



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

**HEARING ON
“Examining the Social Security Administration’s Representative Payee Program:
Who Provides Help?”**

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**Subcommittee on Social Security
Subcommittee on Oversight
U.S. House of Representatives Committee on Ways and Means**

**Statement of Marty Ford
On Behalf of the Social Security Task Force, Consortium for Citizens with Disabilities**

ON BEHALF OF:

Association of University Centers on Disabilities
Autistic Self Advocacy Network
Community Legal Services of Philadelphia
Justice in Aging
National Alliance on Mental Illness
National Association of Disability Representatives
National Committee to Preserve Social Security and Medicare
National Disability Rights Network
National Organization of Social Security Claimants’ Representatives
The Arc of the United States
United Cerebral Palsy
United Spinal Association

**TESTIMONY OF MARTY FORD, ON BEHALF OF THE SOCIAL SECURITY TASK
FORCE, CONSORTIUM FOR CITIZENS WITH DISABILITIES**

Chairman Buchanan, Ranking Member Lewis, Chairman Johnson, Ranking Member Larson, and Members of the Subcommittees, thank you for holding this two-part series of hearings on Social Security’s representative payee program and for inviting me to testify today. I am submitting this testimony on behalf of the undersigned members of the Consortium for Citizens with Disabilities (CCD) Social Security Task Force.

CCD is a working coalition of national disability organizations working together to advocate for national public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The CCD Social Security Task Force focuses on disability policy issues in the Title II disability programs and the Title XVI Supplemental Security Income (SSI) program.

Millions of Social Security and SSI beneficiaries have payees, with the vast majority performing their duties admirably under difficult circumstances. However, a small percentage of payees have misused benefits and violated their fiduciary duties, and some have even abused beneficiaries. Over many years, Congress has worked to enhance the Social Security Administration (SSA) representative payee program. The CCD Social Security Task Force appreciates your ongoing oversight of the program.

In general, the CCD Social Security Task Force supports provisions that protect beneficiaries. However, these protections, while foremost in importance, should not be implemented in such a way as to deter responsible individuals and organizations from serving as payees. In our experience, it can be difficult to recruit payees, and this problem is expected to grow worse in coming years.

In our view, the focus of the representative payee program should be to assist the person in using their SSA benefits to meet their individual needs. One of the strengths of SSA's representative payee program is its combination of flexibility and relative informality, which permits an individualized approach while avoiding a substantial administrative structure. However, that relative informality – compared to more formal processes such as court-appointed guardianship – can lead to problems.

Over the decades the CCD Social Security Task Force has looked at the representative payee program and considered whether we should ask for more formal procedures to strengthen protections for the person. At the end of the day, we have not, because we have felt that flexibility in determination of need and appointment of payees is beneficial and that the current framework is largely appropriate. We encourage Congress to continue to balance flexibility and individualization with protections and oversight, and also with the need to recruit capable individuals and organizations to serve as payees. As described in more detail below, we encourage Congress to avoid turning the payee program into a process like guardianship that is more rigid or formal and restrictive, further limiting people's rights.

However, SSA should not be informal in its oversight and monitoring of the representative payee program. My testimony will address the importance of strong oversight and monitoring. I will also highlight key recommendations to strengthen SSA's training and support for payees and beneficiaries, to implement new procedures to support beneficiaries' rights, and to test ways for SSA to use less formal and restrictive alternatives than the appointment of a payee. The CCD Social Security Task Force also intends to develop additional recommendations to share with the Subcommittees.

Finally, the CCD Social Security Task Force has been alarmed by the impact of net reductions in SSA's operating budget since fiscal year 2010 on the agency's ability to adequately serve beneficiaries and members of the public. We are also concerned about the potential impact on SSA of initiatives to reduce the size of the federal workforce. Today, over 1.1 million Social Security disability claimants face record-high waiting times in excess of 18 months for hearings before an Administrative Law Judge. Wait times are high and increasing in many other core service areas, including at field offices and on SSA's toll free number. We are concerned that many people needing help with payee issues could be caught up in the huge backlog at SSA payment centers, and even getting through by phone or in person at field offices to report a problem is getting harder and harder. Budget cuts and hiring freezes mean front-line staff at SSA field offices are under intense time pressure to do more work with fewer employees, which could lead to cutting corners on screening and monitoring representative payees.

