

How SSA Can Improve the Representative Payee Program to Protect Vulnerable Seniors

ISSUE BRIEF • JUNE 2016

Written By

Shana Wynn

Borchard Fellow, Justice in Aging

Acknowledgements

This is the final paper in a series of issue briefs and fact sheets that address the Social Security Administration's (SSA) Representative Payee Program. This issue brief is supported by a fellowship grant from the Borchard Foundation Center on Law and Aging. The author offers her appreciation to the Borchard Foundation, Kate Lang, and the Justice in Aging team for committing resources and providing valuable expertise to address the many issues facing our nation's most vulnerable seniors.

Introduction

SSA's Representative Payee Program provides necessary support for beneficiaries who are unable to manage their own benefits, but presents a host of negative consequences when SSA fails to administer the program properly or provide representative payees for those people who really need them. As discussed in previous [Justice in Aging fact sheets](#),¹ studies show that SSA's current representative payee program does not adequately

1 Justice in Aging, Social Security Administration's Representative Payee Program, <http://www.justiceinaging.org/our-work/economic-security/rep-payee-program/>

Table of Contents

Acknowledgements.....	1
Introduction.....	1
About the Representative Payee Program	2
Major Issues Facing the Representative Payee Program	3
Recommendations	
Reforming the capability determination process	4
Improving monitoring and oversight of the program	6
Taking required action against representative payees in cases of misuse	7
Properly monitoring the direct deposit system	8
Identifying those in need of a representative payee	9
Training qualified representative payees to meet the growing need	9
Conclusion.....	11

protect seniors who are at risk of losing their benefits due to misuse or lack of a representative payee.² In particular, the program seems to be underutilized by people over 65, while, at the same time, an aging population and an increase in Alzheimer's and other cognitive disorders point to a growing need. Less than 10 percent of Supplemental Security Income (SSI) recipients aged 65 and over had a representative payee in 2009, whereas one third of SSI recipients with disabilities between the ages of 18 and 64 had a payee. Further, in 2008 about 5 million beneficiaries over the age of 85 were identified, but only 4.6 percent of them had representative payees. As the program gains attention and is more comprehensively evaluated by the disability advocate community, it is also vital for aging advocates to share their perspectives on how to help improve the overall program in order to protect growing numbers of vulnerable older adults.

This paper provides a summary of efforts SSA has made to educate and train both payees and SSA personnel, and it also provides recommendations for SSA to ensure that older adults receive the support and protection they require to help meet their daily needs. We offer both high-level recommendations and more specific recommendations in various sections around the issues of recruiting, training, and retaining payees to meet the growing need for representative payees for older adults.

About the Representative Payee Program

A representative payee is an individual or organization appointed by SSA to receive Old Age Survivor and Disability Insurance (OASDI), Social Security Disability Insurance (SSDI) or SSI benefits for someone who cannot manage or direct someone else to manage his or her income.³ If SSA determines that a beneficiary is incapable of managing his or

her own benefits, it has the authority to appoint a representative payee.⁴ Prior to appointing a payee, SSA must determine the need for a representative payee, carefully balancing the goal of independence with that of protection. To make this determination, SSA needs to assess the capabilities of the beneficiary. Deciding that an individual needs a payee essentially deprives beneficiaries of fiscal independence and self-determination regarding how benefits are spent.⁵ Thus, in making this assessment, SSA officials must consider whether the beneficiary is capable of spending funds in a responsible manner, such that their food, shelter, and medical needs are met on a daily basis.⁶

Once SSA determines that a person needs a representative payee, the agency decides who to appoint as payee by considering multiple factors such as: the relationship of the potential payee to the beneficiary; the amount of interest a person shows in the beneficiary; any legal authority such person has to act on behalf of the beneficiary; whether the potential payee has custody of the beneficiary; and whether the potential payee is in a position to look after the needs of the beneficiary.⁷ Lastly, SSA performs soft background checks prior to appointments and also conducts representative payee assessments. The purpose of the investigation is to serve as a precautionary measure prior to appointment. Upon appointment, benefits may be certified to the representative payee for use on the beneficiary's behalf.⁸ A previous fact sheet⁹ has outlined this process in more detail.

