFBCs, and two recipients with both SNTs and LIFBCs. Without such information, SSA cannot determine whether these recipients are still eligible for SSI payments.

SSA's procedures state that recipients or their representative payees must promptly report any changes that can affect SSI payments.<sup>9</sup> Property held in a trust may or may not be considered a resource for SSI purposes based, in part, on the type of trust, who established it, and when it was established. SSA must review the trust document and determine the nature and value of trust property to evaluate its resource status.<sup>10</sup> An SNT that meets certain requirements may qualify as one of the exceptions to the general rule of counting trusts as income and resources.<sup>11</sup>

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<sup>8</sup> SSA, POMS GN 00605.001.

<sup>9</sup> SSA, POMS SI 02301.005.

<sup>10</sup> SSA, POMS SI 01120.200.

<sup>11</sup> SSA, POMS SI 01120.203.

In addition, SSA must review the life insurance policy and determine whether its proceeds or ownership have been assigned to evaluate its resource status. When the assignment of proceeds or ownership of an LIFBC is revocable, the resource value of the burial contract is equal to the cash surrender value of the life insurance policy, subject to the \$1,500 burial funds exclusion. If the assignment is irrevocable, the life insurance policy and burial contract are not resources for SSI purposes because the recipient no longer owns them.<sup>12</sup>

Based on our review, we believe the SNTs and/or LIFBCs for some recipients may affect their SSI eligibility. In December 2006, we referred the SNTs to the San Francisco Regional Office for appropriate action. In March 2007, we referred the LIFBCs to the Redlands Field Office for review. Because of the complexity of SNTs and LIFBCs, it is important that SSA review these items to determine whether they should be counted as a resource for SSI purposes.

## **ACCURACY OF REPRESENTATIVE PAYEE REPORTS**

The representative payee incorrectly reported the conserved fund balances on the RPRs for five recipients. This occurred because the representative payee used a formula to estimate the use of Social Security benefits on the RPRs for its recipients. For eight recipients who received only SSI payments from July 1, 2005 to June 30, 2006, we compared the estimated use of benefits on their most recent RPRs to the actual use of benefits per the accounting records. The representative payee reported no conserved funds for these recipients. However, we determined that five of these recipients had \$3,349 in conserved funds.

SSA's procedures state that a representative payee's duties include keeping detailed and accurate records of how benefits are used to provide an accurate report to SSA when requested.<sup>13</sup> The RPR assists SSA in determining the use of benefits during the preceding 12-month reporting period, the representative payee's continuing suitability, and the beneficiary's need for representative payment.<sup>14</sup>

For each reporting period, the representative payee allocates 70 percent of Social Security benefits paid toward food and housing and 30 percent toward clothing, dental, medical, and recreation expenses. This formula eliminated any conserved fund balances and was applied without regard to actual expenditures. For example, the representative payee reportedly spent the entire \$18,918 received on behalf of an SSI recipient on the RPR for the period of September 1, 2005 to August 31, 2006. However, the representative payee's general ledger for the same period actually reflected an increase of \$1,396 in conserved funds.

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<sup>12</sup> SSA, POMS SI 01130.425.

<sup>13</sup> SSA, POMS GN 00502.113.D.1.

<sup>14</sup> SSA, POMS GN 00605.001.B.

## **PAYMENT OF CONSERVED FUND BALANCES**

Our audit disclosed that 10 of the 56 beneficiaries left the representative payee's care from July 1, 2005 to June 30, 2006. We found the representative payee did not return conserved funds directly to SSA for two of these beneficiaries who were no longer in its care. Instead, the representative payee forwarded the conserved funds to the new representative payee. As a result, SSA was unaware that \$2,387 in conserved funds had been transferred to the new representative payee.

SSA's procedures require that representative payees return any conserved funds or unused benefits to SSA to reissue funds to either a successor payee or the beneficiary.<sup>15</sup>

In one instance, the representative payee promptly forwarded the conserved funds at the same time the beneficiary left its care. In the other instance, the representative payee held the conserved funds for 8 months after the date of the last SSI payment. However, in both instances, the conserved funds were forwarded to the new representative payee. This occurred because the representative payee was unaware of the requirement to return conserved funds directly to SSA.

## **LACK OF ACCOUNTING RECORDS**

The representative payee did not maintain accounting records for one recipient. This occurred because the representative payee believed the amount of payments received by the recipient was insignificant. The recipient resided at a Medicaid facility from July 1, 2005 to June 30, 2006. The representative payee forwarded the SSI payment to the facility for 10 months and retained it for the recipient's personal needs for 2 months. However, the representative payee did not maintain accounting records or supporting receipts. As a result, the representative payee did not properly account for the receipt and disbursement of \$600 in SSI payments.