Over the years and regardless of the economic or budget outlook, Congress and advocates have grappled with the reality that most steps to strengthen SSA's representative payee program will require new investments. This point is even more important to emphasize today. **Congress must ensure that any new initiatives to enhance the representative payee program are adequately funded and staffed, so as not to further erode other agency services.**

1. Who has a Representative Payee?

Over 8 million people have a representative payee to help them manage their Social Security or SSI benefits. Over half are under the age of 18.¹ Adults with SSA payees include:

- Disabled workers who have experienced a qualifying disability and receive Social Security benefits based on their own earnings record;
- Adults who receive Social Security Disabled Adult Child benefits based on a parent's earnings record;
- Adults who are blind or disabled and receive SSI, including individuals who also receive Social Security;
- Seniors who receive Social Security, SSI, or both.

My testimony will focus on non-elderly adults with disabilities who make up the majority of adults with representative payees.²

All people who receive Social Security or SSI disability benefits and have a payee have met the Social Security Act's stringent disability standard – but within that narrow standard, beneficiaries have a range of diagnoses, abilities, and needs. Roughly 8 in 10 non-elderly adults who receive Social Security, SSI, or both and have a payee have a mental impairment, including intellectual disability, autism, or a mental illness.³ Other common primary diagnostic categories identified by SSA among non-elderly adults with payees include diseases of the nervous system and sense organs, circulatory disorders, musculoskeletal disorders, and congenital anomalies.⁴

Some people with payees need decision making support in many aspects of their life. Other people need decision making support in a just a few areas, including in this case handling their SSA benefits. Additionally, some people may only need a payee to play a fairly limited role, such as paying the monthly rent, utilities, and other bills and then passing along a regular amount for monthly or weekly

¹ Out of 63 million Social Security and SSI beneficiaries in 2013. Anguelov, C.E., Ravid, G., and Weathers II, R.R. (2015). Adult OASDI Beneficiaries and SSI Recipients Who Need Representative Payees: Projections for 2025 and 2035. *Social Security Bulletin*, 75(2), pp. 1-17.

² Non-elderly adults who receive Social Security disabled worker benefits, disabled widow(er) benefits, and DAC benefits make up 72 percent of all adults who receive Social Security benefits and have a payee; non-elderly adults with disabilities make up 53 percent of all SSI recipients who have a payee. U.S. Social Security Administration. *Annual Statistical Supplement, 2015*. Table 5.L1 Number of beneficiaries with a representative payee as a percentage of all beneficiaries, by type of beneficiary and age, December 2014, <https://www.ssa.gov/policy/docs/statcomps/supplement/2015/5l.html> and Table 7.E4 Number and percentage distribution of persons with representative payees receiving federally administered payments, by eligibility category and age, December 2014, <https://www.ssa.gov/policy/docs/statcomps/supplement/2015/7e.html#table7.e4>.

³ U.S. Social Security Administration. *Annual Statistical Report on the Social Security Disability Insurance Program, 2015*. Table 15. Representative payment, by sex and diagnostic group, December 2015, https://www.ssa.gov/policy/docs/statcomps/di_asr/2015/sect01b.html#table15; and *SSI Annual Statistical Report, 2015*. Table 37. Recipients with a representative payee, by diagnostic group and age, December 2015, https://www.ssa.gov/policy/docs/statcomps/ssi_asr/2015/sect06.html#table37.

⁴ Ibid.

living expenses. Others may need their payee to be more involved in their day-to-day decisions about how to spend their SSA benefits.

Additionally, the decision-making support needs of people who receive Social Security or SSI benefits, including people with payees, can change over time. Some people, including many who are older, may see their financial capability skills diminish. Other people, including many who are younger, gain skills over months and years. They may start out with a payee, but develop their financial capability skills to the point that they no longer need a payee.

Approximately 4 in 5 payees for adults are family members, typically a parent who has been involved in a person's life from day one, or a spouse. Others individual payees include siblings, other relatives, or family friends. Some have stepped into the payee role after the death of a parent. Individual payees often support people living in the family home or living independently, as well as people who live in group homes, institutions, or other congregate settings.

Organizational payees include social service agencies; institutions including mental institutions, intermediate care facilities, and nursing homes; and government agencies. In many cases, these organizations are also creditors who operate the place where a person lives, provide primary services and supports, and have significant influence over many aspects of a person's life.

The diversity among beneficiaries and their payees highlights that one size does not fit all. SSA must ensure that the representative payee program operates from an individualized perspective.

