SOCIAL SECURITY ADMINISTRATION
SOCIAL SECURITY
The Commissioner

December 10, 2020

The Honorable Richard E. Neal
Chair, Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Committee Chair Neal:

Section 102 of the *Strengthening Protections for Social Security Beneficiaries Act of 2018* (Public Law 115-165) exempts certain types of representative payees from having to annually account for how they used the benefits they received. Pursuant to Section 105 of that law, enclosed is our report on the effect this exemption has had on families, beneficiaries, and the Social Security Administration.

I hope this information is helpful. If you have any questions, please contact me or have your staff contact Eric Skidmore, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

I am also sending this report to the Chair of the Senate Committee on Finance.

Sincerely,

Andrew Saul
Commissioner

Enclosure

cc: The Honorable Kevin Brady

SOCIAL SECURITY
The Commissioner

December 10, 2020

The Honorable Charles E. Grassley
Chair, Committee on Finance
U.S. Senate
Washington, DC 20510

Dear Committee Chair Grassley:

Section 102 of the *Strengthening Protections for Social Security Beneficiaries Act of 2018* (Public Law 115-165) exempts certain types of representative payees from having to annually account for how they used the benefits they received. Pursuant to Section 105 of that law, enclosed is our report on the effect this exemption has had on families, beneficiaries, and the Social Security Administration.

I hope this information is helpful. If you have any questions, please contact me or have your staff contact Eric Skidmore, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

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cc:
The Honorable Ron Wyden

Strengthening Protections for Social Security Beneficiaries Act of 2018, Pub. L. 115-165

Section 102: Reducing the Burden on Families Report to Congress

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Executive Summary

On April 13, 2018, the President signed the *Strengthening Protections for Social Security Beneficiaries Act of 2018*, Public Law 115-165 (SPSSBA). This law made a number of changes to the Social Security Act (Act) to improve and strengthen the representative payee (payee) program for Old Age, Survivors, and Disability Insurance (OASDI), Supplemental Security Income (SSI), and Special Benefits for Certain World War II Veterans (SVB) beneficiaries.

Section 102 of the SPSSBA exempts certain payees from the requirement that they account for how they have used the benefits that they received. Specifically, the exemption applies to the following payees:

- A natural or adoptive parent of a minor child entitled to Title II benefits and/or eligible for Title XVI payments who primarily resides in the same household as the beneficiary;
- A legal guardian of a minor child entitled to Title II benefits and/or eligible for Title XVI payments who primarily resides in the same household as the beneficiary;
- A natural or adoptive parent of a disabled individual (as defined in section 223(d) of the Act) entitled to Title II benefits and/or eligible for Title XVI payments who primarily resides in the same household as the beneficiary; or
- The spouse of an individual entitled to Title II benefits and/or eligible for Title VIII or Title XVI payments.

When we determine a beneficiary is unable to manage, or direct the management of, benefits, we appoint a payee to manage the benefits on the beneficiary's behalf. We require payees to keep records of how they used the benefits so that they are able to provide us an accounting upon request. One of the ways we conduct oversight of payees' fiduciary performance is through our accounting process. The accounting process requires payees to complete an accounting report to account for the benefit payments received.

Section 105 of the SPSSBA requires us to provide a report on the impact changes made by Section 102 have on families, beneficiaries, and the operations of the Social Security Administration (SSA). We reviewed data from fiscal year (FY) 2017, the final full year before the exemption, through FY 2019, the first full year after implementation of the exemption to determine the impact the exemption has on families and our agency's operations. We found the number of accounting reports mailed to payees for completion declined. We estimate that this reduction resulted in time savings for payees and saved the agency printing and postage costs for the mailings.

In FY 2019, we processed about 65 percent fewer accounting reports than we processed in FY 2017, and we saw a decrease of about 61 percent in the number of cases requiring follow-up actions. As a result, the total workyears (WY) required to process accounting reports and complete follow-up actions decreased by about 62 percent.

