



Office *of the* Inspector General

SOCIAL SECURITY ADMINISTRATION

*Audit Report*

Chicago Region Large Volume  
Individual Representative Payee for  
the Social Security Administration

*A-15-13-13113 / May 2014*

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

**MEMORANDUM**

**Date:** May 23, 2014

**Refer To:**

**To:** Marcia R. Mosley  
Regional Commissioner  
Chicago

**From:** Inspector General

**Subject:** Chicago Region Large Volume Individual Representative Payee for the Social Security Administration (A-15-13-13113)

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

If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.



Patrick P. O'Carroll, Jr.

Attachment

cc:

Nancy Martinez, Associate Commissioner for Office of Income Security Programs  
Gary S. Hatcher, Senior Advisor for Records Management and Audit Liaison Staff

# Chicago Region Large Volume Individual Representative Payee for the Social Security Administration

## A-15-13-13113



May 2014

Office of Audit Report Summary

### Objectives

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

### Background

Congress granted SSA the authority to appoint representative payees for those beneficiaries who are incapable of managing or directing the management of their benefit payments. A representative payee may be an individual or an organization. Representative payees receive and manage payments on behalf of these beneficiaries.

A representative payee may also act as an individual's guardian, conservator, or both. A guardian has the power and responsibility to make certain decisions about the individual's care. A court must appoint a payee as guardian or conservator. A guardian or conservator may charge fees for their services.

The representative payee under review is an individual volume payee who served 165 beneficiaries. The representative payee was the court-appointed guardian and/or conservator for 106 beneficiaries she served.

### Our Findings

The representative payee did not always adhere to SSA policies and procedures when handling the Social Security benefits she received on behalf of the beneficiaries in her care. We also found the payee did not use proper accounting practices, such as maintaining adequate supporting documentation for expenses paid to family members for services provided and purchases made on behalf of the beneficiaries. In addition, we noted the payee collected guardianship fees from both the beneficiaries and a county court. We also have concerns about the payee's financial stability for maintaining the payee practice.

### Our Recommendations

We recommend SSA:

1. Refrain from placing additional beneficiaries with this representative payee until a thorough review of the payee's accounting and reporting practices is performed.
2. Instruct the representative payee on the proper handling of benefit payments in accordance with SSA's policies.
3. Determine whether a new payee should be appointed or the beneficiaries no longer need a payee in the noted cases of the payee acting as conduit.
4. Determine whether the payee is charging fees for guardian and conservator services in accordance with SSA's policy. If SSA determines these fees are inconsistent, it should ensure the payee reimburses the beneficiary.
5. Review the payee's financial stability to determine whether the payee can continue providing representative services to the high volume of beneficiaries.
6. Develop procedures to require that high volume individual representative payees have bond coverage and financial credit risk reviews.

SSA agreed with all of our recommendations.

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## ABBREVIATIONS

C.F.R.	Code of Federal Regulations
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
POMS	Program Operations Manual System
Pub.L. No.	Public Law Number
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

## OBJECTIVES

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

## BACKGROUND

A representative payee receives and disburses benefit payments on a beneficiary's behalf. Congress granted SSA the authority to appoint representative payees for those beneficiaries<sup>1</sup> who are judged incapable of managing or directing the management of their benefit payments because they have a mental or physical disability or are a child.<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 and 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 beneficiary's best interest and ensuring benefit payments are used for the beneficiary's current maintenance,<sup>4</sup> including food, shelter, clothing, medical care, and personal comfort items. See Appendix B for responsibilities of representative payees.

A representative payee may also act as an individual's guardian, conservator, or both. A guardian generally has the power and responsibility to make certain decisions about the individual's care. For instance, a guardian may have the power to consent to medical treatment for the beneficiary. A conservator generally handles an individual's property and financial affairs. A court must appoint a payee as guardian or conservator. A guardian or conservator may charge fees for their services.

The representative payee under review is an individual volume payee, which is a payee that administers benefits for 15 or more SSA beneficiaries. During our initial audit period, April 1, 2012 to March 31, 2013, this representative payee served 165 SSA beneficiaries. The representative payee was the court-appointed guardian and/or conservator for 106 beneficiaries she served. A majority of the 165 beneficiaries suffered from a mental disorder.

