



Office of the Inspector General  
SOCIAL SECURITY ADMINISTRATION

*Audit Report*

High-volume Individual  
Representative Payee in the Chicago  
Region

*A-05-18-50587 | October 2018*

**OIG** Office of the Inspector General  
SOCIAL SECURITY ADMINISTRATION

**MEMORANDUM**

**Date:** October 11, 2018

**Refer To:**

**To:** Phyllis M. Smith  
Regional Commissioner  
Chicago

**From:** Assistant Inspector General for Audit

**Subject:** High-volume Individual Representative Payee in the Chicago Region (A-05-18-50587)

The attached final report presents the results of our review. Our objectives were to determine whether the individual representative payee (1) used and accounted for Social Security benefits in accordance with Social Security Administration policies and procedures and (2) had effective safeguards over the receipt and disbursement of Social Security benefits.

If you wish to discuss the final report, please call me or have your staff contact Elizabeth Ochoa, Audit Manager, at (312) 575-5056.



Rona Lawson

Attachment

cc:  
Trae Sommer, Director for Audit Liaison Staff

# High-volume Individual Representative Payee in the Chicago Region

## A-05-18-50587



October 2018

Office of Audit Report Summary

### Objectives

To determine whether the individual representative payee (1) used and accounted for Social Security benefits in accordance with Social Security Administration (SSA) policies and procedures and (2) had effective safeguards over the receipt and disbursement of Social Security benefits.

### Background

Congress granted SSA the authority to appoint representative payees for those beneficiaries judged incapable of managing or directing the management of their benefit payments because they have a mental or physical disability or are minors. Representative payees are responsible for managing benefits in the beneficiary's best interest and ensuring Social Security payments are used for the beneficiary's current maintenance, including food, shelter, clothing, medical care, and personal comfort items.

During our audit period, October 1, 2016 through September 30, 2017, the representative payee under review was serving 255 SSA beneficiaries. For 50 beneficiaries, we reviewed the representative payee's internal controls over the receipt and disbursement of Social Security benefits. We also interviewed 10 of the 255 beneficiaries to determine whether the payee was meeting their basic needs.

### Findings

The representative payee did not always use and account for Social Security benefits in accordance with SSA policies and procedures. Specifically, she may have failed to meet the needs of 2 of the 10 beneficiaries we interviewed. Further, six beneficiaries expressed concerns with the representative payee's services because they did not have adequate access to inform her of their needs. She also inappropriately charged 33 of our 50 sample beneficiaries a total of \$5,039 in excess fees for contractors to perform her required guardian and conservator services. Moreover, for our sample of 50 beneficiaries, she did not pay 3 beneficiaries' bills by the due dates and incurred overdraft fees for 6 beneficiaries. Additionally, the representative payee's home-based office space did not provide sufficient physical controls over SSA beneficiaries' personally identifiable information.

In addition, the payee did not always provide SSA with payee accounting forms and medical review documents timely. Specifically, 12 beneficiaries' Social Security benefits were in non-pay status because the representative payee neglected to provide SSA complete and accurate beneficiary information, including medical review forms. Finally, we also confirmed that SSA's representative payee system had incorrect custody or residence address information for beneficiaries in the representative payee's care.

### Recommendations

We made 10 recommendations concerning this representative payee's accounting and use of benefits, safeguards over the receipt and disbursement of benefits, past due accounting and medical review forms, and beneficiary residence addresses. Most notably, we recommend SSA refrain from placing additional beneficiaries with this representative payee until she has taken corrective actions on the issues identified in this report. If the representative payee does not implement the corrective actions timely, SSA should determine whether the representative payee is capable of continuing to serve the current and foreseeable needs of the beneficiaries under her care.

SSA agreed with all our recommendations.

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## **ABBREVIATIONS**

C.F.R.	Code of Federal Regulations
FY	Fiscal Year
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
PII	Personally Identifiable Information
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

## OBJECTIVES

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

## BACKGROUND

A representative payee receives and disburses benefit payments on a beneficiary's behalf.<sup>1</sup> Congress granted SSA the authority to appoint representative payees for those beneficiaries judged incapable of managing or directing the management of their benefit payments because they have a mental or physical disability or are minors. A representative payee may be an individual or an organization.<sup>2</sup> Representative payees are responsible for managing benefits<sup>3</sup> in the beneficiary's best interest and ensuring Social Security payments are used for the beneficiary's current maintenance, including food, shelter, clothing, medical care, and personal comfort items.<sup>4</sup> A representative payee may also act as an individual's guardian, conservator, or both.<sup>5</sup> A guardian or conservator may charge fees for their services.<sup>6</sup>

During our audit period, October 1, 2016 through September 30, 2017, the representative payee under review was serving 255 SSA beneficiaries and managing about \$2.4 million in benefits.<sup>7</sup> In February 2018, we conducted a site visit at the representative payee's office in Michigan. During the visit, we reviewed the representative payee's internal controls over the receipt and disbursement of Social Security benefits and accounting records for a sample of 50 beneficiaries.<sup>8</sup> We also interviewed 10 of the 255 beneficiaries who were in the

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<sup>1</sup> The term "beneficiary" in this report refers to both Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries and Supplemental Security Income (SSI) recipients.

