

**Testimony of Fritz Streckewald,  
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Mr. Chairman, Senator Breaux, members of the Committee, thank you for inviting me here today to talk about the Social Security Representative Payee Program. I want to discuss improvements we have made to strengthen our representative payee program as well as legislative changes that Congress is considering to improve protections for beneficiaries with representative payees.

When OASDI or SSI recipients are not able to manage their benefit payments to meet their basic needs, the Social Security Administration (SSA) appoints a representative payee. We take this responsibility extremely seriously because individuals who need a representative payee are our most vulnerable beneficiaries.

Let me start with some facts about representative payees. Almost all representative payees provide much needed help to beneficiaries carefully, compassionately, and totally on a volunteer basis. We have 5.3 million representative payees that serve 6.7 million beneficiaries managing \$44.4 billion in annual benefits. About half of the beneficiaries are minor children. Eighty-four percent of the payees are family members, primarily parents or spouses. The representative payment program relies heavily upon family relationships to ensure that our beneficiaries' funds are used appropriately to meet their needs for food, clothing, and shelter and that any remaining funds are conserved for their future use. Of the 5.3 million payees, less than 1 percent or 42,000 are organizational payees and they serve 750,000 beneficiaries.

Representative payees provide a vital service to our beneficiaries. Misuse in this program is extremely rare and historically has been found to be less than one one-hundredth of one percent. Nevertheless, that is no consolation to a beneficiary who has lost his or her much needed benefits nor is it acceptable to SSA.

Over the last three years, we've conducted an aggressive and multi-faceted initiative to improve service delivery. In 2000, SSA instituted a comprehensive review of the representative payment program. We built upon the foundation laid by the SSA Advisory Committee, recommendations by the Office of the Inspector General, as well as concerns raised by this committee in a prior hearing. SSA recognizes that representative payment works best when there is collaboration among SSA, the payee, and the beneficiary. Our goal was to strengthen the program while preserving the rights of the beneficiary, respecting the contribution of the payee and ensuring that payments are used in the best interest of the beneficiary. We therefore reviewed our:

- selection, education, and monitoring of payees;
- education of beneficiaries; and
- Representative Payee System.

In addition, we developed a representative payee web page ([www.ssa.gov/payee](http://www.ssa.gov/payee)) which contains valuable program information for the public. I would now like to briefly discuss each of these areas.

### **Selection and Education of Payees**

Our policy is to select the most qualified individual or organization to serve as representative payee. All payees are closely scrutinized before being selected.

If possible, we generally appoint a family member to be the representative payee—preferably in the immediate family. If an immediate family member is not available or would not serve the best interests of the recipient, we look for another interested relative, such as a niece or nephew, or friend to serve as representative payee.

If an interested family member or friend cannot be found (or is not willing to serve), SSA will ask an organization willing to perform the duties of representative payee. To promote recruitment of organizational payees, we developed "A Recruitment Tool for Organizational Representative Payees." This tool includes a video, a factsheet and talking points for use by our field offices in their recruitment efforts.

We have several educational initiatives underway. Since 2000, we have created a training kit for new organizational payees entitled "A Tool Kit for Training Organizational Representative Payees. This tool kit includes a video, "A Guide for Organizational Representative Payees," the beneficiary pamphlet, a lesson plan and a power point presentation. We have also developed a pamphlet for adult beneficiaries explaining their rights and responsibilities and updated our program instructions for our field personnel in our effort to strengthen the representative payee program for our field personnel as well as inform the public.

### **Background and Credit Checks**

In order to enhance the protection of our beneficiaries, who have organizational payees, we have a number of initiatives underway to improve payee selection. We awarded a contract to Dun and Bradstreet (D&B) in 2001 to obtain credit background checks for fee-for-service payees. We believe that this information will help us select organizational representative payees that are fiscally sound. The concern is that organizations that are not fiscally sound may be more likely to misuse benefits. This effort is consistent with the OIG's suggestion that we put more emphasis on the selection of our representative payees. Beginning in March of this year, field offices were required to begin requesting credit reports from D&B on organizations applying for fee-for-service status. SSA uses this information to determine whether the organization is financially solvent. We also get updates of this information in order to monitor the organizations. To date we have not found any of these organizations to be in noncompliance with standard business practices. In Fiscal Year 2004, we will expand this evaluation process to include all volume payees.

While the D&B contract helps with the organizational payee, we have also held focus groups for fee-for-service payees to determine if individuals of such organizations should routinely undergo criminal and credit history background checks. We are currently evaluating the results of those focus groups.