In May 2013, we conducted a site visit at the representative payee's office in SSA's Chicago Region. We noted the representative payee operated a guardianship business that received payments to provide guardianship services to the beneficiaries. The payee collected a fee of

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<sup>1</sup> The term "beneficiary" in this report refers to both OASDI beneficiaries and SSI recipients.

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

<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 Use of Benefit Payments.

approximately \$60 from the beneficiaries for this service. The representative payee owned the business and employed family members.<sup>5</sup>

We reviewed 50 beneficiaries' files from the total population for the period April 1, 2012 through March 31, 2013. During our review, we noted questionable fees and expenses in the beneficiaries' accounting records. We expanded the scope of our review to include the entire population of 165 beneficiaries in the payee's care from April 2012 through July 2013. For the expanded population, we reviewed only the payee's account ledgers noting cashier's checks, related party transactions, and questionable fees and charges (see Appendix A). During the audit period, April 2012 through July 2013, the representative payee received approximately \$1.96 million in benefit payments for the beneficiary population.

## RESULTS OF REVIEW

Although it appeared the representative payee provided a suitable level of care for the beneficiaries, our review of records suggested the payee engaged in questionable practices that conflicted with SSA policy. In addition, the payee did not always properly use and account for the Social Security benefit payments she received on the beneficiaries' behalf. We noted the payee served as guardian or conservator for 64 percent of the beneficiaries in her care. As the guardian/conservator, the payee is allowed to collect a fee.<sup>6</sup> However, we noted the payee collected twice and sometimes three times the established fee amount. In addition, we have concerns about the payee's financial stability for maintaining the guardianship practice.

### Questionable Representative Payee Practices

According to Federal regulations,<sup>7</sup> a representative payee is responsible for using the beneficiary's benefits in the beneficiary's best interest and keeping the benefits separate from the payee's own funds. The payee should treat any interest earned as the beneficiary's property and notify SSA of any changes that could affect the benefit payment and/or the payee's ability to perform its responsibilities. During our review, we noted the representative payee engaged in questionable practices that conflicted with SSA policy. We found the payee

- collected unallowable fees for representative payee services;
- acted as a conduit payee<sup>8</sup> for several beneficiaries in her care;
- rented property, which was owned by the payee or payee's relative, to the beneficiaries;

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<sup>5</sup> Family members for this report include children, grandchild, and siblings of the payee.

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

<sup>7</sup> 20 C.F.R. §§ 404.2035 and 416.635.

<sup>8</sup> SSA, POMS, GN 00608.044 (January 29, 1996).

- did not transfer all of a beneficiary's funds to a new payee; and
- did not notify SSA when a beneficiary's living arrangements changed, resulting in an overpayment to the beneficiary.

### *Payee Collected Unallowable 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 including fees for serving as a court appointed legal guardian.<sup>9</sup> Although the representative payee was a court-appointed guardian for most of the beneficiaries in her care and was therefore allowed to collect guardianship fees, she inappropriately took fees from several beneficiaries when she was not their legally appointed guardian. These fees ranged from \$60 to \$250, and the payee classified them as "set up filing, bank account fee" in the accounting records. In discussion with the payee, she stated the beneficiaries were aware she charged these fees. The fees totaled \$955 for these beneficiaries. According to SSA policy, the payee cannot collect fees for such administrative items as setting up a beneficiary's bank account if the payee acts as representative payee only.<sup>10</sup>

### *Possible Conduit Payee Situations*

During our review, we noted the representative payee was turning over a substantial amount of the monthly benefit payments to several beneficiaries and/or a third party. Conduit payees<sup>11</sup> turn over the full amount of the benefit payment to the beneficiary, another person, or a facility. Therefore, they do not exercise control over the funds and cannot fully account for how funds are spent. The existence of a conduit payee is a concern because it could indicate the beneficiary's current and immediate needs are not being fulfilled, the payee lacks interest in the beneficiary's care, or the beneficiary no longer needs a payee.

During our review, the representative payee turned over a beneficiary's benefit payment amount to the beneficiary's spouse. The payee did not maintain any type of accounting records for this beneficiary. SSA records indicate the beneficiary's spouse lived in a different State than the beneficiary and the payee during our review period.

We also noted another beneficiary had moved to a noncontiguous State but remained in the payee's care. The payee only paid the beneficiary's rent and turned over the remainder of the benefit payment to the beneficiary. The payee had not traveled to visit the beneficiary's new

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<sup>9</sup> SSA, POMS, GN 00602.110 (March 5, 2002), GN 00602.040 (July 21, 2009); *A Guide for Representative Payees*, SSA Publication No. 05-10076, January 2009.

