

5.10.1 Competency

Under the Railroad Retirement Act (RRA), any individual entitled to, or receiving, RRA benefits is presumed to be competent until information to the contrary is received. If a court has ruled that a beneficiary is incompetent or he has a legal guardian (conservator for his estate), incompetency may be inferred. Otherwise, incompetency must be based on a physical or mental impairment which prevents the beneficiary from using the money to meet his own or his family's basic maintenance needs. Medical evidence, or the conclusions of a mental institution or social agency based on medical evidence, is necessary.

5.10.2 Alleged Incompetency

- A. Payments Not in Force - Do not begin payments to an alleged incompetent without resolving the question of competency.
- B. Payments in Force
 - 1. If the alleged incompetent resides in a field office area, the field is responsible for determining if annuity payments should continue while investigating the need for a representative payee. If the allegation of incompetency is received at headquarters, contact the appropriate field office and request the field investigate to determine: If a representative payee appointment is necessary; and if the individual is receiving the proceeds of his checks.

If the field determines that the annuitant is receiving the proceeds of the checks, annuity payments can continue to go out as usual. If the field determines that the annuitant is not receiving the proceeds of his checks, the field office will suspend benefit payments until the representative payee investigation is completed.
 - 2. If the alleged incompetent resides outside a field office area, refer the case to the Chicago F/O for the representative payee investigation and payment suspension determination.

Even when there is no court-appointed guardian or court order declaring the annuitant incompetent, RRB may, in its discretion, select a representative payee to act on behalf of a person if RRB finds that the person is an incompetent or a minor and that such actions or transactions are in his best interest. RRB will deem a person incompetent if he cannot manage benefit payments in his own interest. A finding of incompetency as of a particular date (by the field is conclusive of incompetency only as of that date.

- C. Medicare Only Entitlements - See RCM 3.2.165 for handling instructions of alleged incompetency in Medicare only entitlement cases.

5.10.3 Types of Representative Payees

1. Court Appointed (code 1)

A court appointed representative payee has been named by a court to be the guardian of an annuitant based on a court order declaring the annuitant incompetent, (with the RRB finding these rulings satisfactory).

2. RRB Appointed (code 2)

An RRB appointed representative payee has been appointed by the RRB independent of any court proceedings and is based on the RRB's findings of the annuitant's incompetency.

3. Parent for Child (code 3)

To protect the interest of minor children, the RRB will appoint a representative payee, preferably the natural or adoptive parent, for children receiving RRB benefits. See sections 5.10.60-62.

5.10.4 Definitions

The following are definitions of common representative payee terms.

1. Guardian - any type of legal representative appointed by a court of proper jurisdiction and vested with the care of the person or estate of an incompetent or a minor.
2. Statutory Committee - a public official or agency empowered by legislation to act on behalf of a person incapable of handling his own affairs. This arrangement is common in Canada and some states, such as Connecticut.
3. Custodian - an individual entrusted with immediate charge and control of an annuitant, usually involving a "living with" arrangement.
4. Legal Representative - a party appointed by a state court to manage the affairs of an individual who is not able to do so (the individual may or may not be legally incompetent).
5. Conservator - a third party appointed by an individual through a state court to manage that person's assets (without a finding of legal incompetence).

5.10.5 Representative Payee Qualifications

RRB will select as representative payee the person best able to act for the beneficiary from among those interested in his welfare.

