



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

124439

HUMAN RESOURCES
DIVISION

RELEASED

RESTRICTED — Not to be released outside the General Accounting Office without the prior approval by the Office of Congressional Relations.

B-215109

MAY 18, 1984

The Honorable Claude Pepper
Chairman, Subcommittee on Health and
Long-Term Care
Select Committee on Aging
House of Representatives



124439

Dear Mr. Chairman:

Subject: GAO Views on the Methodology Used in an SSA
Title II Study of Representative Payment
(GAO/HRD-84-34)

In response to your July 8, 1983, letter and later discussions with your staff, we are providing you with:

- Our views on the methodology used in a recent Social Security Administration (SSA) study of representative payment¹ in its title II, Old-Age, Survivors, and Disability Insurance (OASDI) program.
- Information on the status of SSA's implementation of a representative payee accounting system.
- Updated information regarding material given to you on June 8, 1982, pertaining to representative payment in 12 federal cash benefit programs.

We evaluated a recent SSA study which showed that representative payees misused² beneficiaries' funds in less than 1 percent of the cases reviewed. Although we noted flaws in the

¹Representative payment is a procedure whereby a designated person receives funds for another person who is unable to manage his or her own funds.

²SSA defines "misuse" as the misapplication or misappropriation of benefits which have been paid to a representative payee on condition that they be expended for the use and benefit of the entitled individual.

(105413)

528878

study's design and implementation, it provides reasonable assurance for the population sampled that the rate of misuse of beneficiaries' funds by the representative payee is less than 1 percent. However, the study sampled from only 12 percent of the representative payees. SSA is presently under a federal court order to establish a mandatory periodic accounting program for representative payees by March 17, 1984. In this regard, SSA has considered various alternative accounting systems and made a selection as of March 3, 1984.

We updated the information on 12 federal programs provided to you on June 8, 1982, and found that no laws or procedures that materially affect representative payment programs have changed. This update is included as enclosure I. Also, enclosure II contains a description of how SSA administers representative payments in its programs.

SSA REPRESENTATIVE PAYEE STUDY

SSA's title II, OASDI program makes monthly payments to about 35 million people. About 4.1 million of them are deemed incapable of managing their own affairs and receive payment through a representative payee designated by SSA. The principal mechanism SSA uses to determine how well the payment process works is an accounting form filled out by representative payees and reviewed by SSA. However, since about 1975, SSA has only intermittently required such accountings.

In early 1981, SSA began a study of the representative payee program to

- evaluate the representative payee selection/accounting program for OASDI beneficiaries, including the extent of benefits misused and the incidence of serious representative payee performance problems, and
- determine the best method for improving the representative payee accounting and selection process.

The principal study findings were developed from two samples totaling about 4,000 representative payee cases.³ About 3,500 of these cases (main sample) were planned for review by SSA operating components in accordance with routine SSA representative payee accounting procedures, augmented by a home visit. The other 500 cases (control sample) were selected for an in-depth review by SSA's Office of Assessment, which had responsibility for planning and directing the study. In addition, SSA performed a "trailer" study of 124 cases drawn from a nonrandom subset of 1,400 cases for which accounting forms were lost or not completed.

The study's principal findings were:

- In 93 percent of the cases, the present representative payee's performance was considered to be appropriate.
- In 2 percent, the representative payee was no longer needed because the beneficiary was considered capable of handling his or her own funds.
- In the other 5 percent, the representative payee's performance was unsatisfactory to the point of warranting SSA to explore a change. Of these, less than 1 percent involved misuse of funds by the representative payee. SSA estimates the total annual amount of misused funds for the eight cases to be about \$18,000 and cautions that the estimate is not statistically representative of the nonsampled population.
- Under the present representative payee accounting system, a case in which an incorrect or incomplete accounting form is returned is no more likely to present a problem than a case in which the form is properly completed and returned.
- A case in which an accounting form is not returned by a representative payee is twice as likely to be a problem case as one in which a form is returned.

³An additional 4,000 cases were selected for evaluating SSA's normal payee review process and were not included in the study's statistical tabulations which developed the findings. Of the 540,000 representative payees subject to SSA's accounting procedures, the study cases represented a stratified random sample of all representative payees who would have received an accounting form in January 1981.

--Certain representative payee situations--including cases in which the beneficiary suffers from alcoholism or drug addiction or is retarded--have a higher risk than others.

GAO VIEWS ON THE METHODOLOGY
USED IN THE SSA STUDY

Although SSA's study had both design and implementation flaws, it provides reasonable assurance for the population sampled that the rate of misuse of beneficiaries' funds by the representative payee is less than 1 percent. The study's design and implementation weaknesses are discussed below.