Background

Representative Payee Overview

Old Age, Survivors, and Disability Insurance (OASDI), Supplemental Security Income (SSI), and Special Benefits for Certain World War II Veterans (SVB) benefits provide an important lifeline for millions of elderly and disabled individuals, survivors of deceased workers, and young children. In 1939, Congress recognized that some beneficiaries are incapable of managing their benefits, and it authorized SSA to appoint a payee to receive and manage benefits on behalf of those beneficiaries.[1,2] A payee uses the beneficiary's benefits to meet the beneficiary's current or foreseeable needs, such as food, clothing, shelter, medical care, and personal comfort items. After meeting these needs, the payee must conserve or invest any remaining funds for the beneficiary's future use.

We have approximately 5.7 million payees managing $70.9 billion in annual benefits for 8 million beneficiaries. Fifty-two percent of the beneficiaries with payees are minor children. Family members, primarily parents or spouses, serve 84.8 percent of the beneficiaries who have payees. Of the nearly 6 million payees, 32,538 (less than one percent) are organizational payees serving approximately 918,000 beneficiaries. Among the 32,538 organizational payees, 1,316 are fee-for-service (FFS) payees, which are organizational payees that we authorize to collect a fee as payment for providing payee services. FFS payees serve approximately 211,000 beneficiaries.[3]

Strengthening Protections for Social Security Beneficiaries Act of 2018: Section 102 – Reducing the Burden on Families

As part of our oversight of payees, we require most payees to provide us an annual written accounting report. Specifically, we require the payee to report:

- Where the beneficiary lived during the accounting period;
- Who made the decisions on how benefits were spent or saved;
- How benefit payments were used;
- How much of the benefit payments were saved; and
- How the savings were invested.

The Social Security Subcommittee of the Committee of Ways and Means observed that the accounting requirement is a burden on some families and offers limited value as an oversight tool to the agency at a high administrative cost. To relieve families of the burdens of the

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[1] Social Security Act Amendments of 1939 (ch. 666, § 205(j), 53 Stat. 1360, 1371).
[2] We use the terms "beneficiary" or "beneficiaries" in this report to generally refer to both OASDI and SVB beneficiaries, as well as SSI recipients. The term "benefits" in this report refers to Title II, Title VIII, and Title XVI payments.
[3] Figures taken from the Social Security Annual Report on the Results of Periodic Representative Payee Site Reviews and Other Reviews, FY 2019.

accounting requirement, Section 102 of the Strengthening Protections for Social Security Beneficiaries Act of 2018, Public Law 115-165 (SPBSSA) exempts custodial parents of minor children and disabled individuals who primarily reside in the same household, legal guardians of children who primarily reside in the same household, and spouses.[4]

Determining Capability and Selecting a Payee

We appoint a payee to serve any beneficiary whom we have determined to be incapable of managing, or directing the management of, benefits. We presume a legally competent adult beneficiary is capable of managing, or directing someone else to manage, benefits, unless there are indicators or evidence to the contrary.[5] If we suspect or receive information that an adult beneficiary has a mental or physical condition preventing the beneficiary from managing, or directing someone else to manage, benefits, we make a capability determination based on legal, medical, and lay evidence.[6] We generally presume minor children to be incapable.[7] If a court order establishes that the beneficiary is legally incompetent, the beneficiary must receive benefits through a payee and no other capability development is necessary.

After reviewing all evidence, if we determine that a beneficiary is unable to manage benefits, or direct the management of benefits, we develop for and select a payee that shows concern for and will best serve the interest of the beneficiary. In many cases, the payee is a spouse, a parent, or other close relative or individual who will act in the beneficiary's best interest. However, if such a person is unavailable or is unsuitable, then we may choose an organization to serve as payee.[8],[9] In deciding whether to select an organization, we consider the same factors we use for individual payee applicants (for example, the potential payee's relationship and proximity to the beneficiary), as well as factors specific to organizations, such as whether it has adequate staffing and sound financial management policies. [10]

Payee Oversight

We monitor payees through our site reviews and accounting process to ensure payees continue to meet our qualifications and appropriately manage benefits on behalf of the beneficiary. Our oversight activities also help deter misuse of benefits.