2 U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-13-473, SSA REPRESENTATIVE PAYEE PROGRAM: ADDRESSING LONG-TERM CHALLENGES REQUIRES A MORE STRATEGIC APPROACH, 14 (2013), available at <http://www.gao.gov/assets/660/654893.pdf>.

3 42 USC §405(j)(1)(A)(2006).

4 Social Security Act Amendments of 1939, ch. 666, § 205(j), 53 Stat. 1360, 1371 (1939).

5 SSA POMS GN 00502.010.

6 *Id.*

7 CFR 404.2020 (2007).

8 *Id.*

9 Justice in Aging, *SSA's Representative Payee Program*, available at <http://www.justiceinaging.org/wp-content/uploads/2016/01/FINALSSAs-Representative-Payee-Program.pdf>.

Major Issues Facing the Representative Payee Program

SSA's Representative Payee Program has a number of serious issues that put older adults who cannot manage their own financial affairs at great risk of losing their homes and resources, and falling victim to abuse. With the projected increase in cases of dementia and Alzheimer's, there is a growing need for persons who can serve as representative payees for older adults. Protection and advocacy agencies, adult protective services, and aging advocates struggle to find and retain payees for vulnerable older adults. Yet, there are likely sources for additional representative payees that have not been identified, but could be if SSA would first develop a sustainable initiative to recruit and train payees. Even in cases where vulnerable seniors are found to be in need of representative payees, SSA's capability determination process and monitoring of appointed representative payees fall short of the protection needed to ensure that older adults retain autonomy and age in dignity. The current payee program also does not fully consider the right to self-determination after a representative payee has been appointed. Using the supported decision making model, SSA should develop solutions that promote independence and dignity for older adults. Supported decision making is a viable alternative to appointing a representative payee where the beneficiary may make use of friends, family members, and professionals to help them understand their financial situation so they can make their own decisions.¹⁰

Recommendations to Improve the Representative Payee Program

- Prepare for the increased need for representative payees by developing methods to recruit and retain eligible representative payees.
- Provide more in-depth training, support, and resources for representative payees and field office personnel.
- Promote the use of the supported decision making model to ensure that the capability determination process and resulting appointments promote autonomy and financial independence for as long as possible.
- Ensure that third party monitoring and oversight of representative payees includes the appropriate level of oversight and protects older adults from financial abuse.

The remaining sections of this paper focus on more specific problems in different aspects of the Representative Payee Program and include recommendations.

10 Peter Blanck and Jonathan G. Martinis, *The Right to Make Choices: The National Resource Center for Supported Decision Making* (2015) Inclusion, Vol.3, No. 1, 24-33. Doi: 10.1352/2326-6988-3.1.24.

Reforming the capability determination process

For older adults in particular, the inability to manage their own funds leads to increased chances for abuse and misuse of funds, homelessness, and extreme poverty. Advocates have presented viable options to reform the Representative Payee Program to help avoid these crisis situations. SSA's Office of Inspector General has also consistently recommended that SSA gather improved data on the program and prepare to address the needs of the growing aging population. In a recent study, the Institute of Medicine of the National Academies of Sciences, Engineering, and Medicine appointed the ad hoc Committee to Evaluate the Social Security Administration's Capability Determination Process for Adult Beneficiaries (hereinafter, the Committee).¹¹ The Committee provided SSA with recommendations to improve the way it determines financial capability, particularly for adults with disabilities. SSA should implement these recommendations and also explore implementing other improvements that are used effectively by some non-SSA benefit programs.

First, the study considered SSA's standard for financial capability. Financial capability is the beneficiary's ability to manage or direct the management of his or her benefits.¹² According to SSA, the least restrictive standard for proper management of funds is meeting one's best interests by satisfying basic needs of food, shelter, and clothing.¹³ In further evaluating financial capability, the Committee made a distinction between financial performance and financial competence, which both need to be considered when making a capability determination. In sum, the Committee found that financial performance reflects financial competence to implement financial decisions in the real world,

versus in a clinical or professional setting.¹⁴ Thus, evidence of beneficiaries' real world financial performance in meeting their basic needs is the best indicator of their financial capability.¹⁵