Design flaws

1. The SSA study sampled from only the 12 percent of representative payees who are subject to formal accountings under current SSA operating procedures. This group includes payees for individuals who have no family or legal guardian to care for them. The remaining 88 percent of representative payees were excluded from the study. The group excluded from the study included parents with custody, those living with a spouse, legal guardians, Veterans Administration hospitals, and the Bureau of Indian Affairs. SSA believes these representative payees, because of the legal right of custody, are least likely to misuse beneficiaries' funds. We did not assess SSA's assumption on this matter, but including information on such cases in the study would have been useful in determining how all categories of representative payees are performing.

2. The study did not attempt to measure the benefits to be gained from using various representative payee accounting systems. Consequently, it is very difficult to objectively select the most appropriate and cost-effective system.

Implementation flaw

Only 1,800 cases from the main sample of 3,500 cases were included in the study's tabulations. Accounting reports for the remaining 1,700 cases were either lost, not returned, or mis-coded. The cases that were not returned left a void which SSA later attempted to fill through the trailer study of 124 cases.

As indicated earlier, we believe that the study's original design could have been improved. However, the study provides reasonable assurance for the population sampled that the rate of misuse of beneficiaries' funds by representative payees is less than 1 percent. The control sample, of which 92 percent of the

cases were completed, was independently developed by Office of Assessment personnel and provided reliable data on the program. The sample was immune from the operational problems encountered by SSA in the main sample and showed a misuse rate of only 0.5 percent. The trailer study representing 124 worst possible cases disclosed only a slightly higher rate (0.6 percent) of funds misuse. Each of these samples shows a consistently low rate, which may be difficult to reduce much further.

STATUS OF SSA'S REPRESENTATIVE
PAYEE ACCOUNTING PROGRAM

At the time of our work, SSA did not have an operating representative payee accounting program. However, it was deciding which type of program to establish from among the following four options.

<u>Option</u>	<u>SSA's estimated annual cost^a</u>
1. Request accountings from all representative payees identified as high-risk and from a sample of mid- and low-risk representative payees. Verify a specified number of cases. (Option 1 of SSA study.)	\$ 5,500,000
2. Request accountings from a specified number of representative payees identified as being high-, mid-, and low-risk. Verify a sample of these cases. (Option 2 of SSA study.)	7,300,000
3. Request accountings from all representative payees accountable under the existing program and a sample of parent representative payees. Make verification contacts with nonresponders and those submitting unacceptable responses. (Proposed by SSA's Office of Retirement and Survivors Insurance.)	19,900,000

<u>Option</u>	<u>SSA's estimated annual cost^a</u>
4. Request accountings from a sample of <u>all</u> representative payees, except those included in the on-site review program. Make verification contacts with nonresponders and those submitting unacceptable responses. (Proposed by SSA's Office of Retirement and Survivors Insurance.)	\$9,000,000

^aEstimates are for both titles II and XVI (Supplemental Security Income) representative payee accounting systems.

The first two options were developed and recommended in the SSA representative payee study. An SSA official stated that during the study there were numerous staff discussions and interpretations of the data, but none of these were ever used, published, or circulated outside the study group.

The policy staff of SSA's Office of Retirement and Survivors Insurance (ORSI) proposed the last two options. One of these, option 3, includes a sample of parent representative payees. This sample group was excluded from the SSA study; however, in 1979 ORSI identified this group in a very limited study (29 cases) as a source of representative payee misuse. Option 4 calls for a random sample of the general population of all representative payees except those included in the on-site review program and provides for followup with those who do not return an accounting form or who submit one that is not acceptable. Representative payees who do not respond to requests for an accounting were identified as a higher potential misuse group in the SSA study. On March 3, 1984, SSA announced that it had chosen option 4.

SSA's design and implementation of a representative payee accounting system has been influenced by a federal district court decision.⁴ This decision effectively ended any discussion of whether a representative payee accounting system was needed based solely on the SSA study results. Rather, discussions focused on what type of system should be implemented. The March 1983 decision ordered SSA to implement mandatory periodic accounting procedures by March 17, 1984. This order

⁴Jordan et al. v. Schweiker (W.D. OK.; 79-994-W).

resulted from a class action suit initiated on behalf of all beneficiaries with representative payees. The court, in its findings, agreed with the need for an accounting system based on the due process protection clause of the Fifth Amendment.

As agreed with your office, we did not obtain written comments from SSA on this report. However, we have discussed with SSA officials our views on the methodology of their study, and they agree with our conclusions. In accordance with your request, we will release the report for public distribution in 30 days. At that time, copies will be sent to the Senate Committee on Finance and the House Committee on Ways and Means; the Director, Office of Management and Budget; the Secretary of Health and Human Services; the Commissioner of Social Security; and other interested parties.

