

U.S. Senate
Special Committee on Aging
Statement for the Record

**Inviting Fraud: Has the Social Security Administration Allowed Some
Payees to Deceive the Elderly and Disabled?**

The Honorable James G. Huse, Jr.
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Good morning, Mr. Chairman and members of the Special Committee. Thank you for the opportunity to discuss the Social Security Administration's Representative Payee (Rep Payee) Program. While the Agency's Rep Payee Program is designed to protect the most vulnerable members of our society, recent events have demonstrated that these laudable goals are sometimes abused. Today, I would like to focus on some practical solutions that would strengthen the Agency's Rep Payee Program. In particular, I would like to highlight several recent audit recommendations that offer solutions to prevent and detect rep payee abuses. Additionally, I would like to discuss several OIG investigations that have highlighted weaknesses in the Rep Payee Program. We are working closely with the Agency to rapidly address these vulnerabilities, and to implement sensible solutions.

The Rep Payee Program - A Brief Overview

SSA provides title II and title XVI benefits to the most vulnerable members of our society--the young, the elderly, and the disabled. Congress granted SSA the authority to appoint rep payees for those individuals that SSA determines to be incapable of managing their own benefit payments. Each representative payee has a legal responsibility to use SSA's benefit payments for the use and benefit of the beneficiary only. There are two major types of rep payees -- individual rep payees and organizational rep payees. Individual rep payees are typically relatives of the beneficiary, who are entrusted to utilize such funds in the best interest of the beneficiary. Although individual rep payees are permitted to provide service to numerous beneficiaries, they are prohibited from charging fees for such services. Some organizational rep payees are large institutions that provide care and treatment for beneficiaries residing in such institutions (e.g., Department of Veterans Affairs hospitals, State psychiatric institutions, nursing homes, extended care facilities, and nonprofit institutions). Other types of organizational rep payees may include community groups, charitable organizations, and other nonprofit agencies. The Social Security Act permits authorized qualified organizational rep payees to collect a fee for providing rep payee services.

Rep Payee Program Vulnerabilities

While the vast majority of rep payees are honest, trustworthy people, several recent cases have exemplified that the application of key controls could have prevented major fraud cases.

No case better exemplifies this point than the Aurora Foundation case, which was the subject of a television news magazine segment in January 2000, entitled "When Nobody's Looking." Aurora Foundation, Inc. was a high-volume, organizational rep payee that served over 140

disabled individuals in West Virginia. Although Aurora had been a fee-for-service rep payee since 1995, SSA had not yet performed an on-site review. However, SSA notified Aurora by mail of a pending review based on complaints.

Our investigation revealed that the head of the Aurora Foundation, Gregory Gamble, had embezzled over \$300,000 between April 1995 through May 1999. The majority of these diverted funds were SSA benefit payments. Mr. Gamble has since pleaded guilty to embezzlement of Social Security benefits, Veterans Affairs benefits, and private funds. Mr. Gamble is scheduled for sentencing on June 5, 2000.

During the course of our investigation, my office asked SSA to retrieve all of the financial accounting forms submitted by Aurora. SSA was only able to secure 12 of the accounting forms that were submitted by the Aurora Foundation during its final year of operation. The missing forms reflect a lack of program oversight on behalf of SSA. It still remains unclear as to whether the remaining accounting forms were submitted and subsequently misplaced, or never submitted in the first place by the Aurora Foundation. We continue to believe that SSA needs to conduct regular inspections and reviews of organizational rep payees, especially those rep payees who do not submit the required financial accounting forms.

From November 1996 to February 1997, a SSA Field Office (FO) received approximately 45 complaints of funds being mismanaged by Ivy's Social Services, Incorporated (Ivy's), a fee-for-service rep payee located in Phoenix, Arizona and Denver, Colorado. Upon receiving this information from the FO, my office promptly opened an investigation. Our investigation revealed that Ivy's was an organizational rep payee for 330 individuals from March 1996 to May 1997. During this short period of time, the head of Ivy's spent approximately \$274,000 of the beneficiaries' money to make personal purchases. In addition to paying off \$65,000 in personal credit card debt, the subject of the investigation also used the funds to furnish, and pay the rent for, three personal residences. In May 1999, the head of Ivy's was sentenced to 18 months imprisonment, and ordered to pay full restitution of \$274,000 to SSA.