Particularly important, regarding capability determinations for older adults, the study explored the vastly different effects that cognitive disorders have on beneficiaries. Despite an increased need for assessment of financial capability, additional evidence besides a diagnosis and medical evidence is needed.¹⁶ This scenario is very different from that of individuals with significant physical limitations but retention of the ability to direct the management of benefits.¹⁷ For these very reasons, it is vital for SSA to collect medical and lay evidence from reliable third party informants and individuals who have first-hand knowledge of the beneficiary's financial performance outside of a clinical setting.¹⁸

Other agencies have implemented more nuanced ways to evaluate capability that SSA could consider implementing. The Department of Veterans Affairs (VA) and the U.S. Office of Personal Management (OPM) each use a combination of legal, medical, and lay evidence to determine the capability of a beneficiary. However, one important distinction in the VA's program is a supervised direct payment option for individuals determined to have limited capacity.¹⁹ This aspect of the VA's program directly aligns with the supported decision making model and the importance of maintaining self-determination when possible.²⁰ For many seniors, SSA's capability determination process is over-inclusive in that it does not permit an option for supervised assistance absent a determination of incompetence and appointment of a representative payee. Although the VA's program is not without its own shortfalls, this supervision component encourages the necessary self-motivation needed for seniors to maintain an active role in their

11 National Academies of Sciences, Engineering, and Medicine, *Informing Social Security's process for financial capability determination*, Washington, DC: The National Academies Press (2016) Doi: 10.17226/21922.

12 *Id.* at 4.

13 *Id.*

14 *Id.* at 6.

15 *Id.*

16 *Id.*

17 *Id.* at 7.

18 *Id.*

19 *Id.* at 3.

20 *Id.*

own finances and ability to live independently despite having some limitations.²¹

Another aspect of the VA system that could yield more consistent and positive determinations is the VA's policy to favor competency despite a finding of legal incompetency by a court.²² While such an order may raise a red flag and prompt further development of evidence, it does not necessitate a binding determination of incompetence under the VA's program. In determining incapacity under SSA's current process, legal evidence such as a court order declaring a beneficiary as legally incompetent is binding and such beneficiary must be appointed a representative payee.²³ This aspect of SSA's program is especially problematic in that no further development of evidence is required, which leads to more instances of over-inclusive determinations.

Unfortunately, legal and procedural challenges to data sharing prevent the type of cross-agency collaboration that would serve to better protect individuals who also receive benefits from other federal agencies. Although these challenges will persist until legislative action is taken, SSA is fully capable of implementing policies to improve intra-agency communication between the SSI and OASDI programs. In 2014, almost 11,000 individuals who were receiving benefits from both the SSI and OASDI programs had been assigned a representative payee in one program but not the other.²⁴ The lack of communication and failure to facilitate information sharing and consistency across programs administered by SSA leaves room for potential misuse and negative consequences for older adults.²⁵

Unlike SSA's SSDI beneficiaries, recipients of Old Age and Survivors benefits do not undergo

21 *Id.*

22 *Id.* at 32.

23 *Id.*

24 OFFICE OF THE INSPECTOR GEN., SOC. SEC. ADMIN., A-09-16-50093, AUDIT REPORT: CONCURRENTLY ENTITLED BENEFICIARIES RECEIVING REPRESENTATIVE PAYEE AND DIRECT PAYMENTS (2016), <https://oig.ssa.gov/sites/default/files/audit/full/pdf/A-09-16-50093.pdf>.

25 *Informing Social Security's Process for Financial Capability Determination* at 9.

periodic continuing disability reviews. These reviews provide an opportunity for capability reassessments, which in turn aid SSA in recognizing changes in beneficiaries' capability over time. However, as the Committee found, even these periodic reviews do not fully serve the purpose of reassessment because they are geared toward identifying improvements in the person's capacity which would result in changes in the medical basis for a beneficiary's disability award.²⁶ Acknowledging this distinction, the report suggests that SSA develop a systematic mechanism targeted toward incapable beneficiaries who may improve over time, as well as those at risk of becoming incapable.²⁷

These critical suggestions are timely and present the urgent need for SSA to increase accountability and improve how it decides whether seniors should be stripped of their ability to choose and make financial decisions for themselves. As advocates of the supportive decision making paradigm assert, the power of choice leads to self-determination. Justice in Aging advocates on behalf of the elderly to ensure that aging in dignity is well within reach. A positive step in that direction for SSA would be to act upon these recommendations.