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[4] Legislative History and Technical Explanation of H.R. 4547, the Strengthening Protections for Social Security Beneficiaries Act of 2018.
[5] 20 C.F.R. §§ 404.2001, 416.601, and POMS GN 00502.001 define capability as a beneficiary's ability to manage or direct the management of Social Security benefits.
[6] 20 C.F.R. §§ 404.2015, 416.615, and POMS GN 00502.020 defines our capability evaluation criteria.
[7] 20 C.F.R. §§ 404.2010(b), 416.610(b), and POMS GN 00502.070 provide exceptions for directly paying legally emancipated children or children between ages 15-17.
[8] An "organizational payee" is any payee that is an entity, rather than an individual. Examples include nursing homes, social service agencies, and private, non-profit organizations.
[9] For certain beneficiaries who have a substance abuse condition, we prefer selecting certain types of organizational payees over an individual payee. Please see our order of preference lists in GN 00502.105.
[10] POMS GN 00502.130 describes the factors we consider in evaluating individual and organizational payee applicants.

We conduct site reviews through grants with the State Protection and Advocacy agencies. All site reviews include a face-to-face meeting with the payee, an examination of the payees' financial records and supporting documentation as well as beneficiary interviews. Site reviews help ensure that payees carry out their duties and responsibilities in compliance with our policies and procedures. We use information gathered from site reviews to investigate any indications of a payee's misuse of funds or poor performance and take appropriate actions to protect the beneficiary's best interests.

Payee Accounting Process

In addition to the site review process, we conduct oversight of payees' fiduciary performance using the accounting process.

Annual Accounting

The 1984 *Jordan v. Schweiker* case required payees to account at least annually for their use of benefits.[11] This requirement covered all payees except for certain state institutions that participate in our onsite review program. To comply with the *Jordan* court order, we require most payees to provide an annual written accounting report to verify how the payee used the benefits. Non-exempt payees are also subject to this requirement. Specifically, we require the payee to report where the beneficiary lived during the accounting period, who made the decisions on how benefits were spent or saved, how benefit payments were used, how much of the benefit payments were saved, and how the savings were invested.[12]

Final Accounting

We also require certain payees to complete a final accounting report when their service as payee ends. The information we require of payees during the final accounting mirrors that of the annual accounting. We use specific selection criteria to identify payees who must complete a final accounting. The criteria depends on whether the beneficiary the payee serves receives Title II benefits, Title XVI payments, or both. When we terminate a payee serving a Title II beneficiary, an automated system selects cases for final accounting based on specific criteria. The criteria may include the length of time that the payee served, the amount of conserved funds reported, the relationship of the payee to the beneficiary, or the beneficiary's continued receipt of benefits.[13] When we terminate a payee serving a Title XVI recipient or a concurrent beneficiary, field office technicians manually identify cases for final accounting. Generally, we select these cases based on the former payee's length of service.[14]

Accounting Report

To complete the annual or final accounting, payees use the Representative Payee Report (accounting report). The accounting report requires payees to report how much money they saved over the 12-month report period and summarize expenditures in two broad categories

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[11] *Jordan v. Schweiker*, No. CIV-79-994-W (W.D. Okla. Mar. 17, 1983) and subsequent court proceedings.
[12] POMS GN 00605.001 – .385
[13] POMS GN 00605.250
[14] POMS GN 00605.352

(food and housing, and other spending on the beneficiary). There are various versions of the accounting report depending on the type of payee. For example, organizational payees use Form SSA-6234 *Representative Payee Report*.