- A. Factors Considered in Payee Selection - The annuitant's welfare is the controlling factor in the representative payee selection. The field office considers the following when selecting a payee: 1) the potential payee's interest in, concern and degree of responsibility for the annuitant's welfare; 2) the frequency of the payee's contacts with the annuitant; 3) the payee's physical proximity to the annuitant; 4) the payee's knowledge of the annuitant's needs; 5) how the potential payee plans to use the annuity payments to care for the individual; 6) the person's employment status, main source of income, and criminal record; and 7) whether the individual has previously served as a representative payee with the RRB, SSA or VA.
- B. Order of Preference in Payee Selection - The potential payees considered most likely to promote an individual's welfare are listed below in the order of preference. These lists are guidelines only, individual case situations may warrant selecting an individual lower in the priority list.
- Minor Child - The order of priority in selecting a payee for a minor child is: 1) legal guardian or other person legally obligated to care for the child (usually the parent); 2) parent (natural, adoptive, or stepparent) with whom the child is living; and 3) a relative or agency caring for the child.
 - Incompetent Adult - The order of priority in selecting payee for an incompetent adult is: 1) legal guardian; 2) spouse; 3) a relative, individual or agency caring for the individual.

5.10.10 Field Office Assignments

The field offices are responsible for the following representative payee appointment tasks:

1. investigating the need for a representative payee;
2. selecting the representative payee;
3. providing the annuitant with advance notice of the intent to appoint a representative payee;
4. reviewing the selection of the representative payee; and
5. releasing the appropriate form letters to annuitants, representative payee applicants (selected and denied) and non-representative payee custodians.

The main responsibility for headquarters in the representative payee selection process is to inform the appropriate field office to initiate a representative payee investigation when there are indications that an annuitant cannot manage his or her benefit payments. For example, if an RRB form is received in headquarters with a signature other than the annuitant's, the appropriate field office should be contacted in order to

investigate the annuitant's ability to manage benefit payments. Also, in cases involving established representative payees, headquarters should contact the appropriate field office if there are any indications that the representative payee is not acting in the annuitant's best interest and when the annuitant dies so that the Imaging representative payee record may be documented.

Initial Action by Claims Examiner - When a court order or communication is received indicating the appointment of a guardian for an annuitant or applicant, the claims examiner will:

- Forward the court order or a copy of the communication to the appropriate field office with a request for development under FOM-I-14 if the person resides in an area served by the field; or
- Refer the claim folder to the Chicago F/O if the applicant or annuitant does not reside in a field office area.

5.10.11 Representative Payee Development in Foreign Cases

If the annuitant does not reside in a field office area, the Chicago F/O is responsible for competency investigations and representative payee selections, according to FOM-I-1405.16. (Some foreign cases, with Canadian or Mexican addresses, are field office responsibility, according to RCM 10.3, Appendices B and C.)

When the RRB is informed that an annuitant living in a foreign country requires a representative payee, (i.e., they are too physically or mentally infirm to handle their affairs) the Chicago F/O should ask the Federal Benefits Officer (FBO) stationed at the nearest American Embassy to develop the case. The FBO should be instructed what information to secure to verify the annuitant's well being and competency to manage his/her funds. For the appropriate Embassy and address, refer to , Appendices G.1 through G.8.) In the Chicago F/O's correspondence with the FBO, enclose Form AA-5, Application for Substitution of Payee; Form RB-5b, Instructions for Filing Application for Substitution of Payee; and a Form G-478, Statement Regarding Patient's Capability to Manage Benefits. Explain that items 1 through 8 of Form G-478 should be completed by the annuitant's treating physician, who also signs and dates the form.

The FBO should initially request that annuitant to report to the embassy with their selected representative payee. If they are unable to get to the office, the FBO, or someone from that office, should visit the claimant. Although the State Department does not ordinarily charge for these activities, policy does permit billing the requesting agency for costs. If the Embassy requests reimbursement for costs, they should go through the State Department to secure payment from the RRB. The Bureau of Fiscal Operations handles these payments. The Embassy should be instructed to charge the prevailing rate in that area for reimbursement.

After the Chicago F/O makes the representative payee selection, the case will be forwarded to the appropriate adjudication unit in Operations for change of name and

address and representative payee type code and reinstatement processing, if the case was suspended. NOTE: The change of name and address, and reinstatement award if required, must not be processed until 15 days after the RL-107 letter release.

If an initial disability determination is involved, the action will be taken in the Disability Benefits Division (DBD). If a retirement or survivor annuity or a disability annuity reinstatement is involved, the file will be forwarded to RBD or SBD, as appropriate.