<sup>10</sup> SSA, POMS, GN 00602.110 (March 5, 2002); *A Guide for Representative Payees*, SSA Publication No. 05-10076, January 2009.

<sup>11</sup> SSA, POMS, GN 00608.044 (January 29, 1996).



home. SSA policy<sup>12</sup> states that SSA should consider the need for a successor payee if the payee becomes geographically separated from the beneficiary by a considerable distance.

SSA should review these cases to determine whether a new payee should be appointed or a payee is no longer needed.

### *Payee Rented Property to Beneficiaries*

The payee and a relative (who also worked for the payee) rented housing to several beneficiaries. The payee also served as legal guardian for these beneficiaries. The payee's relative rented a room to a beneficiary for \$789 a month. For our review period, the payee paid her relative \$12,624 from the beneficiary's account. This beneficiary was also required to purchase an air conditioner for \$500. The payee owns a trailer, which she rents to two other beneficiaries. The payee charged each beneficiary \$200 a month for rent on the trailer. This amount does not include utilities or lot rental fee. The beneficiaries paid these expenses separately. In addition, the payee charged one of the beneficiaries \$600 to replace the water heater and floor repairs to the trailer. She also charged this beneficiary \$100 to purchase an air conditioner.

In addition, we noted for one beneficiary, several months of "rent payments" paid to the payee's grandchild from the beneficiary's account. The payee employed her grandchild to maintain the accounting records for her guardianship business.

According to SSA policy,<sup>13</sup> it will not certify benefit payments to a payee who is a creditor unless certain relationships exist between the payee and beneficiary, such as, if the payee is a legal guardian or legal representative. SSA policy specifies the payee applicant must show that he/she poses no harm to the beneficiary, and the financial relationship poses no substantial conflict of interest. We believe SSA should review these beneficiaries' living situations, decide whether it is appropriate for the payee and her relatives to rent property to beneficiaries in their care, and determine whether payments for repairs and appliances should be charged to the beneficiaries.

### *Failure to Transfer Funds to New Payee*

We also noted the payee did not turn over a beneficiary's full account balance when a new payee was assigned. The payee acted as this beneficiary's guardian and conservator. SSA policy states, when a payee who has conserved funds for a beneficiary stops serving as the payee, the payee generally must return those funds and interest earned to SSA.<sup>14</sup> SSA selected a new payee for this beneficiary in March 2013. During our site visit, we noted the account balance for this beneficiary was approximately \$2,000. From April through June 2013, the payee continued paying several bills for the beneficiary, including collecting guardianship fees of \$60 per month.

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<sup>12</sup> SSA, POMS, GN 00504.100 (March 29, 2006).

<sup>13</sup> SSA, POMS, GN 00502.135 (June 28, 2013).

<sup>14</sup> SSA, POMS, GN 00603.055 (December 6, 2010).

As of June 2013, the account balance was approximately \$600, and she had not transferred the excess funds to the new payee. We believe the payee should have turned over the remaining account balance to SSA or a new payee once all the beneficiary's obligations were paid.

### ***Failure to Report Changes in Living Arrangements***

Representative payees are responsible for notifying SSA of any events that may affect a beneficiary's entitlement to benefits, including changes in living situations. According to SSA's *A Guide for Representative Payees*, a payee needs to inform SSA when the beneficiary moves, especially if the beneficiary is receiving SSI.<sup>15</sup> This could result in the beneficiary receiving too much in benefit payments. During our review, we noted two beneficiaries who incurred an overpayment of their SSA benefits and were required to pay the funds back to SSA. These overpayments occurred because there was a change in the beneficiaries' living arrangements that were not reported to SSA. For one of these beneficiaries, the overpayment was over \$2,600. Without timely notification of changes in beneficiaries' circumstances, SSA is unable to adjust payment amounts to avoid over- and underpayments for the beneficiaries.

These issues suggest the payee was not following SSA policy. SSA should review each of these issues and determine whether any beneficiaries' benefit payments were compromised and a new payee should be appointed.