<sup>2</sup> *Social Security Act* §§ 205(j) and 1631(a)(2), 42 U.S.C. §§ 405(j) and 1383 (a)(2) (govinfo.gov 2016).

<sup>3</sup> The term "benefits" in this report refers to both OASDI benefits and SSI payments.

<sup>4</sup> 20 C.F.R. §§ 404.2040 and 416.640 (govinfo.gov 2018).

<sup>5</sup> A guardian generally has the power and responsibility to make certain decisions about the individual's care. A conservator generally handles an individual's property and financial affairs. A court must appoint an individual as guardian or conservator. Wayne County Probate Court, *Guardianship/Conservatorship for Adults*, wpcpc.us (rev. March 2017).

<sup>6</sup> SSA, *POMS*, GN 00602.040, A (July 21, 2009).

<sup>7</sup> We used SSA's records to determine the number of beneficiaries and amount of benefits paid during the audit period because the representative payee's records conflicted with the official records SSA maintained. For example, the representative payee's list of beneficiaries included 53 individuals not identified by SSA's representative payee system, did not include 5 individuals identified by SSA's system, and had other anomalies for 8 individuals. We identified reasons for 61 of the 66 mismatches and requested additional information from the representative payee for the remaining 5 individuals several times, but we did not receive a response.

<sup>8</sup> See Appendix A for our scope and methodology.

representative payee’s care during the audit period to determine whether the payee was meeting their basic needs.<sup>9</sup>

## RESULTS OF REVIEW

The representative payee did not always use and account for Social Security benefits in accordance with SSA policies and procedures. Specifically, she may have failed to meet the needs of 2 of the 10 beneficiaries we interviewed. Further, six beneficiaries expressed concerns that they did not have adequate access to inform her of their needs. She also inappropriately charged 33 beneficiaries for contractors to perform her required guardian and conservator services. Moreover, she did not pay three beneficiaries’ bills by the due dates and incurred overdraft fees for six beneficiaries. Additionally, the representative payee’s home-based office space did not provide sufficient physical controls over SSA beneficiaries’ personally identifiable information (PII). In addition, the payee did not always provide SSA with payee accounting forms and medical review documents timely. Finally, we confirmed that SSA’s representative payee system had incorrect custody or residence address information for beneficiaries in the representative payee’s care.

### Use of, and Accounting for, Social Security Benefits

The representative payee did not always use and account for Social Security benefits in accordance with SSA policies and procedures. Specifically, she may have failed to meet the needs of 2 of the 10 beneficiaries we interviewed. Further, six beneficiaries expressed concerns with the representative payee’s services because they did not have adequate access to inform her of their needs. She also inappropriately charged 33 of our 50 sample beneficiaries a total of \$5,039 in excess fees for contractors to perform her required guardian and conservator services. Moreover, for our sample of 50 beneficiaries, she did not pay bills by the due date for 3 and incurred overdraft fees for 6.

#### *Failure to Meet Beneficiaries’ Needs*

Of the 10 beneficiaries we interviewed, she may have failed to meet the needs of 2. These beneficiaries did not have adequate food, shelter, clothing, medical care, or personal comfort items. They also faced homelessness or other difficulties because the representative payee did not meet their current and foreseeable needs.

- One individual alleged the representative payee provided him with a limited amount of spending cash to meet his own needs but did not provide for food, shelter, clothing, or medical care. He was homeless and still under the representative payee’s care when we met with him.

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<sup>9</sup> See Appendix B for more information on representative payees’ responsibilities.

- A second individual alleged the representative payee neglected to pay any household bills or provide food, clothing, medical care, or personal comfort items. SSA subsequently removed her as this individual's representative payee and requested she repay the beneficiaries' funds.<sup>10</sup>

Federal regulations and SSA policies require that representative payees meet beneficiaries' current and foreseeable needs,<sup>11</sup> including food, shelter, clothing, medical care, and personal comfort items.<sup>12</sup> We recommend SSA review the circumstances of the two individuals who may not have had their needs met by the representative payee and take appropriate actions.