5.10.12 Payments During Investigation

The field office will determine if annuity payments should be suspended during the representative payee investigation and selection process. The decision is based on whether the annuitant is receiving the proceeds of the annuity payments. If the annuitant is receiving the proceeds of the annuity payments, then direct payment can continue. If the annuitant is not receiving the proceeds of the annuity payments, the payments are suspended and the representative payee appointment is made as soon as possible.

Occasionally, the field office will determine that direct payments can continue during an investigation but subsequently there are indications that the annuitant is not receiving the proceeds of the checks. For example, checks may be returned as undeliverable, or the annuitant claims non-receipt. In these cases, the claims examiner should suspend payments; notify the appropriate field office of the suspension and request that the selection be expedited. If the representative payee appointment cannot be made soon, the possibility of reinstatement of payments with direct deposit enrollment should be investigated. The claims examiner should contact the field office to determine if direct deposit enrollment is an effective alternative to the continued suspension of payments. If the field office believes that payments should be reinstated with direct deposit enrollment, the claims examiner and contact representative should co-ordinate the reinstatement award and direct deposit enrollment to ensure that the accrual amount will be deposited in the direct deposit account.

5.10.13 RRB/SSA Representative Payee Discrepancies

- A. RRB Is Paying the Annuitant Directly and SSA Has a Representative Payee - If SSA certifies or recertifies an SS benefit with a representative payee to the RRB and the RRB is paying the annuitant directly, the claims examiner should pay the combined benefits to SSA's payee. The claims examiner should forward the name and address of the representative payee, selected by SSA, to the RRB field office and request the field office to contact the representative payee to initiate development of the representative payee application process. The field office will contact the representative payee selected by SSA and determine the suitability of the payee.

If the payee is acceptable to the field office, an RRB representative payee Form AA-5 will be developed and combined benefits will continue to the SSA representative payee. If the payee is unacceptable to the field office, the field

office will provide Operations with the name and address of an alternative representative payee. The claims examiner should submit the RRB representative payee recommendation to SSA (via Form RR-3, item 7). The combined benefits should continue to SSA's payee until a reply from SSA is received.

- B. RRB Has a Representative Payee and SSA Does Not - If SSA certifies or recertifies a direct payment SSA benefit to the RRB and the RRB is paying a representative payee, the claims examiner should pay the SS benefit to the RRB representative payee and send Form RR-3 (with item 7 completed) to SSA. SSA will generally accept the RRB payee. If SSA insists on paying the beneficiary directly, the claims examiner should request the field office to investigate the beneficiary's competency.
- C. RRB and SSA Selected Different Representative Payees - If the SSA certifies or recertifies an SS benefit with a representative payee to the RRB and the RRB is paying a different representative payee, the claims examiner should not process the SSA certification until the field office investigates SSA's representative payee. The field office will accept SSA's payee, if possible. Pending this acceptance, the RRA annuity should continue to be paid to RRB's payee.

If the field office accepts SSA's payee, they will develop an AA-5 application and process the FAST-COA transaction to change the payee. When Operations is notified of the change, the SS benefit certification should be processed.

If the field office will not accept SSA's payee, the field office will forward to Operations the reasons they believe the payee selected by SSA is unacceptable. The claims examiner should notify SSA of this determination (via Form RR-3 with item 7 completed) and request that SSA accept RRB's payee.

5.10.14 Representative Payee Notices/Reinstatement Award Letters

- A. RL-107 Series Letters - The field office will release the appropriate RL-107 series letter at the time of the representative payee selection. The letters are listed below:

RL-107 - Advance Notice of Representative Payee Selection -released to the annuitant fifteen days prior to the representative payee appointment.

RL-107A - Representative Payee Selection Notice - released to the selected representative payee.

RL-107B - Annuitant's Notice of Representative Payee Selection - released to the annuitant.

RL-107C - Annuitant Notice Representative Payee No Longer Required - released to the annuitant when direct payment will begin.