Within this diversity, it is also important to keep in mind several factors that highlight the importance of strong oversight and monitoring. SSA benefits are generally very modest. For example, Social Security benefits average around \$1,200 per month for a disabled worker and SSI benefits average around \$560 per month for a non-elderly adult with a disability. For most people, these benefits provide their primary income, and for some, Social Security or SSI provide their only source of personal income. Every dollar and every penny counts. Most beneficiaries simply cannot afford any interruption in their benefits or any underpayment. Many have little or no savings, and could also face dire consequences in the event of an overpayment.

Social Security beneficiaries who had higher earnings during their working years, and as a result receive a larger than average benefit, can also be vulnerable to financial exploitation. For example, access to a person's Social Security benefits may lead to access to other bank accounts and financial assets, such as savings and retirement accounts.

Finally, people who have few or no supportive family or friends in their lives can be particularly at risk of financial exploitation, and much worse. Rare but horrifying cases – such as the confinement, forced labor, and abuse of men with mental disabilities in a turkey plant bunkhouse in Atalissa, Iowa – must be prevented and rooted out. SSA must take proactive steps to promote quality in the representative payee program to prevent problems before they happen, as well as to ensure robust monitoring and rapid response to identify and quickly address problems.

2. Training, Support, and Resources for Beneficiaries and Representative Payees

Representative payees are responsible for using a person's SSA benefits to pay for current and future needs, and to save any additional benefits to meet future needs. Payees must also maintain expense records and provide SSA with accounting reports. In addition, SSA requires payees to help the person get medical treatment when needed, and encourages payees to be actively involved in a

person's life and to include them in financial decisions.⁵ For beneficiaries who attempt to work, payees must become knowledgeable about SSA work incentives, including reporting requirements. Payees for SSI recipients must also navigate the SSI program's complex income and asset requirements. With so many important responsibilities, payees often have many questions and desire guidance on how to best fulfill their duties.

In addition, people who have a representative payee often have many questions about the program, their rights, and what they can expect from their payee and SSA. As highlighted above, people who have a representative payee may also see their decision-making support needs change over time, and some individuals may experience or be at risk of misuse of benefits, abuse, or exploitation.

SSA provides a handbook and some additional online resources for both payees and beneficiaries.⁶ It has also recently provided an online Representative Payee Interdisciplinary Training video series.⁷

In addition to these existing resources, SSA should:

- Develop regular training opportunities for beneficiaries on their rights as beneficiaries, becoming their own payees, and/or making complaints;
- Provide additional training and guidance to payees to help them fully understand their responsibilities; and
- Create a toll-free hotline, separate from SSA's existing toll-free number, for representative payee issues including the opportunity for payees and beneficiaries to seek guidance and for beneficiaries or other concerned individuals to make complaints.

3. Oversight and Monitoring of Representative Payees

As noted earlier, the representative payee program's framework has some informality and flexibility built in to meet individualized needs. However, rare but horrifying cases of abuse and exploitation, as well as cases of unintentional misuse of benefits, highlight the risks that many people who have a payee face. We applaud SSA's work with the states' Protection and Advocacy agencies in response to the abuses discovered at Henry's Turkey Service.

Quality implementation of the current representative payee model demands robust and rigorous monitoring. Based on our extensive past experience advocating for people with disabilities – including people who are nonverbal or face other barriers to advocating for themselves – we believe any reviewing agency must possess the following expertise in order to have the greatest degree of confidence that the reviews will be able to detect problems and uncover hidden abuse:

- Have on-the-ground presence in all 50 states, and familiarity with a range of local service providers and government agencies;
- Have experience with the full range of settings where a beneficiary may receive housing, treatment, services, supports, and other assistance, and across persons with different types of disabilities;
- Have demonstrable experience monitoring community facilities and representative payees, and identifying fraud and abuse;
- Be able to integrate a cross-disability focus and understanding of disability rights, not limited to representative payee financial responsibilities; and

⁵ Social Security Administration, "Frequently Asked Questions (FAQs) for Representative Payees," <https://www.ssa.gov/payee/faqrep.htm>. Accessed March 11, 2017.

⁶ Available at <https://www.ssa.gov/payee/>.

⁷ Available at https://www.ssa.gov/payee/rp_training2.html.