SSA's procedures state that representative payees must use the benefits they receive for the current needs and best interests of the beneficiary. They are responsible for keeping records and reporting on the use of benefits.<sup>16</sup> Specifically, a representative payee's duties include keeping detailed and accurate records of how benefits are used to provide an accurate report to SSA when requested.<sup>17</sup>

The representative payee has provided care for the recipient since February 2002. The Medicaid facility maintained financial records for the receipt and disbursement of SSI payments but did not provide such information to the representative payee. According

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<sup>15</sup> SSA, POMS GN 00603.055.A.

<sup>16</sup> SSA, POMS GN 00605.001.B.1.

<sup>17</sup> SSA, POMS GN 00502.113.D.1.

to the facility's records, the recipient had a conserved fund balance of \$562 as of June 30, 2006. Although the recipient only received \$50 per month, the conserved fund balance increased by \$271 during our audit period. However, the representative payee was unaware of these conserved fund balances and did not account for the receipt and use of payments as required.

## **TELEPHONE CALLS AND CASE MANAGEMENT FEES**

Our audit disclosed that 22 of the 56 beneficiaries in the representative payee's care received only Social Security benefits from July 1, 2005 to June 30, 2006.<sup>18</sup> We found the representative payee had charged 14 of these beneficiaries for telephone calls and/or case management. This occurred because the representative payee believed it was acceptable to charge (1) telephone calls as reimbursement for "out-of-pocket" expenses incurred while serving its beneficiaries and (2) case management fees because the work was performed by an independent contractor. As a result, the representative payee was reimbursed for \$235 in expenses to which it was not entitled.

SSA's procedures preclude compensating an individual out of benefits for serving as representative payee; that is, compensating a payee for his or her time and effort or administrative expenses. However, SSA's procedures allow qualified organizations to collect a fee from beneficiaries for expenses (including overhead) incurred by the organization in providing services as their representative payee.<sup>19</sup> Before an organization may collect a fee from a beneficiary's monthly payment, SSA must authorize it.<sup>20</sup> In addition, the organization—not its employees, volunteers, or other individuals—must be named the representative payee.<sup>21</sup>

The representative payee charged its beneficiaries semiannually for the actual cost of telephone calls plus \$5 or \$10 to recoup out-of-pocket expenses. We identified 11 beneficiaries who were charged for telephone calls. In many instances, the \$5 or \$10 charge exceeded the actual cost of the telephone calls. Although the representative payee generally waived its case management fees for beneficiaries who received only Social Security benefits, we identified one beneficiary who was charged for case management performed by an independent contractor. We also identified two beneficiaries who were charged for both telephone calls and case management. Since the representative payee is an individual, it is not authorized to receive reimbursement for its time and effort or administrative expenses.

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<sup>18</sup> The remaining 34 beneficiaries received other sources of income (for example, pensions and Department of Veterans Affairs benefits) or transfers from savings or trust accounts which could have been used to pay for telephone calls and/or case management.

<sup>19</sup> SSA, POMS GN 00602.110.

<sup>20</sup> SSA, POMS GN 00506.001.B.

<sup>21</sup> SSA, POMS GN 00506.100.A.

## **CONCLUSION AND RECOMMENDATIONS**

Generally, we found the representative payee met its responsibilities to provide for the care of its beneficiaries. Nevertheless, the representative payee needs to strengthen its controls and procedures in a number of areas. We recommend that SSA ensure the representative payee:

1. Submits Representative Payee Applications for the three beneficiaries in the previous representative payee's care.
2. Retains supporting documentation for its expenditures and provides sufficient justification for any adjustments to payment amounts.
3. Reports all SNTs and LIFBCs to SSA for its review in evaluating whether these items are exempt from SSI resource limits.
4. Uses actual rather than estimated expenses to complete the RPRs for all beneficiaries in its care.
5. Returns conserved funds to SSA for any beneficiaries who are no longer in its care.
6. Maintains accounting records for the receipt and disbursement of Social Security benefits for all beneficiaries regardless of monthly benefit amount.
7. Discontinues charging telephone calls and case management fees to beneficiaries who receive only Social Security benefits.

## **AGENCY COMMENTS**

SSA agreed with all our recommendations. SSA also stated it would ensure the Redlands field office contacts the representative payee to review each of the issues cited in the report and provide any training needed to assist the representative payee in complying with SSA policies. See Appendix D for the full text of SSA's comments.



Patrick P. O'Carroll, Jr.