Further, of the 10 beneficiaries we interviewed, 6 expressed concerns with the representative payee's services because they did not have adequate access to inform her of their needs. These individuals informed us they were often unable to reach her by telephone, and her voicemail was consistently full so they could not leave her a message. In two instances, long-term care facility staff informed us that their inability to reach the representative payee via telephone delayed necessary medical services.<sup>13</sup> It is crucial for beneficiaries to be able to reach the representative payee so she can ascertain beneficiaries' current and foreseeable needs.<sup>14</sup> We recommend SSA advise the representative payee to improve her availability to respond timely to her beneficiaries' current and foreseeable needs.

### *Excess Fees for Guardianship and Conservatorship Services*

The representative payee inappropriately charged 33 of our 50 sample beneficiaries \$5,039 in excess of the maximum fees allowed by the court-approved guardianship and conservatorship agreements. The court-approved guardianship and conservatorship agreements authorized the representative payee to collect fees from the individuals for whom she served as guardian and conservator.<sup>15</sup> To provide required services to the 255 individuals in her care, she used contractors to conduct home visits, shop, and disburse spending money.<sup>16</sup> She paid these contractors \$20: a \$10 fee to conduct home visits and disburse spending money and \$10 to shop. However, the representative payee inappropriately paid the contractor fees from the

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<sup>10</sup> SSA may need to perform a representative payee misuse review to ensure the payee provided the individual with appropriate services related to any guardian fees or did not deduct fees from the funds she returned to SSA.

<sup>11</sup> SSA, *POMS*, GN 00502.114, A (February 27, 2014).

<sup>12</sup> 20 C.F.R. §§ 404.2040 and 416.640 (govinfo.gov 2018).

<sup>13</sup> The representative payee stated that beneficiaries and employees of facilities may use additional communication methods to reach her, including calling or meeting with contractors of her business.

<sup>14</sup> SSA, *POMS*, GN 00502.114, A (February 27, 2014).

<sup>15</sup> The representative payee charged some individuals less than the full guardianship fee. According to SSA's policy, guardianship fees may only be used if the beneficiary's personal needs are met first and their funds would not be depleted by the guardianship costs. SSA, *POMS*, GN 00602.040, A (July 21, 2009).

<sup>16</sup> According to the court-approved agreements, these services were part of the guardian and conservators' duties.

beneficiaries' funds.<sup>17</sup> SSA policy does not allow for reimbursement of these administrative costs because they are the representative payee's responsibility as a guardian and/or conservator.<sup>18</sup> The beneficiaries should not have paid additional fees because she chose to outsource these required services to contractors.<sup>19</sup> SSA should instruct the representative payee to discontinue charging fees in excess of court-approved guardian and conservator fees. Further, SSA should conduct a representative payee fee misuse review and require that the payee refund the beneficiaries in her care the fees she collected in excess of the court-approved guardianship and conservatorship agreements.

### *Improper Management of Beneficiaries' Funds*

The representative payee did not always properly manage funds received on behalf of SSA beneficiaries. Specifically, of our 50 sampled beneficiaries, the representative payee did not pay bills by the due date for 3.<sup>20</sup> Further, on 10 occasions, 6 beneficiaries incurred overdraft fees because the representative payee wrote checks in excess of available funds.<sup>21</sup> Since representative payees are responsible for managing benefits in the beneficiary's best interest,<sup>22</sup> timely payment of bills and proper maintenance of beneficiary bank accounts are critical parts of a representative payee's role and responsibility. SSA should remind the representative payee of her responsibility to manage benefits in the beneficiary's best interest, including paying bills by the due date and preventing overdraft fees.

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<sup>17</sup> For example, the representative payee charged an individual \$124: \$104 for merchandise from a retail store and \$20 to the contractor for visiting and shopping for the individual. The \$104 was a valid reimbursement, but the \$20 fee for the visiting and shopping service should have been included in the regular payee services covered by any guardianship fee paid by the beneficiary for that month. The payee charged another individual \$60 for a contractor to visit her six times – a service required of the representative payee as guardian or conservator.

<sup>18</sup> SSA, *POMS*, GN 00602.110, B (March 5, 2002).

<sup>19</sup> According to the representative payee, she may have misclassified these expenditures in her records, and they should have been recorded in her accounting system as guardianship fees. However, we did not rely on the payee's accounting system reports or classifications. Rather, we reviewed copies of the checks and associated receipts in determining this finding.

<sup>20</sup> For these three beneficiaries, we found unpaid bills in the representative payee's files totaling about \$8,800, which included late-payment fees. The beneficiaries' bank accounts had sufficient funds to settle some or all of the outstanding bills.

