

# How Do I Get a Representative Payee for My Social Security Benefits?

## WHAT IS A REPRESENTATIVE PAYEE?

If you are unable to manage your Social Security or Supplemental Security Income (SSI) benefits (or if the Social Security Administration (SSA) thinks you can't) you will need someone to serve as your **representative payee** (often called a rep payee or payee). Your payee will be responsible for taking care of your benefits, and should be **someone who cares about you and whom you trust to handle your money**. You can get a payee in either of two ways: SSA can choose one for you or can let you choose one. You can choose almost any adult, with the following exceptions:

- You must not choose a person who provides a service to you for money (such as your doctor or your landlord) unless that person is a relative or is your legal guardian;
- You must not choose a person who has previously misused anyone's Social Security benefits, and
- You must not choose a person who has ever been found guilty of a crime against SSA.

The person you choose must provide proof of identity and a Social Security card to SSA. The person should also go with you to any interviews you have with SSA, if possible.

If you are unable to find a payee, SSA will give you a list of agencies that can serve as your payee. While you are reviewing the agencies on this list, SSA will keep paying your benefits directly to you while it determines whether or not you need a payee, **unless** SSA or a Court has found you either legally incompetent or if paying you directly would cause you a substantial harm (meaning it would cause physical or mental injury).

## WHAT MUST MY REPRESENTATIVE PAYEE DO?

Your payee is required by law to use your benefits to pay for your current needs, to satisfy past debts and, if possible, to save for future needs. He/she **must use your benefits** to pay **only for your needs**, such as food, shelter, clothing, medical care, and personal comfort items. SSA may ask your payee to provide a written account of how your money was spent. Your payee also is responsible for keeping SSA informed about other changes that may affect your eligibility for benefits.

## CAN I CHANGE MY REPRESENTATIVE PAYEE?

Yes, you can change your payee if you wish. If you decide to change your payee, you should notify SSA as soon as you make the decision. You will need to fill out an application form at your local Social Security office. The person you choose to replace your present payee must provide SSA with a letter indicating that he/she is willing to serve as your payee and must provide SSA with proof of his/her identity.

Once you've sent the application form and the new payee has sent the letter to SSA, the change in payee should take effect in about a month. You and your new payee should each receive a written notice of this before any benefits are paid to the new payee.

### **WHAT HAPPENS IF MY REPRESENTATIVE PAYEE MISUSES MY BENEFITS?**

If you believe that your payee is misusing your funds, call SSA's hotline **IMMEDIATELY** at **800-772-1213 (toll free)**. Explain why you think your benefits are being misused, **and ask to choose a new payee**. As soon as possible after you call, put your request for a new payee and your reasons for the change **in writing**.

Send or bring the letter asking for a new payee to your local Social Security office. **Get proof of your request** - send the letter by certified mail, return receipt requested, or get a receipt if you deliver it. SSA must investigate the matter and tell you in writing if it found any misuse. Depending on the facts, SSA may have to pay any misused benefits back to you.

### **WHAT IF I NO LONGER NEED A REPRESENTATIVE PAYEE?**

You have a right to get your check directly unless SSA determines that you cannot manage your funds properly. If you think you no longer need a representative payee, you must meet certain criteria:

**If you have a representative payee because of a physical or mental disability**, you must show SSA that you are now able to handle your money yourself. You could show this, for example, by providing an official copy of a Court order saying that the Court thinks you can handle your own money, a doctor's note that says that your condition has changed and that the doctor believes you can now handle your own money, or other evidence that you can handle your own money.

**Please Note:** If SSA considers this new information as evidence that your condition has improved, it may reevaluate your eligibility for SSI. **This could result in your losing your SSI benefits.**

**If you are under 18 and want to get your benefits directly**, you must show that you live independently outside your family's home and are responsible for daily decisions about your life. You may also show that you are a minor parent with a child or that you will be 18 within seven months and thus this is your first application for benefits.

### **WHAT IF I DISAGREE WITH SSA'S DECISION?**

You have a right to appeal several of the SSA's decisions:

- You may appeal SSA's determination that you need a payee;
- You may appeal SSA's decision to select a given payee for you;
- You may appeal SSA's denial of the person that you have chosen to be your payee, or
- You may appeal SSA's denial of your request to change your payee.
- You can also appeal SSA's failure to pay your benefits directly to you while it is investigating its decision that you need a payee or while you are following through on SSA's suggestions for a possible payee.

You must file your appeal on the proper form **no later than 60 days** after the date noted on the SSA notice that you disagree with, **UNLESS THE NOTICE STATES SOME OTHER TIME, such as 10 days or 30 days**. You can get an appeal form at your local Social Security office.

**Consult an attorney BEFORE you fill out the form**, if possible.

#### **WHO CAN I CONTACT IF I HAVE QUESTIONS?**

If you are a mental health consumer you may call MFY Legal Services, Inc.'s Mental Health Law Project at 212-417-3830 on Monday, Tuesday, and Thursday from 10:00 a.m. to 5:00 p.m. You may also call MFY Legal Services, Inc.'s Government Benefits Project at 212-417-3732 on Mondays from 10:00 a.m. to 12:00 p.m.

**DISCLAIMER: This fact sheet gives general information  
for NYC residents; it is NOT legal advice.**