RL-107D - Notice to Current Representative Payee That a New Representative Payee Has Been Appointed - released to the dismissed representative payee.

RL-107E - Denial Notice to Person Who is Not Being Selected as Representative Payee for Annuitant - released to individuals not selected as representative payee.

RL-107F - Custodian Notice - Third Party Representative Payee Selected - released to non-representative payee custodian.

Copies of these letters can be found in Exhibits 1-7 following this chapter.

B. Award Letters - When any letter is being released in cases involving a representative payee, the claims examiner should include ALTA code paragraph 407. Other code paragraphs for representative payee cases are:

- 1515 - Used when SSA certifies an SS payment with a representative payee to RRB (see RCM 5.10.13A).
- 1516 - Used when RRB and SSA select different representative payees and the RRB adopts the SSA representative payee (see RCM 5.10.13C).
- 1608 - Used when adjusting or reinstating an annuity to remove a representative payee.

C. Appeal Rights - The only representative payee selection decision that can be appealed is the decision to appoint a representative payee. The annuitant is informed of this right to appeal on letter RL-107B. For additional information regarding appeal rights in representative payee cases, see 5.10.35.

5.10.15 Monitoring

The RRB conducts periodic monitoring of representative payee performance as explained in FOM-I-1450. P&S-PAS is responsible for the annual selection of cases for monitoring, the release of the monitoring forms, and the compilation of monitoring results.

A&T-PES is responsible for the reporting of monitoring results.

Outside of the periodic monitoring program, the claims examiner should notify the appropriate field office whenever information is received that:

- The annuitant has died, so that the field office representative payee file may be closed; or
- The representative payee has died, so that a new representative payee may be selected; or

- Indicates the representative payee is not acting in the best interest of the annuitant.

5.10.20 Selection of Representative Payee

The field will investigate the need for representative payment, conduct face-to-face interviews with potential representative payees, develop form AA-5, Application for Substitution of Payee, select the best qualified representative payee, and input the COA on the FAST system to change payment information in cases in pay or suspense status. If the case is in suspense status, the field will also notify RBD or SBD to reinstate payments.

In initial application cases the representative payee name and address will be forwarded to Operations in retirement and survivor cases with the annuity application after the payee selection. The completed AA-5 will be retained in the field office representative payee file.

5.10.21 Headquarters' Notification of Representative Payee Selection

A review of each representative payee selection (AA-5) will be done at the field office where the selection was made. The completed AA-5 will be retained in the field office representative payee file. Operations will be notified of the selection of the representative payee by the selecting field office in the following manner, depending on the payment status of the particular case.

- A. Initial Cases - In initial cases, the information will accompany the annuity application.
- B. Representative Payee Selections After Initial Payment - In cases changing from direct payment to representative payment, or from one representative payee to another, the field office will process the FAST-COA transaction and:
 1. Scan copies of any representative payee letters released for Imaging in cases in current pay status.
 2. Instruct the RBD in retirement cases, or SBD in survivor cases, to reinstate payment if the annuity was suspended.

5.10.22 FAST-COA

When the field office dismisses or selects a representative payee, they will enter the representative payee change using the FAST-COA system. This type of FAST-COA transaction is reviewed in the field office. See RCM 9.7.190 regarding the field office handling of FAST-COA address transactions. In representative payee cases, a FAST-COA transaction will produce an on-line Form G-607R, FAST-Change of Address Representative Payee Referral at headquarters. Handling of Form G-607R is discussed in RCM 5.10.30.

5.10.23 Representative Payee Monitoring

The RRB conducts periodic monitoring of representative payee performance. The RRB field offices are responsible for the control and evaluation of representative payee monitoring forms.

5.10.24 Representative Payee Termination

A representative payee appointment may be terminated by the field office for various reasons. The most common reasons are; annuitant regains competency, the representative payee must be replaced due to poor performance, or the representative payee dies. Usually the field office receives the information through monitoring. However, occasionally headquarters will learn of events effecting a representative payee appointment. This information should be forwarded to the appropriate field office for investigation.