Sincerely yours,



Richard L. Fogel
Director

Enclosures - 2

C o n t e n t s

	<u>Page</u>
ENCLOSURE	
I	DESCRIPTION OF PROGRAMS WITH REPRESENTATIVE PAYEES
	1
	Social Security Administration
	1
	Department of Labor
	6
	Veterans Administration
	9
	Office of Personnel Management
	11
	Railroad Retirement Board
	12
	Department of State
	14
	Department of Defense
	15
II	HOW SSA ADMINISTERS REPRESENTATIVE PAYMENTS
	21

ABBREVIATIONS

GAO	General Accounting Office
OASDI	Old-Age, Survivors, and Disability Insurance
ORSI	Office of Retirement and Survivors Insurance
SSA	Social Security Administration
VA	Veterans Administration

DESCRIPTION OF PROGRAMS WITH REPRESENTATIVE PAYEESSOCIAL SECURITY ADMINISTRATIONTitle II--Federal Old-Age, Survivors,
and Disability Insurance BenefitsNature of program

To provide monthly benefits to eligible workers or their survivors. Eligibility is established through covered employment and/or a determination of disability.

Total beneficiaries as of December 1981 - 35,245,863.

Beneficiaries with representative payees - 4,142,375 (11.8%).¹

Range of monthly benefits - \$348.00 to \$855.00.

Age of beneficiaries with representative payees

	<u>Number</u>	<u>Percent</u>
Children under age 18	3,202,257	77.3
Childhood disability beneficiaries age 18 and older	347,679	8.4
Adults age 18 to 54	164,823	4.0
Adults age 55 to 64	99,888	2.4
Adults age 65 +	<u>327,728</u>	<u>7.9</u>
Total	<u>4,142,375</u>	<u>100.0</u>

¹The change in the total representative payees from the 4.85 million reported in our June 1982 letter reflects more accurate information than the estimates that were available in June 1982 and not a change in the population of beneficiaries with representative payees.

Relationship of representative payees (as classified by Social Security)

	<u>Number</u>	<u>Percent</u>
Immediate family member	3,572,918	86.2
Other relative	264,233	6.4
Institution	170,291	4.1
Bank	15,731	0.4
Social/public agency	58,172	1.4
Other individual	<u>61,033</u>	<u>1.5</u>
 Total	 <u>4,142,378</u>	 <u>100.0</u>

Criteria to determine if a beneficiary needs a representative payee

Required if:

1. Minor (under age 18).
2. A court of proper jurisdiction has adjudged beneficiary to be legally incompetent.
3. Convincing evidence shows that a beneficiary age 18 or older has mental or physical impairments that prevent proper management of benefits.

Agency oversight of representative payees

SSA's program to monitor representative payees was suspended in March 1981, due to budgetary constraints, although SSA continues to investigate allegations of representative payee problems. As a result of a federal court decision, SSA intends to reinstate representative payee accounting programs in March 1984.

Requirements for selecting a representative payee

Once SSA receives evidence that a beneficiary has an impairment preventing him or her from managing benefits, it will judgmentally select as a payee a relative or some other person (including an agency or institution) who is qualified, willing, and able to carry out the payee responsibilities. If more than one qualified person is willing to serve as a beneficiary's payee, SSA will appoint the person who demonstrates the most responsible concern for the beneficiary's well-being.

Rights of beneficiary with
a representative payee

To protect a beneficiary's rights under the Fifth Amendment (protection of due process of law), SSA must provide a beneficiary (or a person who can act on behalf of a beneficiary adjudged legally incompetent or who is under age 18) with advance notice of certain pending actions that may affect his or her receipt, use, and management of benefits. The beneficiary (age 18 or older and not adjudged legally incompetent) or his or her representative may appeal these actions. Legal representatives may file appeals for persons under age 18, or those adjudged incompetent, to appeal SSA's decision.

When SSA receives information, which can originate from a variety of sources (such as the beneficiary, physicians, courts, social agencies, and a representative payee) that a beneficiary has regained the capability to manage his or her benefits, it determines whether representative payment is no longer needed.

Supplemental Security Income

Nature of program

To provide cash assistance to aged, blind, or disabled persons with little or no income or financial resources. Many states provide supplemental payments.

Total beneficiaries as of December 1981 - 4,018,875.

Beneficiaries with representative payees - 820,124 (20%).

Maximum monthly federal benefit - Individual \$264.70
Couple \$397.00

Age of beneficiaries with representative payees - not readily available.

Relationship of representative payees - not readily available.

