
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**AN INDIVIDUAL REPRESENTATIVE PAYEE
FOR THE SOCIAL SECURITY ADMINISTRATION
IN MICHIGAN**

March 2011

A-15-09-19062

AUDIT REPORT



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SOCIAL SECURITY

MEMORANDUM

Date: March 3, 2011 Refer To:

To: James F. Martin
Regional Commissioner
Chicago

From: Inspector General

Subject: An Individual Representative Payee for the Social Security Administration in Michigan
(A-15-09-19062)

OBJECTIVE

The objectives of our review were to ensure the selected representative payee had effective safeguards over the receipt and disbursement of Social Security benefits. We also determined whether the representative payee used and accounted for these benefits 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 disburse benefits for those beneficiaries' payments.¹ A representative payee may be an individual or an organization. SSA selects representative payees for Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries and Supplemental Security Income (SSI) recipients when representative payments would serve the individuals' interests. Representative payees are responsible for managing benefits in the beneficiary's best interest.²

SSA categorized the representative payee under review as a volume individual payee who cared for 15 or more SSA recipients.³ This representative payee was a licensed social worker in Michigan, specializing in the needs and issues that relate to older adults

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

² We use the term "benefits" in this report to refer to both OASDI benefits and SSI payments.

³ SSA, Program Operations Manual System (POMS), GN 00605.400.

and the aging population in general. During our initial audit period, June 1, 2007 to May 31, 2008, this representative payee served approximately 164 SSA beneficiaries. The representative payee was the court-appointed guardian or conservator for approximately 90 percent of the beneficiaries she served. For the remaining beneficiaries in her care, she served solely as the representative payee. Most of the beneficiaries this representative payee served were elderly or suffered from schizophrenia.

We conducted our initial site visit in August 2008. We reviewed 69 beneficiaries' files from the total population for the period June 1, 2007 through May 31, 2008. During our review, we noted several transactions that we considered to be irregular. These transactions included reimbursements to related parties for services provided to the beneficiaries, the use of unsupported cashier's checks, and excessive fees collected by the representative payee. Therefore, we expanded our sample and scope to include the entire population of 164 beneficiaries from September 2006 through August 2008. During this period, the representative payee received over \$2.5 million in benefit payments for the entire population of 164 beneficiaries.

At the conclusion of our fieldwork in February 2009, this matter was referred to our Office of the Counsel to the Inspector General (Counsel) for Civil Monetary Penalty consideration. Counsel initiated a Civil Monetary Penalty action, and the Office of the Inspector General and the representative payee reached a settlement agreement regarding the matter in August 2010. The issuance of this report was postponed until the Civil Monetary Penalty matter was resolved.

RESULTS OF REVIEW

Although it appeared the representative payee provided a suitable level of care for the beneficiaries, our review of records suggested she did not properly use and account for the Social Security benefits received on behalf of the beneficiaries in her care. We noted the representative payee operated a case management business that received payments for providing services to the beneficiaries that were similar to the services she provided as the representative payee. This business was solely owned by the representative payee and staffed primarily by family members.⁴ We noted there was a lack of definable segregation of responsibilities and duties, which allowed this environment to be susceptible to error, irregularities, and misuse.

⁴ Family members for this report include children, former husband, children's spouses, and an in-law.

RELATED-PARTY TRANSACTIONS

During our review, we found that the representative payee employed immediate family members as office staff. In addition, the representative payee used other family members to provide services to 122 beneficiaries. These types of transactions are considered related-party transactions.⁵ The representative payee hired family members to

- transport beneficiaries to and from doctor's appointments and shopping trips;
- purchase and deliver Christmas baskets to the beneficiaries;
- provide pet care services for the beneficiaries;
- purchase jewelry for several beneficiaries from a family member's jewelry business;
- assist beneficiaries in moving to new residences;
- provide tax services for the beneficiaries; and
- provide legal services for the beneficiaries.

In addition, one of the representative payee's family members took four beneficiaries on a chartered fishing trip. According to the Master Beneficiary Record, all four of the beneficiaries suffered from schizophrenia. Each of these beneficiaries was charged \$200 for the fishing trip as well as \$83 for transportation to and from the marina. A family member also provided the transportation, and although the beneficiaries lived in the same location, each beneficiary was charged for mileage as well as a \$60 flat charge.