<sup>21</sup> The representative payee arranged with all banking institutions to return all overdraft fees to beneficiary accounts when incurred. The representative payee stated that organizations or individuals who received the checks cashed them before funds were available, causing the bank overdrafts. She did not explain why she wrote the checks when the beneficiaries did not have sufficient funds.

<sup>22</sup> 20 C.F.R. §§ 404.2040 and 416.640 (govinfo.gov 2018).

## Safeguards over Receipt and Disbursement of Social Security Benefits

The representative payee did not have effective safeguards over the receipt and disbursement of Social Security benefits. Specifically, her home-based office space did not provide sufficient physical controls over SSA beneficiaries' PII. She did not secure paper files containing PII in a locked physical space.<sup>23</sup> Accordingly, any individual who visited the representative payee's home would have access to the beneficiaries' PII. SSA should encourage the representative payee to establish procedures that protect PII to prevent identity theft or accidental loss or disclosure of confidential information.

## Medical Reviews and Annual Accounting Forms

The representative payee did not always provide SSA with payee accounting forms and medical review documents timely.<sup>24</sup> Specifically, 12 beneficiaries' Social Security benefits were in non-pay status because the representative payee neglected to provide SSA complete and accurate beneficiary information, including medical review forms<sup>25</sup> or responses to SSA notifications. As of August 2018, beneficiaries were in non-payment status for 2 to 11 months.<sup>26</sup> SSA local field office staff informed us they offered a standing weekly appointment time for the representative payee's staff to handle beneficiaries' SSA business. The representative payee stated that her staff was not always able to attend the weekly appointment or did not have sufficient time during the appointment to handle all beneficiary issues. According to SSA's policy, if a representative payee fails to comply with SSA's request for information or evidence for a continuing disability review, field office staff places the individual's record in non-payment status until the representative payee provides the information. If the individual's record is in non-pay status for 12 consecutive months, the individual's benefits terminate effective with the 13<sup>th</sup> month.<sup>27</sup>

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<sup>23</sup> According to SSA, a representative payee should have documented procedures in place to properly safeguard PII from loss, theft, or inadvertent disclosure. Examples of failing to safeguard PII include leaving beneficiary information in a non-secure area in an office and not locking a beneficiary file in a secure filing cabinet when not in use. PII includes a person's name, date of birth, Social Security number, bank account information, address, health records, and Social Security benefit payment data. SSA, *Protecting Beneficiaries from Identity Theft*, [https://www.ssa.gov/payee/protecting\\_personal\\_info.htm](https://www.ssa.gov/payee/protecting_personal_info.htm) (last visited August 16, 2018).

<sup>24</sup> The representative payee alleged returning these documents to the local Social Security office, but the documents were not processed timely. Management at the local Social Security office stated the delay in processing these documents did not exceed 1 week because they were priority workloads.

<sup>25</sup> SSA uses medical continuing disability reviews to fulfill its statutory requirement to periodically review individuals' continued entitlement to disability benefits. 20 C.F.R. §§ 404.1594 and 416.994 (govinfo.gov 2018).

<sup>26</sup> Most of these 12 beneficiaries fell outside our sample review, so we did not ascertain how the representative payee met their needs without Social Security benefits. SSA may send the payments once the representative payee addresses all outstanding issues, if other factors do not prevent payment at that time. These beneficiaries' suspended monthly payments totaled approximately \$60,000.

<sup>27</sup> SSA, *POMS*, DI 28075.005, C.3 (December 28, 2012).

We also reviewed the Chicago Region’s Representative Payee Accounting “Non Responder” list, which comprised all representative payees who did not provide an annual accounting form within 120 days and after two requests from SSA for the information. We found the representative payee appeared on the list 347 times, with 124 instances occurring in or after 2016 and 14 accounting forms still not submitted.<sup>28</sup> We recommend SSA provide the representative payee with a firm due date to complete and return all outstanding medical review and payee accounting forms.

## **Erroneous Beneficiary Residence Address Information**

SSA’s representative payee system had incorrect custody or residence address information for beneficiaries in the representative payee’s care. For our sample of 50 beneficiaries, 10 SSA records indicated the beneficiary was living in the representative payee’s custody. However, during our visit, we found that no beneficiaries lived with the representative payee. Accordingly, SSA’s residence address information for beneficiaries in this representative payee’s care were not accurate for all individuals. Maintenance of correct residence address information is important for ensuring proper payment of benefits and contacting beneficiaries directly, as needed. SSA should request the representative payee provide current residence addresses for beneficiaries in her care so that SSA can update its systems.