Criteria to determine if a beneficiary
needs a representative payee

Required if:

1. Minor (under age 18).
2. A court of proper jurisdiction has adjudged beneficiary to be legally incompetent.

3. Medically determined to be a drug addict or alcoholic.
4. Convincing evidence shows that a beneficiary age 18 or older has mental or physical impairments that prevent proper management of benefits.

Agency oversight of representative payees

According to SSA officials, the program to monitor representative payees was suspended on June 30, 1981, due to budgetary constraints. However, SSA routinely investigates allegations of representative payee problems. As a result of a federal court decision, SSA plans to reinstate the representative payee accounting programs in March 1984.

Requirements for selecting a representative payee

Once SSA has convincing evidence that a beneficiary has an impairment preventing him or her from managing benefits, it will judgmentally select as a payee a relative or some other person (including an agency or institution) who is qualified, willing, and able to carry out the payee responsibilities. If more than one qualified person is willing to serve as a beneficiary's payee, SSA will appoint the person who demonstrates the most responsible concern for the beneficiary's well-being.

Rights of a beneficiary with a representative payee

To protect a beneficiary's rights under the Fifth Amendment (protection of due process of law), SSA must provide a beneficiary (or a person who can act on behalf of a beneficiary adjudged legally incompetent or who is under age 18) with advance notice of certain pending actions that may affect his or her receipt, use, and management of benefits. A beneficiary (age 18 or older and not adjudged legally incompetent) or his or her representative may appeal SSA's initial determination affecting payment of benefits. Legal representatives may file appeals for persons under age 18, or those adjudged incompetent, to appeal SSA's decision.

When SSA receives information, which can originate from a variety of sources (such as the beneficiary, physicians, courts, social agencies, and the representative payee) that a beneficiary has regained the capability to manage his or her benefits,

it determines whether direct or representative payment will best serve the beneficiary's interests.

Black Lung²

Nature of program

To provide benefits to disabled miners who suffer from pneumoconiosis or the survivors of miners who have died from the disease.

Total beneficiaries as of May 1983 - 336,223.

Beneficiaries with representative payees - 8,076 (2%).

Average monthly benefit - \$358.75.

Age of beneficiaries with representative payees - not readily available.

Relationship of representative payees - not readily available.

Criteria to determine if a beneficiary needs a representative payee

Required if:

1. Minor (under age 18).
2. A court of proper jurisdiction has adjudged beneficiary to be legally incompetent.
3. Convincing evidence shows that a beneficiary age 18 or older has mental or physical impairments that prevent proper management of benefits.

Agency oversight of representative payee

According to SSA officials, the program to monitor representative payees was suspended in March 1981, because of budgetary constraints. However, SSA routinely investigates allegations of representative payee problems.

²The Department of Labor became responsible for processing living miner claims filed after June 30, 1973, and most survivor claims after December 31, 1973.

Requirements for selecting
a representative payee

Once SSA has convincing evidence that a beneficiary has an impairment preventing him or her from managing or directing the management of benefits, it will select as a beneficiary's payee a relative or some person (including an agency or institution) who is qualified, willing, and able to carry out the payee responsibilities. If more than one qualified person is willing to serve as a beneficiary's payee, SSA will appoint the person who demonstrates the most responsible concern for the beneficiary's well-being.

Rights of a beneficiary with
a representative payee

To protect a beneficiary's rights under the Fifth Amendment (protection of due process of law), SSA must provide a beneficiary (or a person who can act on behalf of a beneficiary adjudged legally incompetent or who is under age 18) with advance notice of certain pending actions that may affect his or her receipt, use, and management of benefits. A beneficiary (age 18 or older and not adjudged legally incompetent) or his or her representative may appeal SSA's initial determination affecting payment of benefits. Legal representatives may file appeals for persons under age 18 or those adjudged incompetent to appeal SSA's decisions.

When SSA receives information, which can originate from a variety of sources (such as the beneficiary, physicians, courts, social agencies, and the representative payee) that a beneficiary has regained the capacity to manage his or her benefits, it determines whether direct or representative payment will best serve the beneficiary's interests.

DEPARTMENT OF LABOR

Black Lung

Nature of program

To provide benefits to disabled miners who suffer from pneumoconiosis or the survivors of miners who have died from the disease.

Total beneficiaries as of July 1983 - 90,231.

Beneficiaries with representative payees - not readily available.

Average monthly benefit - \$380.00.

Age of beneficiaries with representative payees - not readily available.

Relationship of representative payees - not readily available.

Criteria to determine if a beneficiary needs a representative payee

A Labor adjudication officer judgmentally determines that a legal guardian or representative should be appointed to receive benefits payable to any person who is mentally incompetent or a minor and to exercise the powers granted to, or to perform the duties otherwise required of, such a person under the Federal Mine Health and Safety Act. If Labor determines that a beneficiary's best interests are served thereby, it may certify the payment of benefits to a representative payee.