For our review period, the representative payee paid over \$80,000 to various family members for these services. Although the amounts charged by family members in some instances appeared reasonable, charges for services, such as moving beneficiaries' belongings and helping admit a beneficiary to the hospital, appeared excessive. For example, one of the family members charged \$50 an hour to pick a beneficiary up from their home and sit with them at the emergency room until admitted. This hourly rate appears excessive based on the services that were provided.

Relationships between parties may enable one of the parties to exercise a degree of influence over the other. By using related parties to provide these services to the beneficiary, the representative payee may not be getting the best possible rates for these types of services. The representative payee is creating the risk that beneficiaries' funds may not be used properly and in the best interest of the beneficiaries.

⁵ A related-party transaction is an interaction between two parties, one of whom can exercise control or significant influence over the operating policies of the other.

CASHIER'S CHECKS

After reviewing the representative payee's accounting records, we noted the representative payee periodically issued cashier's checks from the beneficiaries' accounts. Cashier's checks are issued by the bank. Unlike personal checks, cashier's checks immediately debit the account when the bank issues them. The representative payee told us that she used cashier's checks to pay pre-need funeral agreements, housing expenses, and attorney fees for some of the beneficiaries. The representative payee was able to provide supporting documentation for some cashier's check transactions.

However, we noted that for 29 beneficiaries, cashier's checks issued from their accounts were not adequately supported. Most of these checks were issued in \$500 increments and totaled \$69,300. According to the representative payee, these checks were used to pay the representative payee's case management company invoices, funeral agreements, and SSA overpayments. We found the representative payee did not provide sufficient supporting documentation for these cashier's check transactions. For example, three cashier's checks, totaling \$1,500, were withdrawn from one beneficiary's account on June 8, 2007. The supporting documentation for this transaction was a fax from the beneficiary's guardian stating the funds were used to repay an overpayment to SSA. According to SSA records, the overpayment notice was sent to the representative payee on December 19, 2007. This was approximately 6 months after the money was withdrawn from the beneficiary's account. The overpayment was repaid to SSA on January 3, 2008.

We also noted for several beneficiaries who received Title XVI payments, cashier's checks were issued from their accounts when their balance exceeded the \$2,000 resource limit.⁶

GUARDIANSHIP FEES

Michigan law⁷ entitles guardians/conservators to reasonable compensation for services rendered. The representative payee under review served as the guardian for approximately 90 percent of beneficiaries in her care. We determined that the representative payee collected reasonable monthly guardianship fees of approximately \$60 a month from 80 beneficiaries in her care from September 2006 through August 2008. These fees totaled \$71,055.

In addition to the monthly fees the representative payee collected, we noted additional fees were collected from 34 of the 80 beneficiaries, as noted above. These additional fees totaled approximately \$49,423. SSA policies state a fee cannot be collected from a

⁶ 20 C.F.R. § 416.1205 Limitation on resources – Effective January 1, 1989 for an individual the resource limit is \$2,000.

⁷ Michigan Complied Law § 700.5413.

beneficiary if the payee is receiving compensation, including court/guardianship fees, for performing any representative payee services for the individual.⁸

We also noted, in addition to the 80 beneficiaries discussed above, 21 beneficiaries were charged large fees by the representative payee. These fees totaled approximately \$113,526. According to the account records, over 50 percent of these beneficiaries received only Social Security benefits. These beneficiaries were not always charged a monthly fee but were billed through the representative payee's case management company. According to the representative payee, these fees were collected as past-due guardianship fees from prior years of service, or services provided by her case management company. The representative payee's case management company provided services similar to those performed as a representative payee. We noted the representative payee would collect payment by issuing a check to herself from the beneficiary's bank account or withdrawing funds from the beneficiary's account by way of cashier's check. For some of these fees, the representative payee provided invoices from her business as support. However, we noted that fee amounts withdrawn were not applied to the balances on the invoices.