Recommendations

- SSA should collect evidence of beneficiaries' real world financial performance as the best indicator of financial capability. Medical and lay evidence should be collected from reliable third parties who have first-hand knowledge of beneficiaries' financial performance.
- SSA should adopt the supported decision making model for older adults with limited capacity.
- SSA should develop a periodic reassessment tool to identify older adults at risk of becoming incapable of managing their own benefits.

26 *Id.* at 10.

27 *Id.*

Improving monitoring and oversight of the program

One of the most well-known cases of representative payee misuse is that of Henry's Turkey Farm in Atalissa, Iowa.²⁸ This horrific case of abuse was discovered in 2009 after 21 adults with disabilities were taken advantage of by their organizational payee, Henry's Turkey Service. Despite the attention garnered and the many individuals who have been brought to justice, there is still great potential for representative payees to misuse funds and fail to perform basic representative payee duties. While many of these cases of abuse are malicious in nature, there have also been instances in the past in which organizational and individual payees have been found to misuse funds unintentionally. These cases generally present a deeper issue surrounding SSA's failure to properly train and monitor payees and SSA field offices and personnel.

Currently, as there is no independent third-party review of individual representative payees and limited review of organizational payees, SSA needs additional help to better target investigations into misuse and abuse.²⁹ A possible strategy to combat this issue is to employ outside review by a qualified entity knowledgeable about the needs of elders and adults with disabilities.³⁰ A current model SSA could continue to follow is its partnership with the National Disability Rights Network (NDRN), the national membership and technical assistance/training provider for the federally funded and mandated state Protection & Advocacy (P&A) system. In 2010, in the aftermath of the Henry's Turkey Farm case, SSA contracted with NDRN to involve the P&A agencies in reviews of selected

SSA organizational representative payees.³¹ NDRN developed a web-based curriculum for P&A staff, and conducted training.³² These reviews addressed not only mismanagement of SSA benefits, but also issues of beneficiary employment, housing, safety and mistreatment.³³ The advantages of this partnership extend beyond the investigations into payees, to the additional reviews and referrals of problems such as poor living conditions, possible financial mismanagement, and potential violations of employment laws to agencies other than SSA.³⁴

An extension of the NDRN review project to more organizational payees may require additional funds and training, but could ultimately lead to enhanced oversight over the Representative Payee Program. SSA should also consider contracting with the state P & A agencies directly. These agencies have strong ties and existing relationships within the communities where many payees and beneficiaries live. These contracts could be limited to overseeing large volume individual payees and organizational payees with fewer than 50 beneficiaries.

Another option for reducing the likelihood of misuse of a beneficiary's payments could include more thorough training of field offices and on-site review staff. This recommendation would ensure that SSA staff can identify instances of abuse, neglect, and exploitation that could lead to misuse of benefits. SSA could also share this training information with other federal agencies and community networks. The Representative Payee Program could benefit from volunteer payee monitors for selected cases signaling the potential for misuse.³⁵ SSA offices could

28 New York Times, *The Boys in the Bunkhouse: Toil, Abuse, and Endurance in the Heartland*, (March 2014) <http://www.nytimes.com/interactive/2014/03/09/us/the-boys-in-the-bunkhouse.html>.

29 ERICA WOOD, STATEMENT ON FEDERAL APPROACHES TOWARD ELDER FINANCIAL EXPLOITATION BY FIDUCIARIES – REPRESENTATIVE PAYEES AND GUARDIANS, White Paper, Elder Justice Coordinating Council (Oct. 31, 2012).

30 *Id.*

31 DISABILITY RIGHTS WASHINGTON, *Stop Fraud and Abuse from 'Rep Payees'*, <http://www.disabilityrightswa.org/stop-fraud-and-abuse-rep-payees> (last visited May 10, 2016).

32 *Id.*

33 *Id.*

34 National Disability Rights Network, *Providing Payee Oversight: A Report on the First Two Years of the Social Security Administration Representative Payee Review Project* (June 2012).