Agency oversight of representative payees

Labor does not monitor the ongoing performance of representative payees. Further, Labor does not periodically reexamine the need for, or performance of, representative payees. Beneficiaries are surveyed by mail annually, and if a complaint is made Labor will investigate.

Requirements for selecting a representative payee

Labor judgmentally determines the best person available to be a beneficiary's representative payee. Consideration is given to the person's relationship to the beneficiary and how he or she demonstrates a responsibility for the care of the beneficiary.

Rights of a beneficiary with a representative payee

The beneficiary has the right to petition for receipt of benefits based on the Fifth Amendment (protection of due process of law).

Federal Employees Compensation Act

Nature of program

The act provides for payment of benefits to federal employees who are injured or disabled in their employment and to survivors of employees who have died as a result of, or in the performance of, their employment.

Total beneficiaries as of June 1983 - 45,600.

Estimate of beneficiaries with representative payees - 250 (less than 1%).

Weekly benefits range - \$140.71 to \$910.30 per week.

Age of beneficiaries with representative payees - not readily available.

Relationship of representative payees - not readily available.

Criteria to determine if a beneficiary needs a representative payee

Labor has no written rules or regulations pertaining to the assignment of representative payees for persons receiving benefits; however, such rules and regulations are in draft form and are being reviewed by Labor's Solicitor.

Agency oversight of representative payees

Labor does not assess the performance of representative payees. All representative payees are court-appointed guardians and, as such, are responsible to the court for their actions.

Requirements for selecting a representative payee

They are designated by a court order. Program officials may request that the court appoint a representative payee.

Rights of a beneficiary with a representative payee

A beneficiary can petition for receipt of benefits under rights granted by the Fifth Amendment (protection of due process of law).

VETERANS ADMINISTRATION**Compensation and Pension Programs****Nature of programs****Compensation:**

Programs which provide a monthly benefit to a veteran because of service-connected disability or to the survivors because of a veteran's service-connected death.

Pension:

Programs which provide a monthly benefit to a veteran because of service, age, or non-service-connected disability or to the veteran's survivors because of the veteran's non-service-connected death provided that the veteran's or survivors' income does not exceed prescribed income levels.

Total beneficiaries as of March 1983

Compensation	2,616,653
Pension	<u>1,726,619</u>
Total	<u>4,343,272</u>

Beneficiaries with representative payees - 279,794³ (6.4%).

Average monthly benefit

Compensation	\$313.00
Pension	\$181.00

³The decrease from the 417,590 reported in our June 1982 letter reflects a more accurate classification of beneficiaries than was available at that time. Children not receiving benefits in their own right and in the custody of their parents have been eliminated. They are still beneficiaries, but they do not meet the representative payee criteria. Also, the March 1983 figure does not include beneficiaries hospitalized in a Veterans Administration (VA) facility and whose representative payee is the medical director. Their number is estimated to be between 6,000 and 10,000.

Age of beneficiaries with representative payees

Children under 18 - 166,559.
Other age data not available.

Relationship of representative payees

<u>Compensation and pension</u>	<u>Number</u>	<u>Percent</u>
Relatives	165,377	59.1
Court and institutional	21,906	7.8
Other	<u>92,511</u>	<u>33.1</u>
Total	<u>279,794</u>	<u>100.0</u>

Criteria to determine if a beneficiary needs a representative payee

A mentally incompetent person is one who, because of injury or disease, lacks the mental capacity to contract or to manage personal affairs, including disbursement of funds without limitation. When a beneficiary is rated incompetent, VA will judgmentally determine the necessity for a representative payee.

Agency oversight of representative payees

For representative payees that it appoints, VA may require a formal or informal accounting of benefits, terminate a payee, and appoint a successor. For court-appointed representative payees, VA may take such informal action as may be necessary to assure the beneficiary's needs are provided for and benefits are prudently administered and adequately protected. At least once in 3 years a field contact is made with each beneficiary. In fiscal year 1982, VA supervised 128,361 beneficiaries with representative payees.

Requirements for selecting a representative payee

VA is authorized to select and appoint (or in the case of a court-appointed representative payee to recommend for appointment) the person or legal entity best suited to receive VA benefits for a beneficiary who is mentally ill (incompetent) or legally disabled.

Rights of a beneficiary with a representative payee

Based on the Fifth Amendment, an individual has certain rights that cannot be taken from him or her without first providing him or her with the protection of due process of law. This includes the right to have a formal hearing on any action which may deprive an individual of his or her property rights. A beneficiary has a property right in his or her benefits.

OFFICE OF PERSONNEL MANAGEMENTFederal Civilian Retirement ProgramNature of program

The Office of Personnel Management provides annuity benefits to eligible retired or disabled federal employees or their survivors.