When an individual is appointed a legal guardian for a competent or incompetent beneficiary, or maintains a trust account on behalf of the beneficiary, part of the beneficiary's funds may be used for guardianship costs or court-ordered fees. These fees may be collected provided the guardianships appear to be in the beneficiary's best interest; the beneficiary's personal needs are met first; and the beneficiary's funds would not be depleted by the collection of guardianship fees.⁹

UNALLOWABLE FEES

We identified one beneficiary for whom the representative payee was not the court-appointed guardian and served only as the representative payee. This beneficiary was charged \$1,592 for guardianship fees. SSA's procedures prohibit individual representative payees from collecting a fee from SSA benefits for representative payee services except in certain circumstances, such as court-ordered fees and fees for serving as a legal guardian.¹⁰ Although the representative payee was a court-appointed guardian for most of the beneficiaries in her care and therefore was allowed to collect guardianship fees, she inappropriately took fees from this beneficiary when she was not the legally appointed guardian.

⁸ SSA, POMS, GN 00506.20.

⁹ SSA, POMS, GN 00602.040.

¹⁰ SSA, POMS, GN 00602.001.A.2, GN 00602.110.A, GN 00602.040; SSA, *A Guide for Representative Payees* (No. 05-10076), p. 2, February 2006.

Misuse of benefits is the misappropriation of benefits by the payee. Misuse of benefits occurs when the payee does not use the benefits for the beneficiary's current and foreseeable needs. Misused funds include unauthorized or excessive fees for representative payee services.¹¹

NONCOMPLIANCE WITH SSA REPORTING POLICIES

According to SSA policies, anyone who wishes to receive benefits as a representative payee must complete Form SSA-11,¹² *Request to be a Representative Payee*. One of the questions on this Form asks the representative payee if he or she is a creditor or will become a creditor to the beneficiary. During our review, we obtained the Forms SSA-11 from 56 beneficiaries' files. We noted for 20 beneficiaries, the representative payee answered no to questions regarding becoming a creditor to the beneficiary. For these 20 beneficiaries, the representative payee collected retroactive guardianship fees, court-petitioned fees, and monies due on outstanding invoices from her personal case management company. For most of these invoices, the accrued balances were several thousand dollars.

Social Security regulations¹³ require that representative payees use the benefits they receive for the current needs of the beneficiaries in their care. Representative payees are responsible for keeping records and reporting on the use of benefits by completing an annual Form SSA-623, *Representative Payee Report*.¹⁴ This Report is used to monitor how the payee spent and/or saved the benefits on behalf of the beneficiary and identify situations where the representative payments may no longer be appropriate or the payee may no longer be suitable. We obtained the Form SSA-623 from the beneficiaries' files. We noted the information reported on the SSA-623 conflicted with the accounting records maintained by the representative payee for 32 of the beneficiaries. We noted that the representative payee failed to report some of the expenses incurred by the beneficiaries, cashier's checks issued from the beneficiaries' account, and fees taken by the representative payee.

INDIVIDUAL BANK ACCOUNTS DID NOT MEET SSA REQUIREMENTS

Our audit found that the representative payee did not properly title the individual bank accounts for 15 beneficiaries in our initial sample of 69 beneficiaries. While the accounts included the payee's and beneficiaries' names, they did not show the representative payee had only a fiduciary interest. According to SSA guidelines,¹⁵ if a

¹¹ SSA, POMS, GN 00604.001.

¹² SSA, POMS, GN 00502.107.

¹³ 20 C.F.R. §§ 404.2035 and 416.635 What are the responsibilities of your representative payee?

¹⁴ SSA, POMS, GN 00605.010.

¹⁵ SSA, POMS, GN 02402.055.

representative payee requests direct deposit, the title of the account or subaccount must show that the representative payee has only a fiduciary interest in the account or subaccount. The beneficiary must not have direct access to the account.

REPRESENTATIVE PAYEE WAS ACTING AS A CONDUIT PAYEE

Representative payees are responsible for ensuring the beneficiary's current needs are met. We noted that the representative payee was acting as a conduit payee¹⁶ for 4 beneficiaries in our initial sample of 69 beneficiaries by improperly turning over all of the monthly SSA benefit payments to the beneficiaries' guardian. Conduit payees turn over the full amount of the benefit payment to either the beneficiary or another person, such as a care facility. They do not exercise control over the funds and cannot fully account for how the funds are spent. The representative payee did not have any direct interest in how the funds were used for the beneficiaries' needs.