## **CONCLUSIONS**

The representative payee did not always use and account for Social Security benefits in accordance with SSA policies and procedures. Specifically, she may have failed to meet the needs of beneficiaries or provide adequate access to inform her of their needs. She also inappropriately charged a total of \$5,039 in excess fees for contractors to perform her required guardian and conservator services. Moreover, for our sample of 50 beneficiaries, she did not pay 3 beneficiaries’ bills by the due dates and incurred overdraft fees for 6 beneficiaries. Additionally, the representative payee’s home-based office space did not provide for sufficient physical controls over SSA beneficiaries’ PII. In addition, the payee did not always provide SSA with payee accounting forms and medical review documents timely. SSA’s representative payee system had incorrect custody or residence address information for beneficiaries in the representative payee’s care.

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<sup>28</sup> Annual representative payee accounting forms serve an important role in helping SSA maintain contact with representative payees and ensuring representative payees meet the basic needs of each beneficiary. For a large-volume representative payee, the forms also serve an important role in ensuring the representative payee maintains contact with all beneficiaries in his/her care.

## RECOMMENDATIONS

We recommend SSA:

1. Refrain from placing additional beneficiaries with this representative payee until she has taken corrective actions on the issues identified in this report. If the representative payee does not implement the corrective actions timely, SSA should determine whether the representative payee is capable of continuing to serve the current and foreseeable needs of the beneficiaries under her care.
2. If the representative payee implements corrective actions, SSA should conduct frequent reviews to ensure the payee continues serving the current and foreseeable needs of the beneficiaries under her care.
3. Review the circumstances of the two individuals who may not have had their needs met by the representative payee and take appropriate actions.
4. Advise the representative payee to improve her availability to respond timely to her beneficiaries' current and foreseeable needs.
5. Instruct the representative payee to discontinue charging fees in excess of court-approved guardian and conservator fees.
6. Conduct a representative payee fee misuse review and require that the payee refund the beneficiaries in her care the fees she collected in excess of the court-approved guardianship and conservatorship agreements.
7. Remind the representative payee of her responsibility to manage benefits in the beneficiary's best interest including paying bills by the due date and preventing overdraft fees.
8. Encourage the representative payee to establish procedures that protect PII to prevent identity theft or accidental loss or disclosure of confidential information.
9. Provide the representative payee with a firm due date to complete and return all outstanding medical review and payee accounting forms.
10. Request the representative payee provide current residence addresses for beneficiaries in her care so SSA can update its systems.

## AGENCY COMMENTS

SSA agreed with all our recommendations. The Agency's comments are included in Appendix C. We also included the representative payee's comments in Appendix D.



Rona Lawson  
Assistant Inspector General for Audit

# *APPENDICES*

## Appendix A – SCOPE AND METHODOLOGY

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To accomplish our objectives, we:

- Reviewed applicable sections of the *Social Security Act*, Federal regulations, and the Social Security Administration’s (SSA) policies and procedures pertaining to representative payees, guardians, and conservators.
- Reviewed prior Office of the Inspector General reports and SSA work in the representative payee area.
- Contacted SSA’s Chicago Regional Office and two field offices in Michigan to obtain background information and prior reviews of the individual representative payee.
- Compared and reconciled a list of SSA beneficiaries in the representative payee’s care according to her records to a list obtained from SSA’s representative payee system.
- Reviewed the representative payee’s internal controls over the receipt and disbursement of Social Security benefits.
- Reviewed the representative payee’s accounting records for a sample of 50 beneficiaries. For the period October 1, 2016 through September 30, 2017, we
  - compared benefit amounts paid according to SSA’s record to the benefit payments recorded in the representative payee’s accounting records and
  - reviewed beneficiaries’ bank statements and representative payee files for supporting documentation of proper benefit deposits, expenses, and personal spending.
- Interviewed 10 beneficiaries who were in the representative payee’s care from October 1, 2016 through September 30, 2017 to determine whether the representative payee met the basic needs of the beneficiaries in her care.

We conducted our audit from December 2017 through August 2018 in Illinois and Michigan. We determined the data used for this audit were sufficiently reliable to meet our audit objectives. The entities audited were SSA’s Chicago Regional Office and the large-volume individual representative payee. 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.

## Appendix B – RESPONSIBILITIES OF REPRESENTATIVE PAYEES

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

- Meet with the beneficiary on a regular basis to ascertain his/her current and foreseeable needs.
- Conserve benefits not needed for the beneficiary's current needs.
- Keep detailed and accurate records of how the representative payee uses benefits to provide an accurate report to the Social Security Administration (SSA) when requested.
- Complete the accounting form online or return the completed form timely once a year.
- Report events that may affect the beneficiary's entitlement or amount of payment (including the beneficiary's death or incarceration).
- Report when unable to locate or contact the beneficiary.
- Cooperate with Supplemental Security Income (SSI) eligibility redeterminations.
- Obtain medical treatment for minor children receiving SSI disability payments.
- Report address and custody changes.
- Report any change in circumstances that would affect performance as representative payee.
- Return any benefits to which the beneficiary is not entitled.
- Act for the beneficiary on matters relating to the beneficiary's claim.
- Notify SSA if the beneficiary no longer needs a representative payee.
- Return any conserved funds or unused benefits to SSA when representative payee services terminate.