### **Poor Accounting Practices over the Receipt and Disbursement of Social Security Benefits**

Federal regulations<sup>16</sup> require that representative payees maintain detailed and accurate records of all funds received and spent to provide a true accounting to SSA. The payee did not always demonstrate sound accounting practices over the receipt and disbursement of the beneficiaries' benefit payments during our review period. We found the representative payee did not

- record the beneficiaries' transactions timely, which resulted in overdraft fees;
- maintain sufficient support for payments made to related parties;
- always issue and use cashier's checks properly; and
- maintain a record of how benefit payments were used for one beneficiary for whom she collected paper checks for 8 months.

During our review, we noted the representative payee did not record financial transactions timely, which resulted in bank fees for several beneficiaries. For example, the payee did not record checks when they were issued. The representative payee only updated beneficiary records to match the bank statements and did not perform monthly bank account reconciliations to

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<sup>15</sup> *A Guide for Representative Payees*, SSA Publication No. 05-10076, ps.16-17, January 2009.

<sup>16</sup> 20 C.F.R. §§ 404.2035 and 416.635.

identify outstanding checks. When a payee does not reconcile or update the beneficiaries' accounts timely, the payee does not have accurate account balances for each account. This can lead to account overdrafts, duplicate payments, or missed payments. For our review period, April 2012 through July 2013, overdraft fees totaled \$1,031 for 21 beneficiaries.

During our review, we found that the representative payee employed immediate family members as office staff. In addition, the representative payee's other family members provided services to 86 beneficiaries. These types of transactions were considered related-party transactions. Relationships between parties may enable one of the parties to exercise a degree of influence over the other.<sup>17</sup> We noted the payee paid her relatives and herself \$18,864 from beneficiaries' funds for services. This included the beneficiary's transportation to and from doctors' appointments and shopping trips, tax preparation, cleaning, and moving expenses. Although the payee did provide these services to the beneficiaries, we believe some of fees paid for these services were high. For example, the payee's relative billed two married beneficiaries separately for tax services, and we believe the combined fee collected was excessive for filing a joint tax return.

The payee did not maintain sufficient supporting documentation for these related-party transactions. Because of the lack of supporting documentation for these expenses, the payee cannot accurately show how she spent benefit payments or that she used those benefit payments to meet the beneficiaries' current needs. Although many of the payments ranged from \$15 to \$50 and appeared to be reimbursement for mileage and purchases on the beneficiaries' behalf, the representative payee could not produce receipts for purchases or documentation of the mileage and the purpose of travel.

By using related parties to provide the beneficiary these services, 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 their best interest.

After reviewing the representative payee's accounting records, we noted she 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. For beneficiaries who receive SSI, there is a resource limit for eligibility.<sup>18</sup> We noted the payee issued cashier's checks from the beneficiaries' accounts mainly to reduce large balances thus ensuring the beneficiary could continue receiving SSI or state medical and housing benefits. The representative payee told us she used cashier's checks for pre-paid funeral agreements and housing expenses for some of the beneficiaries. The representative payee was able to provide supporting documentation for most of the cashier's check transactions. In addition, we did note the payee was holding three cashier's checks, totaling \$3,500 for at least 6 months, for one OASDI beneficiary.

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<sup>17</sup> Related-party transaction definition, [www.investorwords.com/6903/related\\_party\\_transaction.html](http://www.investorwords.com/6903/related_party_transaction.html) and [www.allbusiness.com/glossaries/related-party-transaction/4954029-1.html](http://www.allbusiness.com/glossaries/related-party-transaction/4954029-1.html).

<sup>18</sup> SSA, POMS, SI 01110.003 (December 8, 2010).

As we reviewed one beneficiary's accounting records, we found several months of accounting sheets were missing. We questioned the representative payee about the missing accounting sheets. The payee stated she began receiving the beneficiary's money in January 2013. However, SSA records show the payee had been the beneficiary's representative payee since May 2010. According to Department of the Treasury records, the payee received and endorsed paper checks for this beneficiary from April through December 2012. However, there is no documentation of how the payee spent this money. We asked the payee about these checks and she stated she signed the checks and turned them over to the county mental health office. We confirmed this with the county mental health office. Federal regulations<sup>19</sup> require that representative payees keep accurate and complete records of the funds received and spent to determine whether the beneficiary's current needs are being met. However, the payee did not always follow these regulations.

