

SPECIAL REPORT

What is a Representative Payee

A Representative Payee is a person or organization appointed by the Social Security Administration (SSA) to receive and manage the benefits of a Social Security Recipient that has been determined incapable of managing the benefits. The decision whether to appoint a representative payee is made by the SSA based upon evidence of the physical or mental incapacity or the young age of the beneficiary.

The SSA is required to investigate the suitability of the potential representative payee. A court determination of incompetency is the best evidence for the need for the appointment of a representative; however, the SSA will also accept a statement of a physician or other medical professionals.

The selection of the representative payee is based on an order of preference. A guardian, spouse or relative with a strong concern in the recipient is granted first preference. The SSA will also consider a friend, various agencies, or institutions having custody of the recipient. If there is no one in the first or second class of preferences, the SSA will finally consider a volunteer from a community group or organization.

Although powers of attorney have become widely used in estate planning, an agent under a power of attorney is not granted a special preference as a representative payee. If you want your agent under a general durable power of attorney to be considered for appointment as your representative payee by the SSA, I strongly recommend that you specifically provide in the power of attorney that you nominate and request the SSA to appoint your agent as representative payee if that becomes necessary. A representative payee may avoid the necessity of appointment of a conservator or guardian.

A representative payee must first use the benefits to provide for the beneficiary's needs. Should the benefits be more than sufficient for that purpose, the remaining funds may be used for the beneficiary's dependants and to pay the beneficiary's debts. Any remaining balance must be conserved and invested. A representative payee is required to file an annual accounting and may be subject to greater scrutiny if the SSA is dissatisfied with the account.

An elder law attorney can assist in having a representative payee appointed.

ABOUT THIS DOCUMENT

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