Total beneficiaries as of August 1983 - 1,837,055.

Beneficiaries with representative payees - 9,053 (less than 1%).

Average monthly benefit - \$944.00.

Age of beneficiaries with representative payees

Under 18	2,517
18 to 54	2,947
55 to 65	977
Over 65	<u>2,612</u>
Total	<u>9,053</u>

Relationship of representative payees - not readily available.

Criteria to determine if a beneficiary needs a representative payee

The Office of Personnel Management designates a representative payee when a beneficiary is declared incompetent by a court or medical evidence indicates that the person is incapable of managing his or her funds.

Agency oversight of representative payees

Representative payee cases are not routinely examined; however, if requested, representative payees are required to account for funds received. Followup is made on reported abuse cases.

Requirements for selecting a representative payee

When a beneficiary has a court-appointed legal guardian, payment is made to the guardian. When there is no court-appointed legal guardian, payment may be made to the person who is otherwise legally vested with the care of the claimant, or his or her estate. While this is usually the parent, wife, or husband, payment is made to the person who has, and will continue to have, actual care and custody regardless of relationship. The choice of a payee is a matter of judgment to be exercised on the basis of the evidence available in each case.

Rights of a beneficiary with a representative payee

Current Office of Personnel Management regulations do not address the rights of beneficiaries with representative payees; however, a new regulation is being prepared which will incorporate due process of law.

RAILROAD RETIREMENT BOARDRailroad Retirement InsuranceNature of program

Provides monthly benefits to eligible railroad retirees, or disabled workers or their survivors.

Total beneficiaries as of June 1983 - 1,011,111.

Beneficiaries with representative payees - 24,465 (2%).

Average monthly benefit

Employee	\$639.37
Spouse	283.86
Survivor	425.95

Age of beneficiaries with representative payees - not readily available.

Relationship of representative payees

	<u>Number</u>	<u>Percent</u>
Parents	9,609	39
Other	<u>14,856</u>	<u>61</u>
Total	<u>24,465</u>	<u>100</u>

Criteria to determine if a beneficiary needs a representative payee

A beneficiary is presumed competent unless the Railroad Retirement Board receives evidence to the contrary. This is usually a court decision, medical evidence, conclusion of a mental health facility or social agency, or other convincing evidence.

Agency oversight of representative payees

Representative payees receiving benefits are investigated only when misuse is alleged. Representative payees in foreign countries are required to fill out a questionnaire every 4 years. The previous program of Board officials interviewing representative payees every 3 years has been suspended pending the results of an SSA study. A revised monitoring program was to be in operation by March 1984.

Requirements for selecting representative payees

The Board's district offices generally designate representative payees. Preference is given to those that are court-appointed. Board regulations list who may be selected as representative payee for an incompetent. Preference is given to a legal guardian, spouse, relative, individual, or agency caring for the incompetent.

Rights of a beneficiary with a representative payee

A beneficiary can petition the Board for benefits to be paid directly to him or her based on due process rights under the Fifth Amendment.

DEPARTMENT OF STATE**Foreign Service Retirement Program****Nature of program**

Provides monthly annuity payments to eligible retired or disabled Foreign Service officials or their survivors.

Total beneficiaries as of August 1983 - 7,600 (estimate).

Beneficiaries with representative payees - 9 (less than 1% --estimate).

Average monthly benefit

Retired employee	\$2,180
Survivor	\$ 961

Age of beneficiaries with representative payees

Age 18 to 54 - 9.

Relationship of representative payee

Relatives - 9.

Criteria to determine if a beneficiary needs a representative payee

The Director of the Foreign Service Retirement Program designates representative payees for minor, mentally incompetent, or legally disabled beneficiaries. However, there are no written procedures on what evidence is needed to support the designation of a representative payee.

Agency oversight of representative payees

The Foreign Service does not have procedures for monitoring the performance of representative payees. While no formal monitoring exists, if a beneficiary complains of nonperformance by a representative payee, the Service will take action to investigate and remedy the situation.

Requirements for selecting representative payees

The Service presently has no regulations pertaining to requirements for selecting representative payees.

Rights of a beneficiary with a representative payee

The Service has no regulations pertaining to the rights of beneficiaries with representative payees. Rights of due process are afforded under the Fifth Amendment.

DEPARTMENT OF DEFENSEU.S. ARMYNature of program

Provides monthly retirement or disability benefits to retired or disabled members and their survivors.

Total beneficiaries as of June 1983

Retirees	506,809
Survivors	<u>44,665</u>
Total	<u>551,474</u>

Beneficiaries with representative payees (May 1983) - 662 (less than 1%).