- Have partnerships with national and state coalitions, including with self-advocacy groups.⁸

We support requirements under section 205 and 1631 of the Social Security Act for SSA to directly review certain organizational payees. It is also important that SSA continue to review a sample of large organizational payees as identified by SSA systems, plus a certain amount of “wild card” monitoring of payees as identified by the organization doing the monitoring. Effective reviews should:

- Review payees to evaluate compliance with banking procedures, account titling, and management of beneficiary funds;
- Refer suspected cases of abuse or neglect, health or safety, housing, or wage related issues to the appropriate agencies;
- Conduct follow-up activities and training to ensure deficiencies such as minor recordkeeping or bank account titling issues are corrected;
- Interview payees about how they handle the beneficiary’s funds, how they determine a beneficiary or recipient’s needs, and any services they provide;
- Review the payees’ banking procedures (including accounting system and bank account titling), financial records, and documentation of how they managed the sampled beneficiaries’ Social Security payments;
- Conduct home visits for all beneficiaries selected for review;
- Interview a sample of beneficiaries, including those with complex communications needs, to confirm information provided by the payee, verify large or unusual purchases noted during the financial review, ask if the payee is meeting his or her needs, and if there are any problems with the payee;
- Connect beneficiaries to advocacy services, including legal services, where appropriate;
- Receive, secure, protect and destroy beneficiary personally identifiable information and other confidential information; and
- Collect and submit data on representative payee reviews in a secure manner.

Given the scope of the monitoring that we believe is necessary and appropriate, the CCD Social Security Task Force believes that Congress should designate one or more statutorily authorized government entities to conduct this type of robust monitoring of large organizational payees (not including payees who must be directly monitored by SSA under the Social Security Act) and additional “wild card” monitoring. Given the recent reductions in SSA’s LAE funding, such designation should be accompanied by appropriations sufficient to provide reviews that beneficiaries, families, and Congress can have a high degree of confidence are complete and thorough.

4. Other Enhancements Needed

As noted in my introduction, the CCD Social Security Task Force intends to submit additional recommendations to strengthen the representative payee program. At this time, I would like to highlight two important issues.

⁸ 161 Cong. Rec. H10293 (2015) (U.S. House of Representatives, Explanatory Statement Submitted by Mr. Rogers of Kentucky, Chairman of the House Committee on Appropriations, Regarding House Amendment No. 1 to the Senate Amendment on H.R. 2029, Consolidated Appropriations Act of 2016 [P.L. 114-113]).
<https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/html/CREC-2015-12-17-pt3-PgH10161.htm>

a. Payees who are creditors.

Government agencies, institutions, and service providers often act as payees for children and adults committed to their care and custody and for adults receiving their services. These include some of the most vulnerable beneficiaries who lack family and friends to act in their best interests. Too frequently, a fiduciary / creditor conflict arises in these cases. As a representative payee, the governmental agency, institution, or organization has a fiduciary duty to act in the person's "best interests." However, the payee is also a creditor, seeking to reimburse itself for the cost of care.

For example, payment for shelter and food is a priority use of benefits and is collected by creditors such as state institutions that may act as payees for people living in the institution. At the same time, SSA's definition of "current maintenance" for persons in state institutions also includes expenditures for items that will aid in the beneficiary's recovery or release from the institution or personal needs items to improve the individual's conditions while in the institution (20 C.F.R. § 404.2040(b)). This can pose conflicting priorities, and unfortunately, in too many cases, the creditor, and not the fiduciary, wins out.

We recommend that onsite reviews include interviews with beneficiaries, or if the beneficiary is unable to participate, with a family member where possible. Beneficiaries and family members can provide important information about the quality of services provided by the payees. Interviews also allow the monitors to make their own judgments about whether the payees are using benefits for the "use and benefit" of the beneficiaries e.g., does the person have adequate food, clothing, and shelter, access to a telephone or other communication devices and to needed accommodations, and are other needs being met, such as needs for medical treatment, physical therapy, and occupational therapy.

Another problem is that in some cases, a governmental agency, institution, or organization is selected as a representative payee even where family or friends are available and willing to serve as the payee. Too often, we hear of scenarios such as:

- Family members must "race" a creditor to get to the Social Security field office first in order to be named the payee.
- A creditor, such as a nursing home or group home, tells a person or family member that it must become the person's payee as a condition of entry or continued services.
- SSA appoints a creditor to serve as a payee for a person who already has a family member or friend serving as his or her payee.