### **Monitoring Initiatives**

Once selected, all payees must maintain records of the beneficiary's income and expenses. In virtually all cases, SSA requires annual accounting of the benefits received and how they were spent for every beneficiary. If this information is not received or is incomplete, we follow up with the payee. If SSA has cause to believe that an organization is not using benefits properly, we have an additional review procedure that focuses on the organization's records and includes contact with the beneficiary and staff of the organization, as well as vendors.

When SSA testified before this Committee in 2000, we described our plans for improving safeguards for our beneficiaries who need assistance from a representative payee. Since then, we have implemented those representative payee program improvements and I want to briefly review those initiatives and provide you with the status.

### **Triennial Onsite Reviews of all Fee-for-Service and Volume Payees**

We conduct onsite reviews for approximately 1,824 payees. This includes all 819 fee-for-service, 790 volume (serve 100 or more beneficiaries) who are subject to expanded monitoring, and 215 individual representative payees serving 20 or more beneficiaries. All of these reviews are done on a triennial cycle. This review includes a face-to-face interview with the payee at his or her place of business, an assessment of the payee's record keeping, and we interview a sample of beneficiaries in order to assess whether their needs are being met. Expenses may be corroborated with providers of services to ensure that beneficiaries' bills are being paid. The primary

problems found in these reviews have been commingling of funds and incorrect titling of accounts. We have taken corrective actions in those cases. Where appropriate, we have taken action to stop payment to poor performing payees and selected alternative payees.

### **Annual Verification of Bonding or Licensing**

Currently, in order to collect a fee from a beneficiary's check, non-governmental fee-for-service organization must be either licensed or bonded to serve as representative payee. This is a statutory requirement. Beginning in June 2000, we began an annual re-certification of these organizations to ensure the bonding or licensing requirement continues to be met.

For those fee-for-service payees that are bonded, there is no requirement that specifies the minimum amount of the bond that would be paid in the event of misuse (e.g., \$600 of coverage for each beneficiary). However, we are drafting a regulation that will give guidance on the level of bonding needed by fee-for-service organizations.

### **A 6-Month Review for All Newly Appointed Fee-for-Service Payees**

Beginning with fee-for-service payees newly appointed in January 2000, we began site visits 6 months after their initial appointment as payee. This visit ensures that they fully understand their duties and responsibilities, and are on the right track with respect to record keeping and reporting. We focus on their record keeping procedures so that they are able to account for beneficiaries' funds as well as protect SSA beneficiaries' funds.

### **Random Reviews of Volume and Fee-for-Service Payees**

Each year SSA conducts a review of a random sample of 30 percent of volume payees and fee-for-service payees that have not already been selected for review. Of the cases selected, we review a sample of beneficiary records for compliance with our policies and procedures. This program began in the spring of 2001.

In addition, we continue to monitor for “trigger” events. That is, we conduct reviews of payees in response to third-party reports of misuse, complaints from vendors of failure to receive payment, and similar reports.

We believe that our expanded onsite review program:

- protects vulnerable beneficiaries by reacting quickly to questionable indications;
- deters payee misconduct;
- provides a strong oversight message to payees;
- ensures that fee-for-service payees continue to be qualified under the law;
- establishes good lines of communication between SSA and the payees; and
- promotes good payee practices.

### **Changes to Representative Payee System and Related Systems**

The Representative Payee System (RPS) is a centralized computer file containing information about individuals and organizations providing representative payment services and the beneficiaries that they serve. It is an integral part of the representative payee application process. The RPS has been useful for investigating fraud, suitability of payee applicants, and identifying trends.

The RPS contains a number of investigative features, for example, the RPS:

- automatically verifies the representative payee’s Social Security number against SSA’s Numident file;
- automatically checks the database for a history of misuse/fraud;
- does not permit the selection of a person convicted of a violation under section 208 or Section 1632 of the Social Security Act (penalties for fraud) to serve as payee;
- will not permit someone who has a representative payee to serve as representative payee.

The RPS is our most effective investigative tool in assisting our field office employees in making appropriate representative payee selections.

We have made a number of improvements to the RPS. The improvements will provide additional information for use in determining the suitability of the payee, and additional information for use in monitoring payee performance. The RPS now allows for the collection of additional data for fee-for-service payees (e.g., license or bonding information such as the amount of the bond and expiration dates). For the monitoring program, the RPS stores the date from our site visit and, if appropriate, the date and reason why an organization is no longer authorized to charge a fee. This provides a historical record on each of the fee-for-service organizations. These improvements have been made within the last 30 months. We are considering other changes to the RPS as time and resources permit.

### **Legislation**

We recognize that administrative actions alone are not sufficient to address all of the issues and concerns that have been identified with our representative payee program. As you know, in April of this year, the House of Representatives passed H.R. 743, a bill that would provide increased safeguards for beneficiaries with representative payees. One particularly important provision would restore benefits that have been misused by all representative payees serving 15 or more beneficiaries.