Average monthly benefit - \$949.00.

Age of beneficiaries with representative payees

<u>Age</u>	<u>Number</u>	<u>Percent</u>
Under 18	1	-
18 to 54	317	48
55 to 65	225	34
Over 65	<u>119</u>	<u>18</u>
Total	<u>662</u>	<u>100</u>

Relationship of representative payees - not readily available.

Criteria to determine if a beneficiary needs a representative payee

When the Commander, U.S. Army Finance Center, receives (1) notice that a beneficiary has been declared incompetent and assigned a legal representative by a court of competent

jurisdiction or (2) medical evidence from the Surgeon General, Department of the Army, or Health Services Command, Fort Sam Houston, Texas, that a beneficiary is incompetent, a representative payee is appointed to handle the beneficiary's funds. In addition, the following agencies are authorized to make determinations of competency when a retired Army beneficiary is hospitalized in a facility under its jurisdiction:

Department of the Air Force
Department of the Navy
Department of Health and Human Services
Veterans Administration

Agency oversight of representative payees

Representative payee accounts are audited by the Army annually, or more often, such as when there is a change in representative payee. However, court-appointed legal representatives are not required to account for funds to the Army. Each month the representative payee must complete a Certificate of Existence, which attests that the beneficiary is alive.

Requirements for selecting representative payees

The Army prefers that the next-of-kin or another relative of the beneficiary be designated as the representative payee if one is needed. If this is not possible, it will judgmentally select some other person, willing and suitable to act as representative payee, unless a committee, guardian, or other legal representative is appointed by a court of competent jurisdiction.

Rights of a beneficiary with a representative payee

The Army, upon receipt of a court order showing evidence that a beneficiary previously declared incompetent is now competent for payment purposes, will terminate payments to the representative payee and direct payments to the beneficiary. Moreover, when a statement from a physician, county, city, state, or private institution alleging that a beneficiary is no longer incompetent is received, it is forwarded to the Surgeon General or the Health Services Command for review. If the Surgeon General or Health Services Command determines that the beneficiary is competent, the U.S. Army will make payments directly to the beneficiary.

U.S. NavyNature of program

Provides monthly retirement or disability benefits to retired or disabled members or their survivors.

Total beneficiaries as of August 1983

Retirees	338,596
Survivors	<u>23,916</u>
Total	<u>362,512</u>

Beneficiaries with representative payees

Retirees	321
Survivors	<u>243</u>
Total	<u>564 (less than 1%)</u>

Average monthly benefit

Retirees	\$771.10
Survivors	\$502.62

Average age of beneficiaries with representative payees

Retirees	58 (321 in pay status)
Survivors	63

Relationship of representative payees - not readily available.

Criteria to determine if a beneficiary needs a representative payee

When the Navy Judge Advocate General's Office receives information from a court of competent jurisdiction or medical evidence indicating that a beneficiary is incapable of managing his or her funds, a medical board, of not less than three medical officers or physicians (one of whom shall be specially trained in the treatment of mental disorders), is convened to determine if the beneficiary is mentally capable of managing his or her affairs. The board must certify that the person is mentally capable or incapable, and each member must sign the required certification document.

Agency oversight of representative payees

The Navy requires representative payees appointed by the Judge Advocate General's Office to make an annual accounting of how the funds were used. In addition, each month the representative payee must send the Navy a Certificate of Entitlement, which certifies that the beneficiary is alive.

Requirements for selecting representative payees

The Navy judgmentally selects a representative payee from the following: a beneficiary's family member; the Commanding Officer of any Armed Forces or Public Health Service hospital in which the alleged incompetent is undergoing treatment; the head of any VA hospital or other public or private institution in which the alleged incompetent is undergoing treatment; or any other person or organization acting for, and in the best interest of, the beneficiary.

Rights of a beneficiary with a representative payee

A beneficiary with a representative payee has a right to receive his or her funds when the Judge Advocate General's Office certifies that the beneficiary is mentally competent or when medical evidence indicates that the beneficiary is mentally competent.

U.S. Air ForceNature of program

Provides monthly retirement or disability benefits to retired or disabled members or their survivors.

Total beneficiaries as of June 1983

Retirees	508,646
Survivors	<u>21,172</u>
Total	<u>529,818</u>

Beneficiaries with representative payees

Retirees	338	
Survivors	<u>55</u>	
Total	<u>393</u>	(less than 1%)

Average monthly benefit

\$975.65 (retirees only--average benefit amount for survivors not readily available).

Age of beneficiaries with representative payees - not readily available.

Relationship of representative payees - not readily available.