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<sup>1</sup> SSA, *POMS*, GN 00502.114, A (February 27, 2014).

## Appendix C – AGENCY COMMENTS

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Date: September 28, 2018

To: Management Analyst  
Office of Inspector General Office of Audit

From: Regional Commissioner  
Chicago

Subject: Signed OIG Draft Report (A-05-18-50587)--Reply (Your email of August 30, 2018)

We appreciate the opportunity to review the findings on the High Volume Individual Representative Payee in the Chicago Region audit report. We agree with your recommendations in the draft report and have already begun to implement some of them.

If you or members of your staff have questions, please contact the Center for Disability, Integrity, and Program Support.

/s/

Phyllis M. Smith

## Appendix D – REPRESENTATIVE PAYEE COMMENTS

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### WRITTEN COMMENTS OF REPRESENTATIVE PAYEE TO OIG DRAFT FOR HIGH-VOLUME INDIVIDUAL REPRESENTATIVE PAYEE; CHICAGO REGION (A-05-18-50587)

#### Background:

The OIG conducted an audit for the period of October 1, 2016 through September 30, 2017 and determined that the representative was servicing 255 beneficiaries and was managing \$2.5 million in benefits. Representatives visited the representative payee's site in February of 2018 and sampled approximately 50 files. According to the report 10 individuals were interviewed who were among 255 beneficiaries identified.

The representative payee personally participated in an onsite interview/appointment for approximately an hour to two hours and further provided all files requested by the OIG. The OIG representatives were on site for subsequent appointments for 2 ½ days reviewing and photocopying records. The OIG after review of the documents submitted follow up inquiries and requests for document production by email, and the representative payee complied. The sum and substance of the OIG report was published in a draft on August 30, 2018 with an option to provide comments on or before September 24, 2018.

#### Results as Interpreted by Representative Payee:

The OIG cited specific results of the review period:

1. The representative payee may have failed to meet the needs of two of 10 beneficiaries interviewed;
  - a. *The representative payee is a guardian for the beneficiaries under her guardianship service business. The responsibilities of the representative payee require that the funds received are used for the benefit of the beneficiary and further that the needs of the beneficiary are met. The representative payee has several community case workers, a case manager and several internal procedures to ensure that the beneficiaries needs are met consistently within the guidelines of the SSA and financial restraints. The specific circumstances of the two individuals were not revealed to the representative payee and a response, explanation or other relevant information was not discussed.*
2. Six individuals expressed concerns regarding ability to notify the representative payee of their needs;
  - a. *The representative payee was not notified as to specific circumstances, however the representative payee employs community case workers and a case manager. The community case workers are assigned specific beneficiaries and/or locations and are required to make and document*

*monthly contact. In addition to the case workers, the representative payee and case manager are available via phone, text and email. There are no restrictions on days or hours for phone calls, texts or email.*

3. Representative may have charged an excess fee to 33 beneficiaries for guardianship/conservatorship services;
  - a. *The representative payee, as guardian, is entitled to charge a guardianship fee for guardianship services. The fee charged for a visit, well check or shopping was not charged as an excess fee. Subsequent to the OIG report an internal review of accounting reports for 30 out of the 50 files reviewed by the OIG revealed that none of the 30 beneficiaries were charged a fee in excess of the allowable guardianship fee. Moreover, 30 out of 50 files reviewed internally revealed that the representative payee, when appointed guardian, took either the allowable guardianship fee, a lesser guardianship fee or in some cases no fee. The reduction or waiver of the guardianship fees in many cases is the result of the SSB having insufficient assets to meet the beneficiaries needs and remit a guardianship fee.*
4. Bills for three beneficiaries may have gone unpaid;
  - a. *The representative payee maintains accounts for beneficiaries in accordance with the SSA guidelines. The payment of obligations and liabilities are a monthly priority for the representative payee. In the case of a failure to timely pay an obligation, there are circumstances when past due obligations are not discovered readily. Further, an unknown obligation(s) may arise after the representative payee assumes responsibility for the funds. The occurrences of unpaid obligations are rare for those with available funds.*
5. Overdraft fees may have been incurred by 6 beneficiaries;
  - a. *Overdraft fees in the instances reviewed were the mistake of the financial institution and were corrected by the institution.*
6. The representative payee's office required additional safeguards for personal information of beneficiaries;
  - a. *The safeguards in place have provided for securing personal information for several years, the increase of additional safeguards is reasonable.*
7. The Representative Payee did not always provide accounting forms/medical review documents timely;
  - a. *The representative payee has a standing weekly appointment with the local SSA field office. The appointment provides for the representative to review files and resolve any SS issues, however, availability by either the*