We send an accounting report to all payees who are required to complete the report if any benefits were paid during the report period. In addition to completing a paper accounting report by mail, payees have the option to complete the accounting report electronically using the Internet Representative Payee Accounting and the My Representative Payee Accounting (myRPA).[15]

We review responses to the accounting report to monitor how payees spend or save benefits on behalf of beneficiaries, identify situations where representative payment may no longer be appropriate, or determine if a payee is no longer suitable. Reponses on the accounting report are indicators about the payee's performance that may require the need for re-contact with and reevaluation of the payee. In certain instances, a face-to-face interview is necessary. We require this when:

- The payee's responses on the accounting report indicate improper use of benefits;
- There is a change in custody; or,
- The payee fails to complete the accounting report after two requests.

If a payee does not respond to our requests for an accounting report, we make all reasonable attempts to contact the payee. Once we make contact, we advise the payee of the importance of the annual accounting, secure a completed accounting report, and determine if the payee remains suitable or if we should find a new payee or pay the beneficiary directly. We immediately investigate any indications of a payee's misuse of funds or poor performance and take all appropriate actions to protect the beneficiary's best interests. If we are unable to make contact with the payee, we will consider a change of payee.[16]

Implementation of Section 102

Section 102 of the SPSSBA provides an exemption for certain payees from the requirement to account annually for how the payee used the benefits.[17] Effective upon enactment, Section 102 exempts the following payees from the accounting requirement:

- A natural or adoptive parent of a minor child entitled to Title II benefits and/or eligible for Title XVI payments who primarily resides in the same household as the beneficiary;
- A legal guardian of a minor child entitled to Title II benefits and/or eligible for Title XVI payments who primarily resides in the same household as the beneficiary;

[15] myRPA is only available to individual payees. It is not available to organizational payees.
[16] POMS GN 00605.085
[17] Exempt payees must still provide an accounting report if SSA requests one.

- A natural or adoptive parent of a disabled individual (as defined in section 223(d) of the Social Security Act) entitled to Title II benefits and/or eligible for Title XVI payments who primarily resides in the same household as the beneficiary; or,
- The spouse of an individual entitled to Title II benefits and/or eligible for Title VIII or Title XVI payments.

To implement the accounting exemption, we sought relief from the *Jordan* court order that mandates the annual accounting requirement. On May 17, 2018, the U.S. District Court for the Western District of Oklahoma granted partial relief from the order, allowing us to move forward with implementation. On June 3, 2018, we closed out all pending accounting actions for exempted payees. On June 22, 2018, we stopped mailing annual and final accounting reports to exempted payees for Title II beneficiaries. On July 6, 2018, we stopped mailing annual and final accounting reports for Title XVI/concurrent beneficiaries.

In August 2018, we sent a Dear Colleague Letter to approximately 5,000 advocates. The Dear Colleague Letter informed recipients of the enactment of the SPSSBA and the accounting exemptions in Section 102. On October 16, 2018, we completed the mailing of 5.2 million one-time notices to exempt payees. The notice explained the change exempting certain payees from the accounting requirement and reiterated the reporting responsibilities that we require of all payees, including those payees exempt from accounting.

We published new sub-regulatory guidance, for our technicians, on the payees exempted from the accounting requirement. We published temporary instructions on May 25, 2018 and permanent guidance in our Program Operations Manual System (POMS) on March 13, 2019.[18] On March 30, 2019, we implemented system changes that automatically exempts payees from the accounting requirement if they meet the exemption criteria and that imposes the accounting requirement if they no longer meet the criteria. Lastly, we updated our Form SSA-6233 *Representative Payee Report of Benefits and Dedicated Accounts* to include instructions for exempted payees on how to complete the form.[19]

Impacts of the Section 102 Accounting Exemption

We examined what effect the exemption of the accounting requirement has on payees and on the agency. Between FYs 2017 and 2019, the exemption reduced burdens of the accounting workload significantly for both payees and the agency. We implemented the exemption during FY 2018; as a result, the figures for FY 2018 reflect a notable but less significant reduction

[18] POMS GN 005.2085

[19] Payees complete the SSA-6233 when they manage benefits in a "dedicated account," a separate account that a payee of a disabled child must establish to receive large, past-due SSI benefits. Payees may only use the benefits in these accounts for specific expenses, such as medical or educational expenses. The form includes questions on how the payee managed both the monthly benefits and the dedicated account. Exempt payees are not required to complete the questions related to the monthly benefits, but they must still complete the questions concerning the dedicated account.

consistent with implementation midway through the year. We discuss the FY 2018 figures in the data tables.