Criteria to determine if a beneficiary needs a representative payee

The Air Force designates a representative payee upon receipt of a certificate of incompetency from a court or a medical report that a beneficiary is incompetent to manage his or her funds. The medical report must be signed by three doctors, one of whom is specifically qualified in the area of psychiatric disorders. Also, a commitment order to a civilian or state hospital which states that the beneficiary is mentally incompetent is acceptable evidence that the beneficiary needs a representative payee.

Agency oversight of representative payees

A representative payee appointed by the Air Force must make an annual report showing how the funds were used. Further, the representative payee must submit a monthly Report of Existence for a mentally incompetent beneficiary. If the representative payee is a court-appointed guardian, no annual accounting is required.

Requirements for selecting representative payees

If there is no court-appointed guardian, the Air Force appoints as representative payee an interested party, such as the next of kin, another relative, or any other person, if found suitable. Court-appointed guardians are always recognized by the Air Force as a beneficiary's representative payee.

Rights of a beneficiary with
a representative payee

When the Air Force receives evidence that a beneficiary is competent, it will pay the beneficiary directly. The following documents provide evidence that a beneficiary is no longer incompetent:

- An Air Force medical board report, signed by a doctor, which states the beneficiary is competent.
- A statement from VA, signed by a doctor, which indicates that the beneficiary is competent.
- Release papers from a civilian or state hospital which state that the beneficiary is competent.
- A court order issued by the same court which issued the original appointment orders for a legal representative that states the beneficiary is competent.

HOW SSA ADMINISTERSREPRESENTATIVE PAYMENTS

SSA does not have a separate office dealing exclusively with representative payees. Instead, ORSI coordinates program functions, and various operating divisions implement them. The Department of Health and Human Services, Program Integrity staff of the Office of Inspector General, monitors and investigates representative payee problem cases.

ORSI is responsible for setting representative payee policy, issuing field instructions, and coordinating a representative payee accounting plan. In addition to considering the SSA study, ORSI collected and evaluated information from SSA field and operating components before recommending an accounting plan to the Commissioner of Social Security.

Any new representative payment accounting plan will be implemented by SSA's Office of Systems, Office of Central Operations, and Office of Field Operations. The Office of Systems will mail accounting forms to selected representative payees. The Office of Central Operation's six Program Service Centers and the Office of Disability Operations will review the returned accounting forms. These offices will then direct incomplete forms or those needing additional information to the Office of Field Operations' District Offices, which will conduct followup reviews as needed.

The Office of Inspector General's Program Integrity staff monitors and investigates representative payee problem cases. Program integrity personnel work in each SSA region and investigate cases referred from a variety of sources (accounting reports, interviews, claims representatives, and informants). The Program Integrity staff develop the cases and decide whether they should be sent to the U.S. attorney for prosecution consideration.

The following table provided by SSA shows recent representative payee referral, investigative, and prosecution activity.

Representative Payee
Referrals and Prosecutions

<u>Column A time frame</u>	<u>Column B total "fraudulent misuse" cases</u>	<u>Column C cases referred to U.S. attorney</u>	<u>Column D convictions</u>
January 1974 - September 30, 1977	184	11	1
FY 1978	65	5	0
FY 1979	163	15	3
FY 1980	457	44	12
FY 1981	550	47	13

Column B represents cases referred to the Office of Inspector General for criminal investigation by SSA staff where the primary violation was suspected conversion of benefits by a representative payee. Columns C and D provide data on government efforts to prosecute fraud in the representative payee system. Data for 1974 to 1978 pertain only to the title XVI Supplemental Security Income program (SSA did not capture this category of title II data until 1979). The data for 1979 and thereafter pertain to both titles II and XVI cases.

The following table shows data for known misuse in the title II program only. SSA has not designed a program to capture misuse data for the title XVI program. Data before 1978 are not available.

Amount of Title II Funds Misused by
and Recorded From
Representative Payees

<u>Time frame</u>	<u>Program</u>	<u>Known misused funds</u>	<u>Recovered amounts</u>
FY 1978	RSI ^a	\$ 958,508	\$100,386
	DI ^b	<u>266,125</u>	<u>54,399</u>
		<u>\$1,224,633</u>	<u>\$154,785</u>
FY 1979	RSI	\$1,488,687	\$206,509
	DI	<u>602,800</u>	<u>61,519</u>
		<u>\$2,091,487</u>	<u>\$268,028</u>
FY 1980	RSI	\$1,056,346	\$179,242
	DI	<u>378,592</u>	<u>73,645</u>
		<u>\$1,434,938</u>	<u>\$252,887</u>
FY 1981	RSI	\$ 856,034	\$158,817
	DI	<u>552,749</u>	<u>109,846</u>
		<u>\$1,408,783</u>	<u>\$268,663</u>

^aRetirement and Survivors Insurance Program.

^bDisability Insurance Program.