## Excessive Guardianship Fees

During the review period, the representative payee served as the court-appointed legal guardian, conservator, or both for 107<sup>20</sup> beneficiaries in her care. According to SSA policy,<sup>21</sup> when an individual is appointed as a legal guardian for a competent or incompetent beneficiary, part of the beneficiary's funds may be used for customary guardianship costs and court-ordered fees. These fees may be collected provided the guardianship appears to be in the beneficiary's best interest; beneficiary's personal needs are met first; and beneficiary's funds would not be depleted by the collection of guardianship fees. Per SSA policy, conservator and conservatorship are the same as guardian and guardianship.

During our review, we noted the payee typically charged \$60 per month as guardianship fees and \$60 per month as conservator fees. When the payee acted as both guardian and conservator, she collected \$120 in monthly fees. Of the 107 beneficiaries for whom the payee served as their guardian or conservator, she collected \$97,354<sup>22</sup> in fees from 94 of these beneficiaries during the review period of April 2012 through July 2013.

Applicable law of the jurisdiction in which the representative payee serves entitles guardians and conservators to reasonable compensation for services rendered. A representative of a county court told us if a beneficiary does not have the funds available to pay a guardian or conservator fee, the court would pay the fee to a court-appointed guardian or conservator. The court pays a \$60 monthly fee per indigent individual regardless of whether the guardian acts as guardian, conservator, or both. For our review, we obtained bills the payee provided to the court. During our review period, we noted the representative payee collected approximately \$24,840 in

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<sup>19</sup> 20 C.F.R. §§ 404.2065 and 416.665.

<sup>20</sup> During our expanded review period, April 2013 to July 2013, the representative payee was appointed guardian/or conservator for a beneficiary from our original sample.

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

<sup>22</sup> This amount does not include the \$18,864 discussed in the previous section.

guardianship fees from county court for 51 beneficiaries in her care. In addition, we found the payee collected guardian fees from 38 beneficiaries and the court in the same month. These duplicate payments totaled \$18,630. The court representative told us in the case of a duplicate payment, the court would expect the payee to refund the court for the payments.

In addition, we noted the payee took guardian fees from beneficiaries that nearly depleted their bank accounts. SSA policy states there are many variables that affect guardianship fees, which makes it difficult to provide guidelines on what constitutes an excessive guardianship fee.<sup>23</sup> For example, one beneficiary received a \$37 SSI payment each month. Although this was the beneficiary's only source of income, the beneficiary had a nominal bank account balance that enabled the representative payee to take more in fees than the monthly \$37 SSI payment. The representative payee collected a \$60 guardianship fee from the beneficiary for several months during our report period. In addition, the court paid the payee \$60 per month to serve as the guardian for 14 of the 16 months of our review period. The total fees paid to the payee from the beneficiary's account and the court was \$1,260 for our review period of April 2012 through July 2013. We believe this fee amount is excessive when considered in relation to the beneficiary's total income of \$592 for the same time period.

Improper use of benefits occurs when a representative payee allocates benefits for the beneficiary but not in the beneficiary's best interests.<sup>24</sup> 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.<sup>25</sup> SSA should determine whether the fees taken were excessive and rise to the level of improper use or misuse of funds.

## Financial Responsibility

The representative payee under review began receiving retirement benefits in August 2012 and is under full retirement age.<sup>26</sup> SSA policy states that, before a beneficiary reaches full retirement age, their retirement benefits will be reduced by half of their earnings in excess of the annual earnings exempt amount.<sup>27</sup> For Tax Year 2012, the annual earnings exempt amount was \$14,640.<sup>28</sup> Based on our review of the representative payee's self-employment earnings relative to the guardian/conservator fees collected from the beneficiaries in her care, we have concerns about her reported earnings. Therefore, we plan to refer this case to the Internal Revenue Service for review.

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<sup>23</sup> SSA, POMS, GN 00602.040 (July 21, 2009).

<sup>24</sup> SSA, POMS, GN 00602.130 (March 5, 2002).

<sup>25</sup> SSA, POMS, GN 00604.001 (April 24, 2012).

<sup>26</sup> SSA POMS RS 00615.003 (May 21, 2004) states for an individual born between 1/2/43 and 1/1/55, full retirement age is 66 years. The payee will attain full retirement age in 2016.

<sup>27</sup> SSA POMS RS 02501.080 (April 27, 2011).

<sup>28</sup> SSA POMS RS 02501.025 (December 9, 2013).