UNSUPPORTED TRANSACTIONS

We found the representative payee did not use proper accounting practices for the receipt and disbursement of Social Security benefits. SSA representative payee guidelines¹⁷ state that the representative payee must keep a record of all money taken from the beneficiary's account and receipts for all items or services purchased. We noted the representative did not maintain sufficient supporting documentation for large purchases and personal spending of the beneficiaries' funds for 19 beneficiaries. These unsupported transactions totaled approximately \$26,079. Specifically, we found the representative payee paid a third party to take a beneficiary shopping. The third party submitted a personal invoice asking for reimbursement for a \$1,200 raincoat purchased for the beneficiary with no receipt attached. The representative payee also had a family member purchase a \$1,400 television for a beneficiary. The representative payee did not request any receipts for any of the items purchased.

INDEPENDENT REVIEW OF REPRESENTATIVE PAYEE

SSA field offices are required to conduct site visits and random reviews for all fee-for-service and certain volume payees under the Expanding Monitoring Program.¹⁸ After our review, the Chicago Regional Office contracted with an independent accounting firm to perform a triennial review of the representative payee. The accounting firm reviewed only 10 beneficiary files and reported a few minor findings to SSA. However, none of the findings reported dealt with related party transactions, cashier's checks, or excessive fees. These findings conflict with the results of our review. Because of the inconsistencies noted in the independent accounting firm's report and our review, we requested the accounting firm's working papers to determine whether the above-noted

¹⁶ SSA, POMS, GN 00608.044.

¹⁷ *A Guide for Representative Payees* (No. 05-10076) February 2006.

¹⁸ SSA, POMS, GN 00605.400.

issues still existed. The Chicago Regional Office was not able to provide the working papers from the independent accounting firm because of restrictions in their contract agreement.

CONCLUSION AND RECOMMENDATIONS

Our review found that the representative payee did not use and account for SSA benefits in accordance with SSA policies and procedures and did not use proper accounting practices when handling the Social Security benefits received on behalf of the beneficiaries in her care. Specifically, the representative payee used family members to perform services and make purchases for the beneficiaries; used cashier's checks to spend down the beneficiaries' account; and collected excessive fees from the beneficiaries. These actions by the representative payee put the beneficiaries' funds at risk for improper use or possible misappropriation.

We recommend SSA:

1. Refrain from placing additional beneficiaries with this individual payee until a thorough review of the payee's accounting practices (specifically the use of family members performing services for the beneficiaries; using cashier's checks without proper supporting documentation; and making large purchases without supporting documentation) has been performed. At the conclusion of this review, determine whether the current beneficiaries should remain in the representative payee's care.
2. Perform a more in-depth review of the beneficiaries' accounting records to ensure they are not being charged excessive fees through the representative payee's case management business; and that funds are conserved for the beneficiaries' future needs.
3. Consider seeking restitution of \$1,592 on the behalf of the one beneficiary from whom the representative payee collected unallowable fees from September 2006 through August 2008.
4. Work with independent accounting firms hired to conduct triennial reviews of representative payees to obtain access to the firm's work papers to support the results of the work completed.

AGENCY COMMENTS AND OIG RESPONSE

SSA agreed with our recommendations. SSA's comments are included in Appendix D. The representative payee also provided comments to our report. Although the representative payee did not agree with our conclusions in the report, it stated it had taken action to address some of these issues.

A handwritten signature in black ink, appearing to read "Patrick P. O'Carroll, Jr."

Patrick P. O'Carroll, Jr.

Appendices

[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

Acronyms

C.F.R.	Code of Federal Regulations
Counsel	Office of the Counsel to the Inspector General
OASDI	Old-Age, Survivors and Disability Insurance
POMS	Program Operations Manual System
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.¹

- Determine the beneficiary's current needs for day-to-day living and use his/her payments to meet those needs.
- Conserve and invest benefits not needed to meet the beneficiary's current needs.
- Maintain account 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 to which the beneficiary is not entitled.
- Return conserved funds to SSA when no longer serving as the representative payee for the beneficiary.
- Be aware of any other income Supplemental Security Income recipients may have and monitor their conserved funds to ensure they do not exceed resource limits

¹ 20 C.F.R. §§ 404.2035 and 416.635.