In FY 2019, there were approximately 5.7 million payees serving 8 million beneficiaries. Spouses and parents of minor children served as payee for approximately 51 percent of beneficiaries with a payee. Parents of adult children served as payee for approximately 15 percent of beneficiaries with a payee. Other relatives, such as children and grandparents, served as payee for nearly 20 percent of beneficiaries with a payee. Approximately 10 percent of beneficiaries with a payee had an organizational payee, such as an institution or a social service agency. Accordingly, Section 102 exempted the payees of a majority of our beneficiaries from our accounting requirements.

We compared data from FYs 2017 and 2019 on various aspects of the payee accounting workload to examine the reductions in burdens on both payees and the agency at every stage of the process. Because of the exemption, we mailed fewer accounting reports. In FY 2019, we mailed approximately 3 million accounting reports to payees for completion. This was approximately 5.7 million fewer accounting reports than in FY 2017, a decrease of about 64 percent.[20]

Table 1: Accounting Mailings[21]				
	FY 2017	**FY 2018**	**FY 2019**	**Change FY17 to FY19**
Accounting Mailings - All	**8,881,211**	**6,538,507**	**3,162,864**	**-5,718,347 (-64.4%)**
Annual Accounting Mailings	8,819,649	6,483,646	3,124,093	-5,695,556 (-64.6%)
Initial Annual Accounting Mailings	6,605,194	5,133,376	2,416,641	-4,188,753 (-63.4%)
Second Annual Accounting Mailings	2,214,455	1,350,270	707,452	-1,507,003 (-68.1%)
Final Accounting Mailings	61,562	54,861	38,771	-22,791 (-37.0%)

We estimate that completing the accounting report takes a payee 15 minutes on average. Accordingly, we estimate that the reduction in accounting forms resulted in time savings of over one million total hours collectively among all payees.

We also realized a savings from the reduction in the number of mailings of the accounting reports. We contract with a vendor to print and mail most accounting reports to payees. In FY 2019, we spent approximately $2.8 million less on printing and mailing costs than we did in FY 2017. This represents a savings of about 62 percent from the amount spent in FY 2017.

Table 2: Accounting Mailing Costs – Printing and Postage				
	FY 2017	**FY 2018**	**FY 2019**	**Change FY17 to FY19**
Accounting Mailing Costs	**$4,596,602**	**$3,724,195**	**$1,753,102**	**-$2,843,500 (-61.9%)**
Annual Accounting Mailing Costs	$4,547,808	$3,691,296	$1,727,802	-$2,820,006 (-62.0%)
Final Accounting Mailing Costs	$48,794	$32,899	$25,300	-$23,494 (-48.1%)

[20] Some exempt payees will still receive an SSA-6233 *Representative Payee Report of Benefits and Dedicated Accounts*. See footnote 16. We mail approximately 30,000 SSA-6233s each year.

[21] In the tables in this report, the rows in bold font represent totals of the rows below them, up to the next row in bold font, if applicable. In addition, rows that have indented rows below them represent totals of those indented rows.

We found no indication that the accounting exemption had any negative impact on the misuse of beneficiaries' funds. The approximate rate of misuse following implementation of the exemption remains unchanged from the approximate rate of misuse preceding the exemption.[22] This suggests that the exemption neither encouraged additional misuse of benefits nor hindered our abilities to detect misuse when it occurs.