The payee incorporated her guardianship business in July 2010. She is named president of the company, and her husband is named vice president. According to available information, the representative payee and the payee's spouse have separately filed for bankruptcy in the past 7 years. Given the fiduciary responsibilities of a representative payee, it may be inappropriate to give those responsibilities to an individual who has claimed a personal bankruptcy.

SSA does not require that individual representative payees be bonded. Per SSA policy, fee-for-service organizations are required to maintain bonding or insurance. Bonding constitutes a bond or insurance contract that protects the representative payee and SSA from financial loss caused by action of the organization, officers, or an employee of the organization.<sup>29</sup> Since the payee under review has a large number of beneficiaries, SSA should consider requiring this payee to become bonded. If the payee is bonded, SSA should ensure the bond is written appropriately.

## CONCLUSIONS

Our review determined the representative payee did not always adhere to SSA's policies and procedures when handling the Social Security benefits received on behalf of the beneficiaries in her care. We also found the payee did not use proper accounting practices, such as maintaining adequate supporting documentation for expenses paid to family members for services and purchases made on behalf of the beneficiaries. In addition, we noted the payee collected duplicate guardianship fees from both the beneficiaries and a county court.

## RECOMMENDATIONS

We recommend SSA:

1. Refrain from placing additional beneficiaries with this representative payee until a thorough review of the payee's accounting and reporting practices is performed.
2. Instruct the representative payee on the proper handling of benefit payments in accordance with SSA's policies.
3. Determine whether a new payee should be appointed or the beneficiaries no longer need a payee for the noted cases of the payee acting as conduit.
4. Determine whether the payee is charging fees for guardian and conservator services in accordance with SSA's policy. If SSA determines these fees are inconsistent, it should ensure the payee reimburses the beneficiaries.
5. Review the payee's financial stability to determine whether the payee is able to continue providing representative services to the high volume of beneficiaries.

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<sup>29</sup> SSA, POMS, GN 00506.105 (October 24, 2011).

6. Develop procedures to require that high volume individual representative payees have bond coverage and financial credit risk reviews.

## AGENCY COMMENTS

SSA agreed with all of our recommendations. The full text of SSA's comments is included in Appendix C.

## OTHER MATTERS

After our review, a field office informed us that a former beneficiary, whose disability was an organic mental disorder, under the payee's care filed a new claim for SSI payments. Field office staff reviewed the beneficiary's prior record, noting his payments ceased in February 2013 because of the determination that the beneficiary had possessed excess resources dating back to December 2010, which resulted in a \$17,844 overpayment.

According to field office staff, the excess resource in question was a land contract for the sale of land and property. This property is the payee's current residence. Evidence collected during the field office appointment showed that in October 2007, the beneficiary and his spouse entered into a contract to sell property to the payee and her spouse. At the time of this contract, the beneficiary was in the payee's care and continued to be until July 2011.

The title of the property is still in the beneficiary's name. The beneficiary was denied SSI benefits. The terms of the land contract specify a total sum to be paid by one initial down payment and the balance paid by monthly payments. It appears that neither the payee nor the beneficiary maintained personal records of the payments for the property. In addition, the payee never informed SSA of this transaction while she served as the beneficiary's payee, thus incurring an overpayment on the beneficiary's record.

# *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 and SSA work in the representative payee area.
- Contacted SSA's Chicago Regional Office and a field 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 SSA's representative payee system.
- Reviewed the representative payee's internal controls over the receipt and disbursement of Social Security benefits.
- Reviewed a sample of 50 beneficiaries: 25 beneficiaries for whom the representative payee served as both the representative payee and court-appointed guardian and/or conservator and 25 beneficiaries for whom the representative payee served only as payee. For the period April 1, 2012 through March 31, 2013, we:
  - Compared benefit amounts paid according to SSA's record to the benefit payment recorded in the payee's accounting records.
  - Reviewed the beneficiaries' bank statements 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 the remaining population of beneficiaries. For these beneficiaries, we only reviewed the payee's accounting records from April 2012 to July 2013 and noted cashier's checks, related-party transactions, and questionable fees and charges.
- Conducted site visits at two care facilities where several beneficiaries in the representative payee's care reside. We interviewed several beneficiaries and three staff people to determine whether the payee was meeting the basic needs of the beneficiaries in her care.