Scope and Methodology

Our audit covered the period September 1, 2006 through August 31, 2008. To accomplish our objectives, we:

- Reviewed applicable Federal laws and regulations as well as the Social Security Administration's (SSA) policies and procedures pertaining to representative payees.
- Reviewed prior Office of the Inspector General and SSA work in the representative payee area.
- Contacted SSA's Chicago Regional Office to obtain background information and prior audits regarding the individual representative payee.
- Compared and reconciled a list of SSA beneficiaries in the representative payee's care from the payee to a list obtained from the representative payee system.
- Reviewed the representative payee's internal controls over the receipt and disbursement of Social Security benefits.
- Selected a sample of 50 beneficiaries for whom the individual served as the representative payee and guardian. We also reviewed all the beneficiaries' files where the representative payee served only as the representative payee or served as both the representative payee and conservator. For our three populations of beneficiaries, we performed the following tests.
 - Compared benefit amounts paid according to SSA's records to the benefit payments recorded in the payee's accounting records.
 - Reviewed the beneficiaries' bank statements and the payee's accounting records to determine whether benefit payments were properly deposited.
 - Reviewed beneficiary files for supporting documentation of expenses and personal spending.
- Expanded the scope of our review to include the entire population of 164 beneficiaries who were served by the representative payee from September 2006 to August 2008. For these beneficiaries, we only reviewed the

accounting records and verified selected transactions that related to related party transactions, cashier's checks, and excessive fees collected by the representative payee.

- Conducted a site visit at one care facility that housed several beneficiaries in the representative payee's care. We interviewed four beneficiaries to determine whether their basic needs were being met.

We determined that the computerized data used during our review were sufficiently reliable given our objective, and the intended use of the data should not lead to incorrect or unintentional conclusions.

We performed our fieldwork in Michigan, from August 2008 to February 2009. 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.

Agency Comments

DATE: February 11, 2011

TO: Inspector General

FROM: Regional Commissioner
Chicago

SUBJECT: Audit # 22008057 Draft Report, An Individual Representative Payee for the Social Security Administration in Michigan (A-15-09-19062)Your Memorandum Dated December 15, 2010--REPLY

Thank you for the opportunity to comment on the draft report presenting the results of your audit of an Individual Representative Payee for the Social Security Administration in Michigan. Having reviewed the report, we submit the following comments.

You recommended that SSA:

1. Refrain from placing additional beneficiaries with this individual payee until a thorough review of the payee's accounting practices (specifically the use of family members performing services for the beneficiaries; using cashier's checks without proper supporting documentation; and making large purchases without supporting documentation) has been performed. At the conclusion of this review, determine whether the current beneficiaries should remain in the representative payee's care.

Comment:

We stopped placing additional beneficiaries with the payee in question, effective immediately. We will do a review of the payee's accounting practices to determine whether the payee is suitable to continue.

2. Perform a more in-depth review of the beneficiaries' accounting records to ensure they are not being charged excessive fees through the representative payee's case management business; and that funds are conserved for the beneficiaries' future needs.

Comment:

We will review the financial records of a sample of additional beneficiaries to determine if the payee collected inappropriate fees.

3. Consider seeking restitution of \$1,592 on behalf of the one beneficiary from whom the representative payee collected unallowable fees from September 2006 through August 2008.

Comment:

We will consider doing misuse development for the beneficiary whose account was billed for representative payee services and for whom the payee was not a guardian. However, we have been informed that this beneficiary is now deceased.

4. Work with independent accounting firms hired to conduct triennial reviews of representative payees to obtain access to the firm's work papers to support the results of the work completed.

Comment:

We will ask our contracting officer to investigate pursuing a contract that allows sharing of the contractor's work papers with OIG.

Again, we thank you for your assistance, now and in the future, and we appreciate being given the opportunity to comment on this draft report. If members of your staff have questions, they may contact Marva Watkins at 312-575-4207.

/s/
James F. Martin

Appendix E

OIG Contacts and Staff Acknowledgments

OIG Contacts

Victoria Vetter, Director for Financial Audit Division

Mark Meehan, Audit Manager

Acknowledgments

In addition to those named above:

Judi Kammer, Senior Auditor

Kelly Stankus, Auditor

David Rodriguez, Attorney

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