35 Comment form Gideon Rothschild on the SSA Notice: Monitoring Reviews for Certain Representative Payees, No. SSA-2014-0070 (March 9, 2015), available at <http://goo.gl/9mkwHp>

also select, screen, coordinate, train, and supervise volunteers to interview beneficiaries and payees, and report any red flags back to SSA. The volunteer reports could be used to further identify situations where there may be payee problems, and better target follow-up checks.³⁶

Recommendations

- Extend the NDRN review project to allow the organization to work closely with P&A agencies and provide more reviews of organizational payees with fewer than 50 beneficiaries and high volume individual payees.
- Coordinate and supervise a volunteer payee monitor program to increase oversight and monitoring of payees.

Taking required action against representative payees in cases of misuse

Under the Social Security Protection Act of 2004, SSA has a responsibility to examine allegations of misuse, determine the facts, and make a formal decision of whether misuse has occurred.³⁷ A recent report has found that although SSA generally complies with these requirements, it needs to improve its actions in instances of misuse by organizational and high-volume individual payees.³⁸ When misuse is found, SSA must reissue the benefits to the beneficiary or an alternate representative payee.³⁹ In some limited circumstances, SSA will

allow a payee who misused the beneficiary's payments to continue serving as a payee.⁴⁰ The report also found that SSA did not reissue benefits misused by organizational and high-volume individual representative payees. Nor did SSA obtain restitution from those payees who misused benefits.⁴¹

In 2014, Justice in Aging joined with Disability Rights Oregon and the Oregon Law Center to stop a similar injustice in Oregon, in which hundreds of SSI beneficiaries were in danger of becoming homeless after SSA decertified their representative payee. Together, the advocates filed an emergency class action lawsuit against SSA to ensure that all the beneficiaries would receive their checks while a new representative payee was found. Advocates across the country have struggled to ensure that clients are paid directly upon the removal of both organizational and individual representative payees. As shown in this Oregon case and many other cases, when there has been misuse of SSI benefits, SSA has a legal responsibility to make certain that beneficiaries receive their benefits directly if a representative payee is not appointed.⁴²

Recommendations

- SSA should take prompt action after a representative payee is decertified to ensure that beneficiaries receive benefits directly.
- Improve information sharing across programs and ensure the availability of additional representative payees.

36 ERICA WOOD, STATEMENT ON FEDERAL APPROACHES TOWARD ELDER FINANCIAL EXPLOITATION BY FIDUCIARIES – REPRESENTATIVE PAYEES AND GUARDIANS, White Paper, Elder Justice Coordinating Council at 4 (Oct. 31, 2012).

37 OFFICE OF THE INSPECTOR GEN., SOC. SEC. ADMIN., A-13-12-21247, AUDIT REPORT: AGENCY ACTIONS CONCERNING MISUSE OF BENEFIT BY ORGANIZATIONAL AND VOLUME INDIVIDUAL REPRESENTATIVE PAYEES, p.1, (2016), <https://oig.ssa.gov/sites/default/files/audit/full/pdf/A-13-12-21247.pdf>.

38 *Id.*

39 *Id.*; See also, Social Security Protection Act of 2004, Pub. L. No. 108-203, SS101 (a)(1), 118 Stat. 504, 505 (2004).

40 *Id.*

41 *Id.*

42 42 U.S.C. 1383(a)(2)(iii).

Properly monitoring the direct deposit system

Technological advances have made the use of the direct deposit system more widespread. However, this has increased the possibility of benefits being diverted by unauthorized people and used in unauthorized ways. This issue was explored by the Office of the Inspector General (OIG) in 2013. At the time, beneficiaries were able to initiate changes to their direct deposit account by calling or visiting an SSA field office, calling SSA's 800-number, using SSA online applications, or auto enrolling through financial institutions.⁴³ Although SSA established policies to increase controls over the process, in 2012 the OIG received over 18,000 reports that benefits had been redirected away from beneficiaries' bank accounts.⁴⁴ Upon detailed review, the OIG found that controls were not fully effective and did not prevent SSA field office staff from processing direct deposit account changes requested by persons other than the beneficiary, their representative payees, or other authorized persons.⁴⁵

SSA has taken steps to strengthen identity verification procedures, namely through the direct deposit fraud initiative. However, this issue persists today and may be expected to continue as the aging population increases. SSA should continue to partner with financial institutions and encourage increased oversight and more stringent identification procedures. Since the purpose of the Representative Payee Program is to ensure that benefits are used in the best interest of beneficiaries who have been deemed incapable, education and outreach about the usefulness of the program is another way to address this problem.