We determined 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 conducted our fieldwork in the Chicago Region, in May 2013 and finalized our analysis at Headquarters from May through December 2013. 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 findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our finding and conclusion based on our audit objectives.

## Appendix B – RESPONSIBILITIES OF REPRESENTATIVE PAYEES

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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/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 Accounting 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

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<sup>1</sup> 20 C.F.R. §§ 404.2035, and 416.635.

## Appendix C – AGENCY COMMENTS

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**DATE:** April 15, 2014

**TO:** Office of Inspector General  
Office of Audit

**FROM:** Regional Commissioner  
Chicago

**SUBJECT:** Signed OIG Draft Report (A-15-13-13113)--REPLY (Your email of April 4, 2014)

We appreciate the opportunity to review your findings during your audit of a large volume Individual Representative Payee for Social Security Administration (SSA).

We agree with the recommendations in the draft report. Once the detailed case information (i.e., SSNs in question and name of the payee, etc.) are released from OPSOS, the Chicago Region will address accordingly.

If you or members of your staff have questions, they may contact Victoria Wallace Program Specialist, RSI Team, at (312) 575-4208.

/s/

Marcia R. Mosley

## Appendix D – REPRESENTATIVE PAYEE COMMENTS

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May 1, 2014

Office of the Inspector General  
Social Security Administration  
6401 Security Boulevard  
Baltimore MD 21235-0001

Dear Mr. O'Carroll:

On April 3, 2014, you requested that I provide written comments to you by May 3, 2014, regarding my views relating to the validity of the facts presented in the draft report, and the following constitutes my response to those allegations.

First, I want you to understand that I have been a court-appointed guardian-conservator for over 9 years, and I have tried to adhere to Social Security Administration policies and procedures when handling Social Security benefits which I received on behalf of the beneficiaries. None of the complaints against me have alleged that I did anything intentionally wrong. I believe that I may have made some mistakes, but I did not intentionally violate any Social Security Policies or Procedures. As a matter of fact, the report states (on page 2) that I "provided a suitable level of care for the beneficiaries." I am proud of the fact that I do provide quality care for these individual beneficiaries and I enjoy helping them.

Second, I believe that the statutory purpose of the bankruptcy law is to provide the Bankrupt party with a fresh start. I do not believe it is fair or just to punish me for filing for Bankruptcy.

I would note that my Bankruptcy was filed in May 9, 2007, nearly seven years ago.

Third, I will respond to each of the eleven areas of concerns or allegations in the order in which they were presented:

**A. Payee Allegedly Collected Unallowable Fees**

It does not seem fair that I should be expected to conduct the duties of a representative payee for free. Every year I have to file the Representative Payee Report and the beneficiaries were aware of my fees. I had to prepare various forms and paperwork, and I did charge a nominal fee for a few of the beneficiaries for that work, and they agreed to that charge.

**B. Possible Conduit Payee Situations**

I do not believe that acting as a "conduit payee" in five cases mentioned was improper or inappropriate. As a matter of fact, the checks are direct deposited in the beneficiaries account in the bank, and I send the beneficiaries a portion of the money I pay some of their expenses from the leftover money. I only send the whole check to one beneficiary, not five.

I will request to be terminated as the Representative Payee of the one beneficiary who has moved to Oklahoma, even though [REDACTED] from Social Security told me that it was acceptable for me to be that person's payee. I believe that the Social Security Administration's records are inaccurate regarding the alleged benefit payment being made to a beneficiary's spouse, as both people lived in the same state during this time period.

**C. Payee Rented Property to Beneficiaries**

It is my position that these concerns are not justified, as I was the legal guardian for these individuals, and there was absolutely no harm to the beneficiary, and the financial relationship was **not** a conflict of interest. The beneficiary, in the case of my relative rented, and had the use of the entire residence, and, for example, the beneficiary requested that I purchase her an air conditioner.

**D. Failure to Transfer Funds to New Payee**

The problem in some of these cases is that the beneficiaries obligations are ongoing, and it is not always in the beneficiaries best interests to transfer these funds immediately. The paperwork does not always get signed by the Judge in a timely manner. Once all of the beneficiaries obligations had been paid I did turn over the remaining balance to the new payee except for one person who I have since sent the remaining balance to the representative payee.

**E. Failure to Report Changes in Living Arrangements**

There are times when beneficiaries living situations change and I did not always realize it until a few months had passed. The fact that this happened only twice in the past few years (based on over 100 clients) indicates that this was not a major problem.