SSA policy clearly ranks a spouse, parent, or other relative with custody or who shows concern above all other payee applicants, including governmental agencies and public or private institutions.⁹ SSA policy requires that if the SSA worker becomes aware of a potential payee candidate who is equal to or higher than the payee applicant on the preference list, the worker should contact the candidate higher on the list to find out if he or she wishes to apply to become payee, before the institutional or agency payee is appointed.

We believe this is a serious problem in some areas and that more oversight is required to ensure that SSA's policy is followed. The potential for intimidation and overreach by an institutional creditor creates a very serious imbalance that must be carefully addressed and monitored beyond looking merely at financial audits. We also recommend that SSA conduct a study, and provide opportunities

⁹ See 20 CFR, Sections 404.2021 and 416.621, and SSA Program Operations Manual Systems, GN 00502.105 Payee Preference Lists, <https://secure.ssa.gov/poms.nsf/lnx/0200502105>, accessed 03/11/2017.

for public input and comment, to review and reevaluate the orders of preference it uses to select a payee (20 C.F.R. §§ 404.2021 and 416.621).

b. Expand protection for restitution of misused benefits.

Prior to the Social Security Protection Act of 2004 (SSPA; P.L. 108-203), SSA provided restitution of misused benefits only where there was “negligent failure” by SSA to investigate or monitor a representative payee. The SSPA eliminated the “negligent failure” standard where misuse has occurred by any payee that is not an individual or is an individual who serves 15 or more beneficiaries. In these situations, SSA will repay the misused benefits to the person or the person’s alternative representative payee (42 U.S.C. 405(j)(5); 20 C.F.R. § 404.2041).

Unfortunately, the “negligent failure” standard remains in place for all other payees. This standard places an onerous burden of proof on the beneficiary that, in practical terms, makes it extremely difficult to obtain restitution from SSA. First, the beneficiary must prove SSA’s “negligent failure” to investigate. Under SSA’s policies, this means there must be a showing that SSA failed to follow established procedures for investigating payee applicants and monitoring payees. Second, the beneficiary must show a causal connection between SSA’s “negligent failure” and the payee’s misuse of benefits.

While we recognize the problems with SSA providing restitution to beneficiaries for misuse by individual payees serving fewer people, we believe that a beneficiary should not be penalized for a payee’s misuse of benefits. We recommend that Congress extend the protection by eliminating the “negligent failure” standard for all instances of misuse.

We also recommend that SSA formalize its procedures to assure uninterrupted continuation of benefits once a determination has been made to disqualify a payee. SSA’s regulations provide that “when we learn that your interest is not served by sending your benefit to your present representative payee...we will promptly stop sending your payment to the payee.” and go on to say, “We will then send your benefit payment to an alternate payee or directly to you, until we find a suitable payee.” (20 C.F.R. §§ 404.2050, 416.650). Under these regulations, SSA may only suspend payment if “we cannot find a suitable alternative representative payee before your next payment is due.” Unfortunately, in some cases beneficiaries have experienced extended payment interruptions when SSA has not yet identified an alternate payee. We recommend that SSA clarify its procedures to emphasize direct payment when the agency has not yet identified an alternate payee.

c. Distinguish “misuse” from “improper use”.

There is a difference between “misuse” and “improper use” of benefits. With “misuse,” benefits are not used for the benefit of the individual. In “improper use,” benefits are not used in necessarily the wisest manner but are still used for the benefit of the individual. “Improper use” should not trigger the penalties associated with “misuse.”

Existing regulations and SSA policies give payees a fair amount of discretion in determining the use of benefits so long as it is for “the use and benefit” of the beneficiary. This is defined as using the benefits for the individual’s “current maintenance,” i.e., food, clothing, shelter, medical care, and personal comfort items. To encourage individuals to serve as payees, they should be able to enter into that capacity knowing that their judgment will not be continually questioned, or subject to the penalties associated with misuse, while understanding that SSA has the duty to monitor their actions.

SSA currently defines “improper use” in its Program Operations Manual System (POMS; GN 00602.130.A) as follows:

Improper use means an unwise expenditure of Social Security and/or Supplemental Security Income benefits. Improper use of benefits occurs when a representative payee allocates benefits for the beneficiary but not in the best interests of the beneficiary.

SSA’s POMS goes on to instruct staff to talk with the payee about improper use, and if the payee is not willing or able to change, to develop a successor payee. SSA staff is not to seek restitution (GN 00602.130.B).