Another similar example involved Theresa L. King, an organizational rep payee who served more than 200 beneficiaries in the State of Washington. Our investigation revealed that Ms. King misused more than \$31,000 in SSA benefits that were earmarked for her clients. However, the exact loss could not be determined due to commingling of funds and incomplete financial records. Many of the victims had mental disabilities, and could not communicate effectively when interviewed by our agents. Ultimately, Ms. King was convicted on charges involving SSA fraud, and was sentenced in May 1999 to 30 months imprisonment and restitution of over \$30,000. It is our belief that adequate monitoring would have detected financial discrepancies in the rep payee's accounting records.

Since Fiscal Year 1998, our office has opened 1,352 rep payee cases, which have led to 313 convictions and identification of fraud losses totaling over \$7,500,000. Fortunately, the vast majority of such investigations have involved individual rep payees, as opposed to large organizational rep payees such as the ones described above.

Early Warning Signs

As noted above, there have been several warning signs that may have gone unheeded by the Agency. These warning signs can be detected at either the point of organizational rep payee selection or during post-selection monitoring.

Screening and Selection of Representative Payees

When SSA determines a beneficiary is incapable of managing his or her own benefit payments, SSA searches for a suitable rep payee. SSA regulations give preference to family members over friends, third parties, and organizational rep payees.

To determine suitability, SSA interviews prospective rep payees. This usually consists of a review of documents supplied by the prospective payee. It is not an investigation, but rather as a means to conduct an SSA records verification. Some of the documents that SSA reviews for individual applicants include:

- Drivers licenses;
- State Identification cards;
- Credit cards; or
- Bank books/check books

However, SSA generally does not verify the accuracy of the information presented, unless it has a reason to question the applicant's suitability. SSA does verify the accuracy of the payee's income by comparing the information on the rep payee application to SSA's records. SSA also verifies that the prospective rep payee has not been convicted of a felony against Social Security programs.

For organizational payees, SSA verifies the Employer Identification Number (EIN) of the payee by comparing the EIN on the rep payee application to the EIN on SSA's records. SSA does not perform credit or security background checks on prospective individual or organizational payees. Based on existing regulations, SSA does not determine if the individual or organizational rep payee may have financial problems, credit problems, or if employees have been convicted of any other felony.

We believe that the selection process, specifically the suitability determination, should be strengthened. This presents SSA with the best opportunity to prevent improper benefit payments before issuance. In a March 1997 evaluation report entitled, *Monitoring Representative Payee Performance: Roll-Up Report*, we recommended that SSA conduct a more thorough screening of potential rep payees. Recently, SSA included a number of measures in its FY 2000 legislative proposal, which was introduced on April 27, 2000, by Senators Grassley and Breaux as the *Social Security Beneficiaries Protection Act*. This Act proposes to improve the selection process of rep payees. For example, it would require non-governmental fee-for-service organizational rep payees to be bonded and licensed by State and/or local agencies to assure that due diligence is performed.

Representative Payee Monitoring and Oversight Activities

SSA has some basic safeguards in place to ensure that rep payees do not misuse benefits. SSA requires an annual accounting report from all rep payees, for each beneficiary under their care. Additionally, SSA has the ability to conduct on-site reviews of organizational rep payees.

Annual Accountability Reports

An annual accounting report form, the "Representative Payee Report", is sent to every rep payee. The form elicits information concerning the dispensation of SSA funds that the organizational rep payee has received, on behalf of each beneficiary.

In our December 1996 report entitled, *Monitoring Representative Payee Performance: Nonresponding Payees*, we identified several problems with rep payees who did not respond to these annual accounting reports. We recommended that SSA determine (1) why rep payees do not complete and return these accounting reports; and (2) whether SSA staff are properly processing systems-generated alerts for rep payees who do not respond. In the intervening 3-year period, there were several organizational rep payee fraud cases, described above, in which such accounting forms could not be located. Thus, we are extremely pleased that SSA is proposing to conduct Quick Response checks when rep payees do not return these financial accounting reports.