*representative payee or SS, with time constraints and the number of issues that can be addressed per appointment, at times makes this process challenging. The payee's office is currently effectively working with the local field office to identify all beneficiaries with missing documentation for either accounting or medical and provide the necessary documents/forms by a due date. The representative payee is further exploring options with the local field office for expediting responses, filing of documents, efficiency with appointment times and establishing internet access for reporting accounting forms.*

8. The representative payee provided the OIG with the current updated custody/residence address information for beneficiaries.
  - a. *The updating of address/residence information is completed. Representative payee has no issue providing the address/residence information to the local SSA office. The maintenance and updating of the address/residence information is ongoing and addressed internally with the representative payees' case manager and community case workers regularly and any changes are provided to SSA.*

The representative payee did not present evidence or rebuttal of the above concerns at the time of the review period but has since reviewed the results and recommendations and begun internal procedures, updates and corrective actions for the concerns raised and are addressed specifically as follows.

## Failure to Meet Beneficiaries' Needs

The OIG determined during the review period that two of ten beneficiaries interviewed may not have had their needs met. Including one individual who reported inadequate food, shelter, clothing, or medical care. The representative payee has not had a report of homelessness with any beneficiary. The second beneficiary alleged that bills were unpaid and that food, clothing medical care and personal comfort items had gone unattended. The payees is unable to address these specific findings until SSA provides the beneficiaries identity.

The payee, who serves as a guardian for her 255 beneficiaries and is likewise charged with the responsibility of providing adequate food, shelter, clothing and medical care by the proper judicial authority with jurisdiction over the beneficiaries. The payee is responsible for meeting the needs of the beneficiary by securing placement if needed, and/or housing, medical treatment, food and incidentals including clothing, and toiletries. In an effort to meet the needs of this highly vulnerable population, the representative payee employs community case workers to visit the beneficiaries monthly. Some beneficiaries with special needs, require bi-weekly or weekly visits. The case workers and representative payee are assigned specific individuals and must document the visits by date, name, and location. Ongoing needs and an assessment of the quality of care are identified at the visits. In the event that additional needs arise for beneficiaries, the representative payee can be accessed by telephone (2 phone numbers) 24/7. Further,

the representative payee allows for text messages and emails and has supplied both numbers to providers and caregivers for the beneficiaries to use. Further many of the beneficiaries also have the numbers community case workers telephone numbers.

Difficulties can and do arise when beneficiaries leave their placement/residence in favor of a family member or acquaintance who relies upon the beneficiary's income, or further encourages the beneficiary to leave their placement/residence. The cases of beneficiaries leaving their placement are not common, but in cases where beneficiaries do leave, it is a reoccurring problem. There are further instances where a beneficiary may desire additional income for the month but cannot be provided the monies because of a documented substance abuse problem, mental illness, exploitive relative or friends, or gambling. These specific situations require the representative payee to conserve monies. The representative payee often must identify beneficiaries who do not have sufficient benefits for additional needs. An example is a beneficiary who has sufficient funds for shelter, food and medical, but is without funds for clothing, toiletries or hygienic products. In these instances, the representative payee provides these items out of pocket. Although the representative payee is not required the beneficiaries each receive a birthday gift and Christmas present annually, which is never charged to the beneficiary. This service is provided, since often times, beneficiaries are without family to recognize these annual milestones or holidays.

In an effort to determine whether or not the allegations of failing to meet the beneficiary's needs are founded the representative payee encourages and desires to cooperate with an investigation of the two claims as the payee works diligently to make initial determinations as to adequate food, shelter, medical care, personal comforts, clothing and spending monies for all beneficiaries. Moreover, the payee works diligently to continue those services in a consistent manner without misuse of funds.

### Excess Fees for Guardianship/Conservatorship Services;

The OIG determined that the payee may have charged excess fees for shopping, well check or delivery of spending monies from SSB. The report indicates that fees for deliveries, shopping or well checks were charged to beneficiaries from their SSB and in excess of fees allowable. The payee welcomes a full inquiry as to the accounting and further for the actual fees charged to any beneficiary as an excess fee has not been charged to any beneficiary in any circumstance.