However, educating about the benefits of the Representative Payee Program is an ongoing challenge. In particular, it is difficult to relay the importance and usefulness of the Representative Payee Program to individuals who believe the direct deposit system makes the role of representative payees obsolete. For instance, beneficiaries who receive financial assistance from family members and close friends are reluctant to learn more about the Representative Payee Program because someone already performs this function for them. For beneficiaries, the use of the direct deposit system eliminates federal oversight of their funds and the Representative Payee Program may be viewed as overly burdensome. However, some older adults may rely too heavily on this unofficial fiduciary relationship and become targets for financial abuse and misuse of funds, thus signifying the need for SSA to clarify goals and provide education on the importance of the program. Even though this education and training may be better performed by social services agencies, SSA should initiate the conversations and establish viable partnerships with organizations capable of performing this function. The reach of the agency makes it necessary to engage in these relationships to protect the financial well-being of millions of beneficiaries.

Recommendations

- Partner with banks and other financial institutions and encourage increased oversight and identification procedures.
- Establish partnerships with organizations that can provide education on the importance of the Representative Payee Program and conduct trainings on how to protect vulnerable older adults.

⁴³ OFFICE OF THE INSPECTOR GEN., SOC. SEC. ADMIN., A-06-12-22101, SUMMARY: CONTROLS OVER DIRECT DEPOSIT CHANGES INITIATED IN FIELD OFFICES (2013), [https://oig.ssa.gov/sites/default/files/audit/summary/pdf/Summary%2022101%20\(3\).pdf](https://oig.ssa.gov/sites/default/files/audit/summary/pdf/Summary%2022101%20(3).pdf).

⁴⁴ *Id.*

⁴⁵ *Id.* at ii.

Identifying those in need of a representative payee

Given the many studies and statistics widely available and highlighting the growing need for representative payees, it is undeniable that SSA will need to increase the pool of representative payees serving older adults. However, it is not readily apparent how SSA will determine if and when older adults may need a representative payee. SSA has not developed a mechanism for identifying older adults receiving retirement and survivors benefits who may need a payee, and relies exclusively on the reports of family members, friends, health care professionals, and community members who have first-hand knowledge of a beneficiaries' capability to manage their own finances. While these types of reports are useful and often extremely reliable, SSA must do more to identify these individuals.

SSA conducts the Centenarian Project, an effort geared toward individuals who are or near 100 years of age.⁴⁶ If a centenarian appears capable, based on the current capability determination process and interviews, a representative payee is not appointed. There is no other targeted program to identify older adults who may not be capable of managing their own benefits. The entry point into SSA's benefits system for adults 66 or older is much different than it is for beneficiaries with disabilities who receive SSI or SSDI. First, there is no medical assessment or capacity determination to qualify the older adult for benefits, as they are qualified based on age and income. Thus, older adults who apply for SSI in particular are not subject to ongoing assessments to track changes in capacity. SSA should develop a project similar to the centenarian project, which encourages field office staff to work collaboratively with state agencies and community partners.

SSA should also take prompt action and provide adequate guidance when representative payees, who also receive Social Security benefits, become unable to manage their funds. As beneficiaries age and develop cognitive impairments, especially those who

serve as representative payees for their spouses and disabled adult children, proper oversight and detection of these cases will be imperative. SSA must also recruit and support additional payees to assist isolated older adults who do not have family or friends to serve in the payee role. SSA should establish policies and detailed guidance for field offices and SSA personnel to address these situations.

Recommendations

- Develop a training program to help field offices identify older adults who may be in need of a representative payee.
- Establish policies and detailed guidance for field offices to identify and replace representative payees who are also beneficiaries in need of a representative payee.

Training qualified representative payees to meet the growing need

SSA encourages representative payees to go beyond managing finances and become actively involved in the beneficiary's life. Such involvement includes helping the beneficiary find available public benefits and community resources, and including them in financial decisions. Taking on this additional role requires SSA to provide more in-depth training for representative payees. As many representative payees are family members and non-professionals, it may be difficult for representative payees to take on these additional tasks while fulfilling their basic duties, such as adhering to SSA's reporting requirements. Thus, representative payees certainly need additional guidance to fully understand their basic responsibilities, as well as to understand how to provide additional services to beneficiaries.

