



A program of the Law Foundation of Silicon Valley

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Representative Payee

What are representative payee services?

Representative payee (rep. payee) services are provided by a person or organization that has the responsibility of using your Social Security or Supplemental Security Income (SSI) benefits to pay for your personal care. You may be required to obtain a rep. payee by the Social Security Administration (SSA) only if SSA determines that at this time you are not mentally and/or physically capable of managing your own benefits. Instead, your rep. payee directly receives your benefits from SSA.¹ Representative payee services remain in place until you apply to have the services removed. You will likely need a statement from a doctor stating the services are no longer needed to have them removed.

How will my benefits be used?

The rep. payee must pay for your daily basic needs, specifically food, shelter, clothing, medical care, and personal comfort items.² For example, your rep. payee should pay your rent directly to your landlord every month. If your daily needs are being met, the rep. payee has an obligation to save or invest your payments on your behalf.³

What if I have old bills?

Because your rep. payee has an obligation to pay for your current food, clothing, and shelter first, your rep. payee should not pay an old creditor (like a credit card company or former landlord) because those debts are not for your current food, clothing, and shelter.

Who can be my representative payee?

Your rep. payee may be a legal guardian; a relative or friend who demonstrates strong concern for your personal welfare; a public, non-profit, or private agency or organization; or a volunteer who is qualified to carry out the responsibilities and is willing and able to serve as a payee.⁴ SSA is more likely to approve someone who knows you and wants to help you. If you are living with someone who helps you, SSA will usually approve that person to be your rep. payee.⁵

Who is responsible for finding me a representative payee?

You. Unfortunately, if Social Security requires you to have a rep. payee, you must find one or your benefits may be delayed. Please contact MHAP if Social Security is holding your money because you cannot find a rep. payee.

¹ 20 C.F.R. §416.601

² 20 C.F.R. §416.640(a)

³ 20 C.F.R. §416.645(a)

⁴ 20 C.F.R. §416.621(a)

⁵ 20 C.F.R. §416.621

What are the responsibilities of my representative payee?

Your rep. payee is responsible for making sure that SSA is aware of any event that could change the amount of, or your right to receive, benefits.⁶ For example, if you are incarcerated or become homeless, your rep. payee should promptly notify Social Security. Your rep. payee must keep records that show how much money you received and how the money was used. If SSA asks, your rep. payee must give a written account of how your money is spent.⁷

What if I don't agree with how my representative payee is using my money?

You should first consider writing your rep. payee a letter asking for clarification regarding the use of your money. Keep a copy of this letter. If the rep. payee works for an organization, you may want to contact the rep. payee's supervisor.

You can also call MHAP to discuss the issue further.

What if I think my representative payee is misusing my benefits?

You can call MHAP or notify SSA immediately if you think that your rep. payee is misusing your benefits. If misuse is found, SSA may appoint you a new rep. payee and then initiate action to recover the misused funds.⁸

Does my representative payee get to make a decision about where I live?

No. Your rep. payee is in charge of handling your money and ensuring that your money is spent for your current food, clothing, and shelter. If you have a conservator, that person may be able to make decisions about where you live, but a general rep. payee does not have that power.⁹ If you are conserved and want more information, MHAP has an information sheet entitled *LPS Conservatorships*.

What if I don't want a representative payee?

Rep. payee services may be *involuntary*; rep. payee services may be required by Social Security even if you do not want them. If you have a rep. payee now and you do not think you need one, MHAP has an information packet entitled *How to Become Your Own Payee* that can guide you on what steps you need to take to become your own payee.

Please call MHAP intake at (800) 248-6427 extension 420 for further questions.

DISCLAIMER: This fact sheet is intended to provide accurate, general information regarding legal rights. It does not constitute legal advice. Because laws and legal procedures are subject to frequent change and differing interpretations, the Mental Health Advocacy Project cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular case or situation.

⁶ 20 C.F.R. §416.635(b)

⁷ 20 C.F.R. §416.635

⁸ 20 C.F.R. §416.650

⁹ CAL. WELF. & INST. CODE §5325.1