The payee serves as guardian and/or conservator for some beneficiaries. The payee is appointed by the proper judicial authority with jurisdiction over the beneficiary. A guardianship fee is allowable under the law of the jurisdiction where the beneficiary resides; when serving as conservator, conservatorship fees are charged separately from the allowable guardianship fee and are approved by the proper judicial authority. The payee may have accounted for a \$10.00 fee for shopping and/or a \$10 fee for visit, however the \$10.00 fee for shopping/visit/well check would have been part of and/or included with any guardian and/or conservatorship fee allowed. The payee's internal accounting procedure does not translate to the SSA accounting; however, an excess fee was not charged. Payee's internal accounting procedure has been changed to reconcile

with SSA accounting. Indeed, the payee has beneficiaries who cannot meet the annual guardianship fees and they are waived at times or simply not collected at all as the benefit was insufficient to support a fee.

An inquiry as to the 33 instances of potential excess fees is necessary to verify that no fee was charged in a manner inconsistent with SSA. An internal review of 30 of the 50 files reviewed by the OIG revealed that at no time was a fee charged in excess of the allowed annual guardianship fee and/or conservator fee. The subsequent internal review done by the representative payee further revealed that on occasions a lesser annual fee was charged or no fee as there was insufficient assets to provide for the beneficiary's needs and pay the guardian fee.

### Improper Management of Beneficiaries Funds:

The result of the OIG determined that 10 overdrafts for 6 beneficiaries occurred within the review period and that 3 individuals had overdue bills.

The payee during the review period was required to transfer all 255 beneficiaries' funds from one banking institution to an alternate banking institution. The process involved the closing and opening of 255 accounts. By agreement with the banking institution in anticipation of the transfers, account holders (beneficiaries) were not to be charged an account maintenance fee. Unfortunately, some accounts were charged with the maintenance fee and the accounts overdrawn. All overdraft fees were refunded, and drafts honored. The representative payee further attempts to pay all obligations of the beneficiaries timely. Instances of unknown creditors and/or obligations arise which can result in untimely payments. In some instances, payment is delayed because the payee needed to verify debt by either disputing charges, making an inquire of charges, provided billable information (insurance) and/or verify that all credits due the beneficiary have been made. The instances of untimely payments are rare. An inquiry as to the circumstances surrounding these findings is appropriate.

The payee has begun to adequately secure private, identifiable information of beneficiaries.

### Medical Reviews and Accounting Forms;

The review period revealed that medical review and/or accounting forms were either missing or not timely filed. The payee has a standing weekly appointment with the local field office in an effort to timely and personally respond to all inquiries for information and requisite forms for continued benefits. The representative payee is limited in time and to weekly appointments. This can cause difficulty as some files only require minimal review, while others may require significant attention and/or corrective actions. The local SSA field office and the representative payee have commenced review and identification of files with either missing or incomplete date/medical review/accounting forms and the representative payee has commenced corrective action.

## Erroneous Beneficiary Residence Address Information

The payee has updated and accurate residence address information for all beneficiaries and will provide this information to the local field office or other office as directed.

### Comments to OIG Recommendations:

1. The OIG recommends no placement of additional beneficiaries until the payee has taken corrective actions on the identified issues of the report. This recommendation ignores the pending applications for beneficiaries. The payee has significant objection as there are pending applications for payee status with the Administration and without approval the consequences will be dire. Further if no applications are approved, the Administration's action will cripple the representative payee's ability to function as a guardian.
2. The recommendation of "frequent" review to monitor or update corrective actions is not objectionable but lacks specificity.
3. A review and inquiry into the circumstances of the two individuals who alleged their needs were not met is necessary and shall be addressed once the beneficiaries are identified.
4. Advising the payee as to availability to respond timely to beneficiaries' is recommended and the payee has and continues to provide access to herself, case manager and community case worker; should SSA have any additional suggestions or provides a directive the proper corrective actions will be met.
5. The OIG recommendation to advise the payee to refrain from "excess" fees makes sense only if there is a determination that any excess fee was charged/paid. An inquiry as to whether an excess fee was charged/paid is appropriate.
6. A misuse review is not required regarding repayment of fees collected in excess of guardianship/conservatorship fees. The relevant inquiry is a review of whether an excess fee was in fact charged.
7. Remind representative payee to manage benefits in the beneficiaries' best interest including paying bills by the due date and preventing overdraft fees. The representative payee continues to monitor fees, due dates and financial statements with scrutiny and consistently acts in the best interest of the beneficiaries.
8. The protection and security of private, identifiable information is being addressed.
9. The recommendation for firm due date for all necessary medical and accounting forms for the payee is recommended. The payee is currently working on corrective actions with the local SSA office and welcomes a deadline.

- 10 Updated beneficiary residence/address information is current with the payee's office and can be provided to the local field office or other office as directed.

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