On-site Reviews of Representative Payees

Another part of SSA's oversight and monitoring of rep payees is the on-site reviews. State institutions that participate in the on-site review program are reviewed once every 3 years. In addition, SSA may conduct an on-site review if a problem with a payee is brought to its attention. On-site reviews are visits with the rep payee or the administrators of such organizations, and they consist of an examination of the relevant accounting records. Additionally, interviews with beneficiaries are conducted to determine if their needs are being met. Unfortunately, these reviews may not identify rep payee abuses until after the fraud has occurred. Further, many beneficiaries are incapable of communicating any problems due to their mental impairments - the basis of their need for a rep payee in the first place.

Again, in our March 1997 report, we made several recommendations to improve the efficiency and effectiveness of SSA's rep payee monitoring program. Included in the report were recommendations for SSA to conduct periodic reviews of selected payees and to change the focus of the current process from accounting to monitoring and compliance.

Finally, in our September 1999 report, *The Social Security Administration's Procedures to Identify Representative Payees Who Are Deceased*, we reported that benefit payments were sometimes made to deceased rep payees. In some cases, SSA could not be sure that the funds were ever used on behalf of the beneficiaries for which they were intended. We also reported that SSA does not ensure that new rep payees are selected when former rep payees have died. In July 1998, from a review of SSA's Death Master File, we estimated that 2,091 deceased rep payees received about \$17 million in Old-Age, Survivors and Disability Insurance and Supplemental Security Income payments.

We recommended that SSA conduct routine computer matches to ensure that SSA promptly identifies rep payees who are deceased and selects new payees in a more timely manner. SSA agreed with our assessments and plans to implement our recommendations.

Working Together to Find Common Sense Solutions

As SSA has acknowledged the need to address rep payee oversight issues, we have agreed to work together with the Agency and to provide our expertise and assistance. Specifically, over the next several months, we will assist SSA to:

- Identify and recommend appropriate improvements to the program;

- Provide assistance to SSA staff during on-site reviews of selected rep payees;
- Conduct periodic audits of the program, including Agency adherence to program policies and procedures; and
- Evaluate, on an ongoing basis, the need for revised policies and procedures.

We hope that this type of fraud, which so often victimizes the most vulnerable in our society, will be more quickly discovered and referred to us for investigation and prosecution.

We appreciate that the Committee recognized the need to expand the civil monetary penalty program (CMP) to include all rep payees who convert or misuse benefits. We also believe that with additional CMP authority our Office can make sure that rep payees who abuse the system are punished, even when they are not criminally prosecuted. In other areas, the CMP program has proved to be enormously valuable both in preventing fraud from occurring, and in recovering monies stolen from SSA.

However, there are currently limitations to using CMPs in the Rep Payee Program. I would like to illustrate this point by telling you about a father who applied to be the rep payee for his disabled minor son. He received approximately \$10,713 in SSI disability payments for his son's benefit and care. In July 1998, the child's mother applied to be his rep payee. It quickly became apparent that the father never had custody of the child, and that he used the payments designated for his son for his personal use for almost 2 years. The father refused to repay the funds to SSA. Because the dollar loss fell below the prosecutive threshold, both the criminal and civil divisions of the U.S. Attorneys Office declined the case for prosecution. At that point, our Office of Investigations referred the case to our Office of Counsel for possible action under the CMP program. We could take no action in this case. The son was eligible for the payments, so under existing law, the funds were properly paid despite the fact the child most likely never benefited from them. The father's wrongful conversion of those benefits did not constitute a false statement made in order to obtain or retain the benefits—as I said, the benefits themselves were proper. In the absence of specific language, the father's theft of his disabled child's benefits goes unpunished.

Finally, I would like to take the opportunity to provide a few comments on the *Social Security Beneficiaries Protection Act* as it relates to the Representative Payee Program. In February 2000, SSA submitted for consideration a draft bill to provide additional safeguards for Social Security beneficiaries and Supplemental Security Income recipients with rep payees. I applaud the SSA's efforts in this area; however, legislative remedies should not be limited to either the individual or organizational rep payee program, but should encompass both. I also feel that unless PREVENTION and front-end remedies are installed to prevent the misuse of these funds, we are still one step behind. We have already begun to work with SSA to build a process that will screen out unworthy individuals and organizations that wish to be re payees. Additionally, a rigorous oversight program will be put in place.

Mr. Chairman, we look forward to working together with the Agency and this Committee to improve this process. We need to make sure that from the time of selection, up until the time benefits are disbursed, the organizations that provide this service are honest and capable.

Thank you for holding this hearing. At this time I will be happy to answer any questions that you may have.