The CCD Social Security Task Force has recommended that SSA include a discussion of what is “improper use” in its regulations at 20 C.F.R. § 404.2040, which now explain what SSA considers to be proper use of benefits. It would be helpful if the regulations also provide examples of improper use. We also recommend that SSA should ensure that its training for agency staff highlights the difference between “misuse” and “improper use” and provides examples, and that training and educational materials for payees should similarly clarify this information.

5. Exploring Alternatives and Future Needs

a. Supported decision-making

Supported-decision making is an emerging model. It has been described by the American Bar Association (ABA) as a process in which people with disabilities are assisted in making decisions for themselves. The ABA explains that the person with a disability, “...is the decision maker, but is provided support from one or more persons who explain issues to the individual in a manner that he or she can understand. There is no one model of supported decision-making.”¹⁰

Support for these concepts is growing. In fact, the Uniform Law Commission Drafting Committee on a Revised Uniform Guardianship and Protective Proceedings Act is currently considering, among many other changes, language for the next revision that would recognize the role of and encourage the use of less restrictive alternatives than guardianship, including supported decision-making. Similarly, a 2016 report by the Institute of Medicine of the National Academies of Sciences, Engineering, and Medicine recommended that SSA implement “a demonstration project to evaluate the efficacy of a supervised direct payment option for qualified beneficiaries,” based on a model currently operated by the Department of Veterans Affairs.¹¹

SSA should explore the use of supported decision-making to ensure that the representative payee capability determination process and resulting appointments promote autonomy and financial independence to the greatest degree possible.

¹⁰ American Bar Association, *Beyond Guardianship: Supported Decision-Making by Individuals with Intellectual Disabilities*, A Short Summary from the 2012 National Roundtable. http://www.americanbar.org/content/dam/aba/administrative/mental_physical_disability/SDMRoundtable_Summary_authcheckdam.pdf.

¹¹ *Informing Social Security's Process for Financial Capability Determination*, Chapter 6: Conclusions and Recommendations, pg. 161. Available at: <https://www.nap.edu/catalog/21922/informing-social-securitys-process-for-financial-capability-determination>. As explained in the report, “The VA’s supervised direct payment option for individuals who are determined to be incompetent but able to manage benefits with supervision provides a model for such an approach. Instead of the VA’s appointing a fiduciary for such individuals, they receive their benefits directly but under the supervision of a Veterans Service Center Manager.”

The current payee program 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 people with disabilities and 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. With proper support, some beneficiaries who might otherwise require the appointment of a representative payee may be able to manage or direct the management of their benefits.

Even in situations where a representative payee has been appointed, supported decision-making can inform how the payee carries out his or her duties. Payees using a supported decision-making model may encourage the beneficiary to express their own preferences and values in their spending, provide occasions for the beneficiary to exercise their skills to improve financial competence, and offer opportunities for the beneficiary to make independent decisions, whenever possible.

We recommend that Congress appropriate new funding for SSA to implement a demonstration project to evaluate how supported decision-making can be developed as an alternative to appointment of a representative payee, and as a “best practice” for certain populations who have a payee. We believe that a demonstration is necessary to ensure that Congress and SSA can review efficacy, efficiency, and costs. SSA’s core mission rightly focuses on timely and accurate determination and payment of benefits. The CCD Social Security Task Force has long emphasized that this mission-critical work must take priority; a demonstration can help to evaluate the appropriate role for SSA.

b. Advance designation of representative payee preferences.

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.

SSA does not recognize a power of attorney as an acceptable document to give an agent the authority to manage a person’s monthly benefits. SSA only recognizes a representative payee who has been approved through the agency’s appointment process. However, SSA should develop a form to allow beneficiaries to express their preferences for whom they would want to serve as their representative payee while they have the capacity to do so.

When the beneficiary no longer has the capacity to manage or direct the management of their SSA benefits, the individual nominated on the form would present evidence of this lack of capacity to SSA. The agency would then make a determination following the process described in 20 C.F.R. §§ 404.2015 and 416.615 (Information considered in determining whether to make representative payments). Then, following an investigation into the person nominated by the beneficiary as provided for in 42 U.S.C. 405(j)(2) and 1383(a)(2), SSA would appoint a representative payee by following the beneficiary’s preferences as closely as possible.

6. Conclusion

In closing, thank you for the opportunity to testify on behalf of the undersigned members of the CCD Social Security Task Force. We thank the Subcommittees for your oversight of SSA’s representative payee program and for your interest in strengthening this system on behalf of people with disabilities and older adults. I look forward to answering any questions.