

## Taking Control of Your Social Security Benefits

### What Is a Representative Payee?

A person receiving benefits from the Social Security Administration (SSA) is called a beneficiary. A representative payee (rep payee) is a person designated to manage the beneficiary's Social Security benefits.<sup>1</sup> This means the rep payee receives the SSA benefits directly, on the beneficiary's behalf, and uses the money to pay for the beneficiary's needs like clothing, food, and shelter.<sup>2</sup> If you have a rep payee then the SSA has determined that, at some point, you were unable to manage your Social Security benefits due to age or a mental or physical impairment.<sup>3</sup> The rep-payee program is a form of substituted judgment implemented by the SSA. If you find yourself in a position where you feel your dignity and best interest would be better served without the use of a rep payee, and you want to be the payee of your own benefits, you can seek to have a reevaluation done by the SSA through your local office.

### How to Become Your Own Payee

For practical reasons, it is important to communicate your intentions with your rep payee prior to seeking his or her discharge. The rep payee has a duty to notify the SSA if they are no longer assuming duty of payee and if you no longer need a rep payee.<sup>4</sup>

The next step in discharging your rep payee and managing your own benefits is to contact your local SSA office and submit "evidence of capability."<sup>5</sup> "Evidence of capability" usually consists of things like written documents showing that you are able to manage your own money. The SSA will accept three kinds of evidence of capability: legal evidence, lay evidence, and medical evidence.

More specifically, you should be prepared to submit:

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<sup>1</sup> 20 CFR § 416.635

<sup>2</sup> 20 CFR § 416.640

<sup>3</sup> 20 C.F.R. § 416.601

<sup>4</sup> Social Security Administration, *A Guide for Representative Payees*, No. 05-10076 at 10 (2019)

<sup>5</sup> Social Security Administration, *Social Security Handbook*, § 1615.1 (2010)

- A signed statement from a physician that says you are capable of managing your own money; or
- A certified copy of a court order restoring your rights if you were previously judged legally incompetent; or
- Other evidence establishing your ability to manage your own benefits such as substance abuse treatment certificates or letters from family or close friends stating reasons why you no longer need a rep payee.<sup>6</sup>

You should also be prepared to answer questions about your finances, living expenses, ability to meet your medical needs, and other questions related to your ability to manage your benefits. The evidence you will need for your evaluation may depend on what factors led the SSA to determine you were incapable of managing your own social security benefits in the first place. For example, if you had a court order deem you incompetent, the SSA may require you to provide a new court order fully restoring your rights. Nonetheless, letters from friends and family and doctors' notes can go a long way in showing that you are able to manage your own Social Security benefits. You want to be prepared when you contact the SSA, so you should gather as much evidence as you reasonably can to establish your capability prior to contacting the SSA.

### **Benefits, Risks, and Responsibilities of Being Your Own Payee**

If the SSA finds you capable of managing your Social Security benefits, you, the beneficiary, will receive your benefit payments directly and be able to manage the money on your own without the direction of your past rep payee. It is important to note that, by submitting evidence of your capability to be your own payee, you may affect your Social Security benefits. This can occur if, by demonstrating your capability to be your own payee, you demonstrate that your mental or physical disability has improved to the point that you no longer need Social Security assistance.<sup>7</sup>

If you successfully become your own payee, you must still make the required reports similar to the reporting done by your past rep payee.<sup>8</sup> You

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<sup>6</sup> *Id.* at § 1615.2; 20 C.F.R. § 416.655

<sup>7</sup> Social Security Administration, *Disability Benefits – Your Continuing Eligibility*, <https://www.ssa.gov/benefits/disability/work.html>

<sup>8</sup> 20 CFR § 416.704

must account for your spending and must spend the money on those things the Social Security benefit was intended for like current or reasonably foreseeable needs.<sup>9</sup> These needs include things like food, clothing, shelter, utilities, dental and medical care, and personal comfort items.

## Resources

For more information about the rules the SSA has in place regarding Social Security benefits, you can visit:

- <https://www.ssa.gov/payee/faqbene.htm?tl=12>
- [https://www.ssa.gov/OP\\_Home/handbook/handbook.16/handbook-toc16.html](https://www.ssa.gov/OP_Home/handbook/handbook.16/handbook-toc16.html)
- <https://secure.ssa.gov/poms.nsf/lnx/0200502001>
- <https://secure.ssa.gov/poms.nsf/lnx/0200502020>

You can also contact the SSA at (800) 772-1213, or contact Disability Rights Nebraska by phone at (402) 413-2016 or email at [info@disabilityrightsnebraska.org](mailto:info@disabilityrightsnebraska.org).

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<sup>9</sup> Social Security Administration, *A Guide for Representative Payees*, No. 05-10076 at 3 (2019)