

SOCIAL SECURITY

REPRESENTATIVE PAYEE

I. What Is a Representative Payee?

If someone who receives Social Security benefits is *legally incompetent, is physically or mentally unable to manage his or her money, or is an alcoholic or drug addict*, then the Social Security Administration (SSA) may require a representative payee. Most children younger than 18 years old are also required to have representative payees.

When deciding whether someone needs a representative payee, SSA will consider court determinations, medical evidence, and statements of relatives, friends, and others in a position to know and observe the recipient.

The representative payee will receive the recipient's Social Security benefits and use them for the recipient's current and future needs.

II. Who Can Be a Representative Payee?

The payee can be a family member, friend, legal guardian, lawyer, or social service agency. Your payee should be someone who sees you often and knows your needs.

When choosing a representative payee, information that SSA considers includes: the person's relationship to you; the amount of interest they show in you; any legal authority they have to act on your behalf (e.g. guardian); and whether they are in a position to know of and look after your needs. SSA will also consider the representative payee's criminal history and history of drug and alcohol abuse.

If there is someone who you want as a representative payee, then you should tell SSA. SSA will consider your request. The payee will have to submit proof of identity, have a social security number, provide information about his or her income, file an application and go to an interview at SSA.

III. What Are the Responsibilities of a Representative Payee?

The representative payee must know your needs so he or she can decide how to best use the benefits for your personal care and well-being. The benefits should first be used for your day-to-day needs, like food and shelter. Remaining benefits can be used for personal needs, like clothing and recreation. Benefits can also be used for medical needs and dental care. Any extra money should be saved for your future needs.

A representative payee must keep records of all payments received and how they are spent or saved. Each year the representative payee must file a report with SSA explaining how he or she used the benefits.

A representative payee must report to SSA changes that may affect your eligibility for benefits or the amount of your benefits, including if: you move; marry; start or stop working; are disabled or your condition improves; start receiving another government benefit; plan to leave the country for 30 days or more; go to prison; no longer need a payee; go to or leave a hospital, nursing home, or other institution (SSI only); someone leaves or joins your household (SSI only); or your income or assets change (SSI only).

A representative payee must return any payment to which you are not entitled.

IV. What Is a Representative Payee Prohibited from Doing?

A representative payee cannot sign legal documents (unless he or she is your parent, legal guardian, or has a power of attorney); use your money for his or her personal expenses; put your money in another person's account or mix your money with someone's else's (the bank account must show you as the only owner. However, you will not have direct access to the account.); charge you for services without approval from SSA (individual payees cannot collect fees); or manage any money you have that is not from SSA.

V. What If I Disagree with the Way My Representative Payee Is Spending the Money?

Your representative payee must first use the money for your current needs. If your current needs are met, then your representative payee should give you spending money even if he or she does not agree with the way you will spend the money.

Talk to your payee about how he or she is spending your money. The representative payee should show you how much money is being used for your current needs. Tell your representative payee how you want to use the remaining money.

If you think your representative payee is misusing your money, then notify SSA immediately. SSA will investigate the issue and send you a letter explaining whether it found that misuse occurred. If SSA thinks that your representative payee misused your money, then they will decide whether they were negligent in appointing or monitoring your representative payee. If SSA was negligent, then they will repay you whatever benefits you lost because of your representative payee's misuse. If SSA finds that it was not negligent, then you can appeal the decision.

VI. What If I Want to Change My Representative Payee?

Tell your current representative payee that you plan to ask someone else. The person you ask will have to file an application and be approved by SSA.

VII. What If I Do Not Want a Representative Payee?

If you have a representative payee because SSA thinks a physical or mental disability prevents you from managing your money, then you must show SSA that you are physically and mentally able to handle the money yourself.

SSA will consider a doctor's letter explaining your condition and that he or she thinks you can manage money your own money, a copy of a court order that restores your rights (if a court previously found that you were legally incompetent), or other evidence showing that you can manage your money.

WARNING: If SSA finds that your condition has improved and you no longer need a representative payee, then it may also reevaluate whether you are still eligible for benefits. [This only applies if you are receiving benefits because you are disabled.]

VIII. What Are My Appeal Rights?

You can appeal either SSA's decision regarding your need for a representative payee or the person or organization chosen to be your representative payee.

SSA will mail you letters telling you about the actions they will take. These letters will tell you that they will appoint a representative payee and who will serve as your payee.

Tell SSA if you disagree with either decision. If you disagree, then you have a right to review the evidence that SSA used to make its decision and submit additional evidence about your ability to handle your money or the person selected as your representative payee (or the person you would like selected). SSA will then review its decisions and then issue a final decision.

If you do not tell SSA that you disagree, then SSA will issue a final decision.

If you disagree with SSA's final decision, then you have **60 + 5 calendar days** from the date SSA mails the notice to file a *Request for Reconsideration* with SSA. (SSA assumes that you get the notice 5 days after the mailing date so you actually have 65 calendar days from the mailing date on the notice.) Contact SSA for the form at **1-800-772-1213**.



This brochure was created through the AmeriCorps Access to Justice Project at the Legal Aid Society of Hawaii.

Some organizations that may be able to your representative payee:

CSI, Inc.

49 South Hotel Street, Suite 310
Honolulu, HI 96813
(808) 538-0353
Cost: \$34.00 a month*

Helping Hands: Representative Payee Department

2100 N. Nimitz Hwy
Honolulu, HI 9681
(808) 440-3845 or 440-3846
Free only if person is under Department of Health, AMHD funded Case management
All others: \$34.00 a month*

Hale Ipu Kukui Alaka`i

Leslie Ross, PhD
1188 Bishop Street
Honolulu, HI 96813
(808) 599-5001
Free only if person is under Department of Health, AMHD funded Case Management
All others: \$34 a month*
(May be willing to take cases on the neighbor islands)

Kalihi-Palama Health Care

(808) 531-6322
Only for their current clients.

Waianae Community Mental Health Center

(808) 696-4211
Only for their current clients.

*The \$34.00 fee is subject to change according to Social Security rules

Legal Aid Society of Hawai`i

www.legalaidhawaii.org

If you need legal assistance, please call our Intake Hotline:
Monday to Friday 9:00 - 11:30am & 1:00 - 3:30pm

OAHU: 536-4302 MAUI: 242-0724 LANAI: 565-6089 MOLOKAI: 553-3251

HILO: 934-0678 KONA: 329-8331 KAUAI: 245-7580