# **Appendices**

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**APPENDIX A** – Acronyms

**APPENDIX B** – Representative Payee Responsibilities

**APPENDIX C** – Scope and Methodology

**APPENDIX D** – Agency Comments

**APPENDIX E** – OIG Contacts and Staff Acknowledgments

## **Appendix A**

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### **Acronyms**

Act	<i>Social Security Act</i>
C.F.R.	Code of Federal Regulations
LIFBC	Life Insurance Funded Burial Contract
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
POMS	Program Operations Manual System
RPR	Representative Payee Report
RPS	Representative Payee System
SNT	Special Needs Trust
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

# **Representative Payee Responsibilities**

Representative payees are responsible for using benefits to serve the beneficiary's best interests. The responsibilities include the following.<sup>1</sup>

- Determine the beneficiary's current needs for day-to-day living and use his or her payments to meet those needs.
- Conserve and invest benefits not needed to meet the beneficiary's current needs.
- Maintain accounting records of how the benefits are received and used.
- Report events to the Social Security Administration (SSA) that may affect the individual's entitlement or benefit payment amount.
- Report any changes in circumstances that would affect their performance as a representative payee.
- Provide SSA an annual Representative Payee Report to account for benefits spent and invested.
- Return any payments to SSA for which the beneficiary is not entitled.
- Return conserved funds to SSA when no longer serving as the representative payee for the beneficiary.

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<sup>1</sup> SSA, POMS GN 00502.113.

### **Scope and Methodology**

Our audit covered the period of July 1, 2005 through June 30, 2006. To accomplish our objectives, we:

- Reviewed applicable Federal laws and regulations and Social Security Administration (SSA) policies and procedures for representative payees.
- Interviewed SSA employees at the San Francisco Regional Office and three field offices to obtain background information about the performance of the representative payee.
- Obtained from SSA's Representative Payee System (RPS) a list of individuals who were in the representative payee's care.
- Obtained from the representative payee a list of individuals who were in its care and had received Social Security benefits.
- Compared and reconciled the RPS list to the representative payee's list to identify the population of SSA beneficiaries who were in the representative payee's care from July 1, 2005 through June 30, 2006.
- Reviewed the representative payee's internal controls over the receipt and disbursement of Social Security benefits.
- Reviewed the receipt and expenditure of Social Security benefits for 56 beneficiaries from July 1, 2005 through June 30, 2006.
- Performed the following tests for the 56 beneficiaries:
  - Compared and reconciled benefit amounts received according to the representative payee's records to benefit amounts paid according to SSA's records.
  - Reviewed the representative payee's accounting records to determine whether benefits were properly spent or conserved on the beneficiary's behalf.
  - Traced a sample of recorded expenses to source documents and examined the underlying documentation for reasonableness and authenticity.
- Interviewed 10 beneficiaries to determine whether their basic needs were met.

We determined the computer-processed data to be reliable for our intended use. We tested the receipt and disbursement of Social Security benefits recorded in the representative payee's automated accounting system. We performed tests to determine the completeness, accuracy, and validity of the data. These tests allowed us to assess the reliability of the data and achieve our audit objectives.

We performed our field work in Redlands and Richmond, California, between August 2006 and March 2007. We conducted our audit in accordance with generally accepted government auditing standards.

### **Agency Comments**

Tuesday, June 19, 2007

Signed Draft Report (A-09-07-17063) Individual Payee in SF Region

Pat:

Thank you for the opportunity to comment on the OIG draft report, "An Individual Representative Payee for the Social Security Administration in the San Francisco Region" Number A-09-07-17063.

We have the following comments:

Our review of the draft report found it to be thorough. We agree with the explanations and references to SSA representative payee provisions that it contains.

We agree that the findings show the representative payee met its responsibilities, but needs improvement in a number of areas.

We agree with all seven of the recommendations as stated. However, we wish to note that of the eight recipients who were originally found to have unreported Special Needs Trusts (SNT) and/or Life Insurance Funded Burial Contracts (LIFBC), four recipients had previous trust development and documentation which was located by reviewing systems screens and/or the prior files that were in the field office or requested by the field office.

We will ensure that the Redlands field office contacts this representative payee to review each of the issues that were cited in your report and provide any training needed to assist the representative payee in complying with SSA policies. These activities will be completed within 90 days of the issuance of your final report.

If your staff have any questions regarding these comments, they should contact DeAnna Barrios-Terry (510) 970-8213 or Cheryl Jacobson (510) 970-8248 in our Center for Programs Support.



Peter D. Spencer

## ***Appendix E***

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# **OIG Contacts and Staff Acknowledgments**

### ***OIG Contacts***

James J. Klein, Director, San Francisco Audit Division, (510) 970-1739

Jack H. Trudel, Audit Manager, (510) 970-1733

### ***Acknowledgments***

In addition to those named above:

Stephen Flaherty, Auditor-In-Charge

Daniel Hoy, Auditor

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