



FROM THE DESK OF

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Acting for Impaired Railroad Retirement Annuitants

Railroad Retirement Board (RRB) policy states that every railroad retirement annuitant has the right to manage their own benefit payments. However, when an annuitant cannot do so because of physical or mental impairment, or if the RRB determines that the annuitant's interests require it, the agency can appoint a person or an organization to receive railroad retirement benefit payments on the annuitant's behalf as a representative payee.

The following questions and answers provide information about a representative payee's responsibilities and other related topics for potential appointees.

1. Does the RRB have legal authority to appoint a representative payee for an annuitant?

Yes. The Railroad Retirement Act (RRA) authorizes the RRB to determine whether direct payment of benefits or payment to a representative payee will best serve an annuitant's interests. The RRB can appoint a representative payee regardless of whether there has been a legal finding of incompetence or commitment and, depending on the circumstances, the agency can select someone other than the individual's legal representative to be the representative payee.

2. Is acting as a representative payee the same thing as having power of attorney?

No. Power of attorney is a legal instrument by which someone grants another person the authority to act on their behalf, among other duties. Unlike selecting a representative payee, the power of attorney process usually does not involve determining an individual's capacity to manage their own financial assets or give the person selected to have power of attorney the right to manage those assets.

3. Does the RRB recognize power of attorney?

No. The RRB does not recognize power of attorney because the RRA gives the agency the **sole authority and responsibility** to determine whether appointing a representative payee is in the annuitant's best interests. The Act also authorizes the agency to select the payee.

If the RRB recognized power of attorney, the agency would be transferring its responsibility to serve an annuitant's best interests to someone outside the agency who could make detrimental decisions related to the annuitant's welfare. Consequently, even if someone has power of attorney for an RRB annuitant, they still must apply to serve as the annuitant's representative payee, be interviewed by the appropriate agency staff, and be approved by the RRB before being appointed to act as such.

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In addition, it is important to be aware that the U.S. Treasury Department does not recognize power of attorney for negotiating federal payments.

4. How are representative payees selected?

When the RRB receives information that an annuitant may lack the physical or mental capacity to manage their monthly annuity payments, it investigates whether appointment of a representative payee is in the annuitant's best interests. Responsibility for these determinations generally rests with the agency's Bureau of Field Service (BFS). BFS employees develop and evaluate background information about the annuitant that is provided by their personal physician(s), family, and friends. Some possible indicators of the necessity for a representative payee are unhealthy living conditions, family member concerns, and undeliverable mail. If it is decided that a representative payee is needed, potential payees are interviewed to determine their suitability to serve in that role, with the selectee being advised of their duties. The RRB also monitors the selectee to determine if the annuitant's needs are being met, investigates allegations of misuse of funds, and changes the payment method or payee, when appropriate.

An annuitant is provided with 15 days advance notice of the decision to appoint a representative payee, along with the payee's name, to allow the annuitant time to contest the appointment.

5. What are a representative payee's primary duties and responsibilities?

A representative payee must first attend to the annuitant's daily needs, including paying for food, shelter, clothing, medical care, and miscellaneous personal needs. Beyond these needs, railroad retirement benefit payments may be used for other expenses.

A payee also is responsible for promptly reporting events to the RRB that affect the individual's eligibility for an annuity or the amount of that annuity, such as if the beneficiary marries or an application for social security benefits is filed for the beneficiary on any person's earnings record.

A payee is required to account for the funds received on behalf of the annuitant as well. Periodically, a payee will be asked to complete a questionnaire explaining how annuity payments were used during the year - specifically, what portion of the annuity was spent to support the annuitant's needs, how much was saved, and how those savings were invested. To complete the questionnaire correctly, a payee must keep current records of the benefit payments received and their use. The records should be retained for four years.

In addition, since railroad retirement benefits are subject to federal income tax, a payee is responsible for providing the annual benefit information statements issued by the RRB to the person handling the annuitant's tax matters.

6. What are a representative payee's primary responsibilities for an annuitant's Medicare coverage?

When an annuitant requires Medicare-covered medical services, the payee must have the annuitant's Medicare card available. The payee also must keep records of the services received and the expenses incurred or paid.

7. What if an annuitant is in a hospital or nursing home?

If an annuitant is confined to a hospital, nursing home, or other institution, their railroad retirement benefit payments should be used to pay for their current maintenance. Current maintenance includes the institution's usual charges for providing care and services.

The representative payee should use the benefit payments to assist the annuitant's possible recovery or release from the institution, or to improve their living conditions while confined. For payments, payments may be used to provide clothing, personal grooming supplies, transportation of relatives to visit the patient, trial visits to relatives' residences or other places where the patient may recover, medical and dental care, reading materials, and hobby supplies.

8. How should a representative payee handle railroad retirement benefit payments not immediately required to meet an annuitant's needs?

Benefit payments not needed in the near future must be saved or invested unless needed to support the annuitant's legally-dependent spouse or child, or to pay creditors under certain circumstances. It is recommended that conserved funds be held in interest-bearing accounts. Preferred investments are federally-insured or state-insured accounts at financial institutions and obligations of, or those backed by, the federal government, such as U.S. Savings Bonds.

Funds should not be kept at home, where they may be lost or stolen, nor can they be mingled with the representative payee's own funds or other funds.

9. How can a person get more information about being appointed as a representative payee, or whether using railroad retirement benefit payments for a particular purpose would be proper?

More information is available by visiting the RRB's website, **RRB.gov**, clicking on **FAQ** and then selecting **Representative Payee**, or by calling an RRB office toll-free at 1-877-772-5772. RRB field offices also offer in-person service. While persons seeking in-office assistance are encouraged to schedule an appointment with their local field office by calling the agency's toll-free number, those without appointments will not be refused service. However, they may be asked to schedule an appointment for a later time if there is no immediate availability. Individuals should bring a photo ID when visiting a field office. Office addresses can be found by visiting **RRB.gov** and clicking on **Field Office Locator** or by calling 1-877-772-5772. RRB field offices are generally open Monday through Friday from 9:00 a.m. to 3:00 p.m., except for federal holidays. Individuals can also send a secure message to their local RRB field office by accessing **Field Office Locator** and clicking on the link at the bottom of their local office's page.