SSA currently provides a handbook,⁴⁷ available both online and in print, and a few online resources

46 POMS GN 02602.500, *The Centenarian Project*, available at <https://secure.ssa.gov/poms.nsf/lnx/0202602500>.

47 Social Security Administration, *A Guide for Representative Payees*, SSA Publication No. 05-10076 (July 2015), available at <https://www.ssa.gov/pubs/EN-05-10076.pdf>.

for representative payees to refer to at any time.⁴⁸ In addition, SSA has been working with public and private organizations such as the Consumer Financial Protection Bureau,⁴⁹ Wells Fargo,⁵⁰ and various state organizations to create online training modules for representative payees. Although these efforts will provide additional resources for representative payees, the content of these trainings and the availability of SSA employees to assist representative payees are still inadequate.

According to the National Research Council, “payees must understand their duties and responsibilities, including details such as how to keep records, how to deposit benefits into separate accounts, and how to save money.”⁵¹ SSA should consider using broad networks and combine efforts of other federal agencies to better educate payees. For instance, SSA and the VA have taken steps in providing such guidance via webinars and a web-based Guide for Representative Payees.⁵² Additionally, the Consumer Financial Protection Bureau (CFPB) has developed a “lay fiduciary guide” to help representative payees and other non-professional fiduciaries better understand their similar responsibilities.⁵³ Older adults who receive Social Security benefits are often eligible for other public benefits programs, such as Medicaid and Food and Nutrition services. There are also complex

48 Social Security Administration, *When People Need Help Managing their Money* (2015), available here <https://www.ssa.gov/payee/>.

49 Please visit the Consumer Financial Protection Bureau website to find a full copy of the guide, which is also available at http://files.consumerfinance.gov/f/201310_cfpb_lay_fiduciary_guides_representative.pdf.

50 SSA has yet to release the video modules completed in collaboration with Wells Fargo. Please visit their Representative Payee website in the coming months to gain access to these modules.

51 ERICA WOOD, STATEMENT ON FEDERAL APPROACHES TOWARD ELDER FINANCIAL EXPLOITATION BY FIDUCIARIES, REPRESENTATIVE PAYEES AND GUARDIANS, White Paper, Elder Justice Coordinating Council at 4 (Oct. 31, 2012).

52 *Id.*

53 *Id.*

Medicaid and Medicare benefits rules that payees may or may not be equipped to properly handle. Collaboration not only decreases administrative costs of the Representative Payee Program, but also reaches a much greater audience than SSA can reach alone.⁵⁴ These recommendations have the potential to provide valuable resources and information that can be disseminated across broad networks at minimal costs.

In addition to online training modules, pamphlets, and manuals, SSA should provide additional support to ensure that representative payees can properly carry out their functions. SSA does not have a toll free number that offers support specifically for representative payee issues. Going forward, SSA should establish this type of infrastructure to accept complaints or concerns from community members, and provide any additional resources payees may need. For organizational payees or individual payees with more than fifteen beneficiaries, it is important that someone in the community is present to provide them with the support they need, handle any issues they may have, and help hold them accountable.

Recommendations

- Provide additional training and guidance to representative payees to help them fully understand their basic responsibilities, and provide additional services to beneficiaries.
- Establish partnerships with other federal agencies, such as the VA, and consider other broad networks to better educate payees.
- SSA should establish a toll-free number solely for issues involving the Representative Payee Program, including complaints and community concerns.

54 *Id.*

Conclusion

In 2013, SSA worked with nearly 5.9 million payees handling \$74 billion in annual benefits for over eight million beneficiaries. As previously stated, this number is expected to increase dramatically in coming years.⁵⁵ This increase should not be taken lightly considering SSA's inability to adequately identify older adults in need of representative payees. Given the history of misuse and lack of oversight within the program, SSA must make necessary reforms to prevent repetition of the often dehumanizing instances of fraud and misuse of funds.

55 Chris E. Anguelov, Gabriella Ravid, and Robert R. Weathers II, Social Security Bulletin, Vol. 75, No. 2, 2015, *Adult OASDI Beneficiaries and SSI Recipients Who Need Representative Payees: Projections for 2025 and 2015*, available at <https://www.ssa.gov/policy/docs/ssb/v75n2/v75n2p1.html>.