Currently, when any payee has been determined to have misused an individual's benefits, SSA can reissue the benefits only in cases where we have failed to follow our procedures to investigate or monitor the payee. This is called "negligent failure." In virtually all other cases, the individual loses his or her funds unless SSA or the beneficiary can obtain restitution of the misused benefits from the payee.

To facilitate restitution of misused funds to beneficiaries, provisions contained in H.R. 743 would require SSA to reissue benefit payments

(including any respective fees for fee-for-service payees) in all cases when an organizational payee is found to have misused a beneficiary's funds, without either a finding of negligence on SSA's part or restitution from the organizational payee. Requiring re-issuance of such misused benefit payments, including any fees that were deducted from the beneficiary's benefit, would provide important protection to the most vulnerable of beneficiaries—those who have no family or friends willing or able to be a payee.

Such authority would enable us to restore benefits that have been misused by an organizational representative payee, thereby reducing the hardship that can be caused by such a loss. SSA would, through all available avenues of legal recourse, continue to seek restitution of the misused funds from the former representative payee.

This bill also includes other provisions that would strengthen the representative payee program and increase the protections it provides. These provisions would:

- Require SSA to conduct periodic onsite reviews of all non-governmental fee-for-service representative payees, any other organization serving 50 or more beneficiaries, and individual payees serving 15 or more beneficiaries. This requirement would increase by nearly two-thirds the number of reviews SSA currently does.
- Require non-governmental fee-for-service organizational payees to be bonded and licensed, provided that licensing is available under State or local law. (The requirement under current law is bonding or licensing.) State licensing provides some oversight by the State into the organization's business practices, and bonding provides some assurance that a surety company has investigated the organization and approved it for the level of risk associated with the bond. The proceeds from redeemed bonds would reduce the costs to the program when re-issuing benefits in cases of representative payee misuse.
- Provide that when a fee-for-service organization has been found to have misused an individual's benefits, the organization shall not qualify for the fee from that individual's benefits for months the



payee misused the funds. Requiring payees to return the fees charged for periods of misuse is reasonable because the payee was clearly not properly performing the service for which the fee was paid. Permitting the organization to retain the fees is tantamount to rewarding the payee for violating his or her responsibility to use the benefits for the individual's current and future needs.

- Provide that misused benefits (including any respective representative payee fees) would be treated as an overpayment to the organizational or individual representative payee and, therefore, subject to current SSA overpayment recovery authority. Although SSA has been given expanded authority in the recovery of overpayments (such as tax refund offset, referral to contract collection agencies, notifying credit bureaus, and administrative offset of future federal benefit/payments), these tools cannot be used to recoup benefits misused by a representative payee. Providing that benefits misused by any representative payee would be an overpayment to the payee would provide SSA with additional means for recouping the misused payments.
- Extend civil monetary penalty provisions to representative payees that misuse benefits. As it pertains to representative payees, this provision would allow SSA to impose administrative penalties and assessments against representative payees who misuse benefits. This would improve our ability to ensure that individuals who commit this type of fraud against SSA are penalized, even if the Department of Justice determines that criminal prosecution is not warranted.
- Disqualify an individual from serving as representative payee if he or she has been convicted of an offense resulting in more than one year of imprisonment, unless the Commissioner of Social Security determines such certification to be appropriate notwithstanding such conviction. Further, it would disqualify an individual who is fleeing prosecution, custody, or confinement.
- Provide authority to redirect Social Security benefits to field offices when the representative payee fails to provide an annual accounting of benefits. Notifying the payee of this possibility

and redirecting benefits to the field office would provide an extremely effective tool to insure that a payee returns the annual accounting form, while providing the field offices the flexibility to take the most appropriate action in a particular case.

## **Conclusion**

SSA continues to strive to improve our representative payee program through procedural and technological changes and by supporting and proposing legislative solutions. As I stated earlier, beneficiaries who need a representative payee are of particular concern to us because these are the most vulnerable of our beneficiaries. We have a responsibility to them, and to the taxpayers as stewards of public funds. Consequently, we have been active in educating our staff as well as potential and current payees. We have initiated new background checks of current payees and new monitoring practices with the guidance of accounting firms. Because we do not tolerate misuse of benefits by representative payees, we will continue to strengthen our representative payee program. We have implemented those plans we described to you in 2000 to improve our monitoring and oversight process.

Finally, we believe with the help of Congress, we will be able to further improve the protections for our beneficiaries with payees when funds have been misused. We look forward to working with Congress to assure public confidence in our programs.