5.10.30 Actions After Selection of Representative Payee

There are three possible responses from the field offices' investigation of incompetency. Examiners will take the following actions. (For handling instructions in cases involving RRB/SSA representative payee discrepancies, see RCM 5.10.13.)

1. Annuitant is Competent - If the field report shows that the annuitant is competent, reinstate payments to the annuitant, if necessary.
2. Annuitant Needs Representative Payee - Selection Made - If the field office finds that the annuitant cannot manage benefit payments in his own interest, a representative payee selection is made. The representative payee name, address and type code are entered by the field office using FAST-COA. The examiner must reinstate the annuity to the selected representative payee, if necessary.
3. Annuitant Needs Representative Payee - Field Cannot Make the Selection

If the field office submits a report showing that it is unable to select a representative payee, refer the case to P&S-PAS for handling under section 5.10.31.

Unless requested by Operations to forward representative payee documents to headquarters, the field office will scan the AA-5, G-478, FAST input, copies of RL-107 letters, etc. in the Imaging system. The on-line Form G-607R, FAST - Change of Address Representative Payee Referral, and imaged copies of RL-107 letters, will be Operations documentation in the majority of cases. The on-line G-607R will be reviewed in the Program Evaluation Section (PES). In cases in which the annuitant resides outside a field office service area, the Chicago F/O will develop and select the representative payee and the original documents will be scanned in the Imaging system.

5.10.31 Actions When the Field Office Is Unable To Select a Representative Payee

When a field office is unable to select a representative payee, Policy & Systems-PAS will:

- Assist the F/O initiate whatever further action is required to select and designate a representative payee to represent the incompetent individual, according to FOM-I-1420.20; and
- Provide approval of the F/O's designation of the representative payee selected, ; and
- Determine if the selected representative payee should be designated as 'high-risk'.
- Refer the claim to the correct adjudication unit to reinstate payments to the representative payee, if necessary.

5.10.32 Initial Payment or Reinstatement Award to a Representative Payee

When a representative payee is selected by the appropriate field office will release form letter RL-107, "Advance Notice of Representative Payee Selection," to the annuitant 15 days prior to the appointment.

Operations will certify the award to the representative payee selected; in reinstatement cases, direct deposit must be deleted in all cases involving a change in payee (i.e., annuitant to representative payee, representative payee to representative payee, or representative payee to annuitant), and;

- Send a copy of the award letter to any annuitant who has not been declared to be legally incompetent. Form G-709 should be sent to the annuitant with a copy of the award letter;
- Enclose Form G-179 if a retirement case is paid under the O/M; and
- Include Code Paragraph 407 in the award letter. Furnish Form RB-5 to the representative payee, if needed. The RB-5 need not be sent to Federal and State institutions, social agencies and public officials.

5.10.33 Reinstatement of Payments to Annuitant

When it is determined that the selection of a representative payee should be cancelled and that the annuitant can manage benefit payments in his own interest, the claims examiner will take the following actions:

- Certify the award to the annuitant, if benefits were suspended.
- Verify that the FAST-COA representative payee change entered by the field office processed.
- Refer the case to DBD if disability is an eligibility factor and the field reports that the annuitant (disabled employee, child or widow(er)) can manage benefit payments. This may indicate recovery from disability.

5.10.34 Disallowing Applications for Substitute Payee

When the representative payee selection is made by the field office (or if the annuitant can manage the benefits), the field office will also disallow applications for substitute payee from other individuals. Form letter RL-107E is used to notify a person that was not selected as representative payee. There are no appeal rights and Form G-183 is not prepared.