**F. Poor Accounting Practices over the Receipt and Disbursements of Social Security Benefits**

It is my recollection that I paid the majority of these bank overdraft fees from my own money, and I take responsibility for those mistakes.

It is my belief that my employment of family members as office staff and to

provide for various beneficiaries services actually benefited the beneficiaries because those family members were paid less than market rates in this area. For example, [REDACTED] would have charged (as I was informed) over \$200.00 for tax services when my daughter usually charges a flat rate of \$50.00. The reason that the husband and wife were both charged was because my daughter had to go through all of the documents of each beneficiary. I would assert that, based on my research, I am getting the best possible rates for these types of services, and it is in the beneficiaries best interests.

#### Cashier's Checks

If the beneficiary is close to the \$2,000.00 limit, I obtain a Cashier's Check made out to the client or the funeral home so I can purchase an Irrevocable Funeral Arrangement for them. I do not believe there should be an issue with this, as I am looking out for the best interest of my clients. I have documentation for all of the Cashier's Checks that were written.

#### **G. Alleged Excessive Guardianships Fees**

I deny that I have charged excessive fees. When the Court appoints me as a guardian and conservator there are separate documents I have to prepare **and** there are different services I have to perform. The Court allows me to charge \$60.00 per month for Guardianships and \$60.00 per month for Conservatorships. I assume you understand that a Conservatorship involves taking care of a person's finances only, whereas a guardianship grants me power over the person's placement, medical issues, etc. **They are definitely not the same.**



The local Court has determined that \$60.00 per month is reasonable compensation for these services. If there are extraordinary needs services, I can petition for additional sums. I do **not** believe that I have been paid duplicate payments and I am reviewing those cases. As the Court representative stated I intend to refund the Court for any mistaken or inappropriate payments made to me.

I will pay back to the Court any over charges.

#### **H. Financial Responsibility**

I deny any wrongdoing regarding my income and I assume I will be able to defend myself regarding an IRS audit or similar actions.

As I mentioned previously, the fact that I filed for Bankruptcy protection in the past to obtain a fresh start should not be used to discriminate against me.

#### **I. Conclusions**

I deny any wrongdoing, and I certainly intend to use proper accounting practices and maintain adequate supporting documentation for expenses paid to family members for services and purchases made on behalf of the beneficiaries. I deny that I intentionally collected duplicate guardianship fees from both the beneficiaries and the Court. If I did mistakenly collect duplicate fees I will reimburse the Court.

#### **J. Other Matters**

See attached letter to the Social Security Administration.

April 11, 2014

[REDACTED]

RE: [REDACTED]

To Whom It May Concern:

In November 2007, we entered into a Land Contract with [REDACTED]. I was only able to reconstruct the payments that were made from December 2009. Up until May 2010, [REDACTED] received the whole Land Contract payment. When [REDACTED] split up, I began to pay [REDACTED] \$350.00 per month and [REDACTED] \$325.00.

I do not have copies of any checks dated prior to August 2012. Enclosed are copies of the checks I was able to print off the computer. I have not received hard copies of my checks for many years. After [REDACTED] was paid off, I started to pay [REDACTED] \$1,000.00 per month.

[REDACTED] had no money for his rent in April, so I did paid ½ of it so he would not lose his apartment. If [REDACTED] ever got in a bind, I did help him as much as I could.

I apologize for not having any hard copy of checks for payments prior to the date of August 2012. As I mentioned, I paid [REDACTED] in cash for many of his payments.

Even though I do not have documents to prove all the payments, we have never missed a payment to [REDACTED].

The Contract was done in good faith and we did not do this to profit in anyway. [REDACTED] were walking away from the home and it was full of black mold and the house was in very bad shape when we purchased it. Instead of them just giving the house away we agreed to buy it from them. Actually, they begged us to buy the house because they were just going to walk away from it. We did, for a long time, tell them we did not want the house, but, as I said, they were walking away from it, and it was a family home.

I do not know what else I can tell you about this transaction, but it was all done in good faith and honesty. I did not intentionally try to hurt [REDACTED] in anyway.

If you need any thing else, please do not hesitate to call.

## Appendix E – MAJOR CONTRIBUTORS

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Victoria Vetter, Director, Financial Audit Division

Judith Kammer, Audit Manager

Kali Biagioli, Senior Auditor

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