The exemption also reduced our workloads related to processing the completed accounting reports. Representative payees fill out the majority of reports, and our Wilkes-Barre Direct Operation Center (WBDOC) scans and processes these reports automatically. However, when a report is missing information or an answer requires clarification, a local field office follows up with the payee. We call these "exception cases." In addition, when a payee fails to return an accounting report, we follow up with the payee and take additional actions if needed, such as redirecting benefits, conducting a face-to-face interview with the payee, or reevaluating the payee's suitability. We call these "non-responder cases."

In FY 2019, we had 2.6 million fewer accounting reports to process automatically than in FY 2017, a decrease of almost 65 percent. We also had 1.5 million fewer exception and non-responder cases in FY 2019 than we did in FY 2017, a decrease of about 61 percent.

Table 3: Accounting Report Processing Volumes

	FY 2017	FY 2018	FY 2019	Change FY17 to FY19
Accounting Reports Processed - Automated	**4,027,851**	**2,286,259**	**1,424,050**	**-2,603,801 (-64.6%)**
Annual Accounting Reports Processed	4,020,733	2,280,095	1,419,191	-2,601,542 (-64.7%)
Final Accounting Reports Processed	7,118	6,164	4,859	-2,259 (-31.8%)
Exceptions and Non-Responder Cases	**2,513,431**	**1,293,346**	**975,559**	**1,537,872 (-61.2%)**
Exception Cases	1,333,449	842,168	627,075	-706,374 (-53.0%)
Non-Responder Cases	1,179,982	451,178	348,484	-831,498 (-70.5%)

The reduction in the number of accounting reports processed and in the number of exception and non-responder cases resulted in significant workyear (WY)[23] savings for the agency. For FY 2019, we estimate that it took on average 1.52 minutes to process each automatically-processed accounting report, and it took about 35.54 on average to complete each exception case or non-responder case.[24] Accordingly, compared to FY 17, the total WYs needed to process automated reports and exception and non-responder cases in FY 2019 decreased by about 62 percent.

[22] The number of allegations that an individual payee misused benefits and the number of determinations that found that an individual payee misused benefits remained stable between 2017 and 2019.
[23] A WY is a standardized unit for measurement of government personnel effort and costs. A WY is the equivalent of 2,080 work hours (40 hours-per-week times 52 weeks).
[24] The average task time for completing exception and non-responder cases increased from 27.29 minutes per case in FY 2017 to 35.54 minutes per case in FY 2019. We attribute this increase to the exemption. Exempt payees formerly accounted for many of the simpler exception and non-responder cases, and they could be resolved relatively quickly. With the exempt payees no longer submitting reports, a greater share of exception and non-responder cases are complex and require more time to resolve.

Table 4: Workyear Estimates for Processing Accounting Reports				
	FY 2017	FY 2018	FY 2019	Change FY17 to FY19
WYs to Process Accounting Reports	**45.53**	**21.52**	**17.38**	**-28.15 (-61.8%)**
WYs to Process Annual Accounting Reports	45.45	21.46	17.32	-28.13 (-61.9%)
WYs to Process Final Accounting Reports	0.08	0.06	0.06	-0.02 (-25.0%)
WYs to Process Exceptions and Non-Responders	**535.9**	**275.07**	**205.15**	**-330.75 (-61.7%)**
WYs to Resolve Exceptions	287.4	186.05	146.79	-140.61 (-48.9%)
WYs to Follow-up with Non-Responders	248.5	89.02	58.36	-190.14 (-76.5%)

Conclusion

We appreciate the opportunity to provide Congress this report on the impact the changes made by Section 102 has on families, beneficiaries, and SSA's operations. Our experiences with administering the accounting requirement following implementation of the exemption demonstrates that Section 102 substantially reduced the burdens of this workload on both payees and the agency. The accounting exemption relieved millions of payees of the burdens of completing accounting reports. In addition, the agency saw significant savings on the costs for printing, mailing, and processing of such reports. We look forward to our continued collaboration in achieving our shared goal of making the payee program as effective and efficient as possible.