5.10.35 Appeal Rights

Determinations as to whether a representative payee shall serve the interest of an individual by reason of his incapacity to manage his annuity payments and as to who shall be appointed or continue as representative payee on behalf of an annuitant constitute initial decisions by the Board; however:

- An annuitant under age 18 does not have the right to appeal a finding of incapacity to manage his annuity payments, but does have the right to contest that he is, in fact, under age 18; and
- An annuitant who has been adjudged legally incompetent does not have the right to appeal a finding of incapacity to manage his annuity payments, but does have the right to contest the fact of his having been adjudged legally incompetent; and
- An individual filing an application as representative payee does not have the right to appeal a denial of his application to serve as representative payee on behalf of an annuitant.

5.10.36 Payments Formerly Under Direct Deposit

If there is a change in payee and payments were under direct deposit for the former payee, delete direct deposit. If the new payee wants payments made under direct deposit, a new Form SF-1199A must be completed jointly by the payee and financial institution. A representative payee action taken by the field office using FAST-COA will mechanically delete direct deposit.

5.10.37 Transactions with Representative Payees

Transactions are conducted with representative payees acting on behalf of annuitants as follows:

- Persons or institutions recognized by RRB to act for persons age 18 or older; and
- Persons appointed as guardians by courts (acceptable document evidencing appointment in file); and
- Persons acting on behalf of minor children. Minor children ages 16-18 may act for themselves under certain circumstances - see RCM 5.10.61.

Incompetent and minor beneficiaries are entitled to our particular attention so that their best interests are served. Any Railroad Retirement Board employee who discovers indications that benefits may not have been or are not being applied in the best interest of a minor or an incompetent beneficiary, or notes significant incompleteness or discrepancies in a representative payee's case, should advise his supervisor.

Refer to FOM-I-1440 when there is evidence of possible unsatisfactory performance of a representative payee.

5.10.38 Disposition of Property Rights by Representative Payee

All actions by a representative payee are given the same effect as though taken by the annuitant if he had capacity to act in his own behalf, except when the disposition rather than the management of rights or property is involved. Considered as disposition of property are:

- Cancellation of an application;
 - The designation or change in designation of a beneficiary to receive an RLS;
 - The election to receive an RLS; and
 - The execution of a waiver.
- A. Initial Action by Claims Examiner - When disposition of property is involved in a communication received by Operations from a representative payee, refer the communication to the appropriate field office.
- B. Development by Field - The field office will determine whether the action is in the annuitant's best interests.
1. Action Determined To Be In the Annuitant's Interest - If it appears that the action would be in the annuitant's best interest, the field office will take these actions:

- If the representative payee is a court-appointed guardian, the field office will tell the guardian that he must submit a court order which is issued by the same court that appointed him and which authorizes that specific action he proposes to take as guardian.
 - If the representative payee is not a court-appointed guardian, the field office will secure a statement of reasons from the representative payee as to why he believes that the action would be in the annuitant's best interest.
2. Action Determined Not To Be In the Annuitant's Interest - If the field office determines that the action would not be in the annuitant's best interest and the representative payee still insists on taking the action when informed of the field office's determination, the field office will cancel the selection and select another person or institution to act as representative payee. The field office will furnish to Operations a detailed report of its reasons for taking the action.

C. Action by Claims Examiner Upon Receipt of Field Report

1. No Change in Representative Payee - If the field office determines that the action the representative payee proposes to take is in the annuitant's best interest, the claims examiner will proceed to take whatever certification or adjudication action is required.
2. New Representative Payee Selected - If the field office has selected a new representative payee, the field office will enter the representative payee change using FAST-COA. The field releases the RL-107D notice to the dismissed representative payee. The new representative payee is processed according to RCM 5.10.22. Do not process the action requested by the dismissed representative payee.

5.10.39 Discharge of Guardian or Discharge of Annuitant From Institution

- A. Initial Action by Claims Examiner - Claims examiners will refer to the appropriate field office for reconsideration of the selection of a representative payee any case in which notice is received that:
- The annuitant has been restored to competency or a court appointed guardian has been discharged; or
 - An incompetent annuitant is discharged from a mental institution or VA hospital and requests RRB to cancel the recognition of the person acting in his behalf.

B. Development by the Field - The field will evaluate the question of competency and the proper payee in the same manner as an initial determination under sections 5.10.20ff. The field office will notify Operations:

- Whether the annuitant can manage benefit payments in his own interest, and
- Whether benefit payments should be made to the annuitant or to a representative payee.

If a change is made in the representative payee, it is processed according to RCM 5.10.22.

5.10.40 Transfer of Accumulated Benefit Payments

A dismissed representative payee who has conserved or invested funds from benefit payments made to him on behalf of an annuitant must transfer such funds (including interest earned from investment of the funds) to a successor payee or return the funds to the RRB. The RRB will reissue the funds to either the successor payee or directly to the annuitant, as appropriate. If the dismissed representative payee refuses to transfer funds, follow the instructions in FOM-I-1435.5.

5.10.41 Checks Issued but Not Cashed Prior to Annuitant's Death

Checks issued for annuities under the Railroad Retirement Act which are not negotiated or cashed by the time of the annuitant's death do not represent paid annuities. The annuity amounts for which the checks were issued constitute annuities due but unpaid at the annuitant's death. Therefore, the representative payee should be instructed to return these checks to the RRB. The annuities will be paid to eligible survivors.

5.10.50 General Duties and Responsibilities of a Representative Payee

A representative payee's job is to see that the money he receives is used for the annuitant. Therefore, the annuity payments will usually be used for the annuitant's day-to-day maintenance needs, primarily food, clothing, shelter, medical care and the rehabilitation expenses of disabled annuitants. Annuity payments which will not be needed in the near future should be saved.

If the annuitant is in a nursing home, hospital or other institution, the annuity payments should be used to meet the charges for the annuitant's current maintenance and to pay for things the institution does not customarily provide. Almost all public institutions have a maximum amount which they seek to collect from the patient, or from responsible relatives according to their ability to pay. This should be paid by the representative payee, if there will still be enough money left to pay for other things the annuitant needs. It is considered to be in the best interest of the annuitant for the representative payee to allocate expenditure of benefit payments in such a manner as to facilitate the

annuitant's possible rehabilitation or release from the institution or otherwise help him to live as normal a life as practicable in the institutional environment.

The following things are more often needed by patients in public institutions to help them keep their morale, self-respect and confidence:

- Personal clothing.
- Transportation for trial visits to relatives or to places where the patient can be helped to recover. A little each month may be saved to pay the expense of these visits.
- Transportation of relatives to visit the patient in the hospital.
- Supplies and articles necessary for personal grooming and care.
- Eyeglasses, false teeth, hearing aids, medical, and dental care.
- Supplies and equipment to help the patient learn a trade.
- Other things not supplied by the hospital, such as books and magazines.

If the daily needs of an annuitant are being met, part of the benefits may be used to support his legally dependent spouse or legally dependent child.

Annuity payments should generally not be used by the representative payee to pay bills owed by the annuitant before the first month for which the annuity is payable to the representative payee. However, a representative payee may satisfy a debt which arose prior to the first month for which payments were certified to a representative payee if the current and reasonably foreseeable needs of the annuitant are met. The annuity may also be used to make payments on the annuitant's house and to pay his insurance premium.

These general duties and responsibilities of a representative payee are explained in the RB-5 booklet. A record keeping section is also included in the RB-5 booklet. While the completion of the record keeping section is not required, (records kept as part of "common business practice" are acceptable), the field office will encourage the use of the RB-5.

5.10.51 Monitoring Representative Payees

Detailed information on representative payee monitoring can be found in FOM-I-1450.

You should be aware of the following general information regarding representative payee monitoring:

- A. Court Appointed and Board Appointed Payees - One third of most court appointed and Board appointed representative payees are monitored each year (by digit rotation), via the mailing of Form G-99a, Representative Payee Report.

Certain court appointed and Board appointed representative payees, designated as "high-risk" representative payees are monitored each year.

- B. Parental Custody Verification - All parental representative payees are monitored every third year. This monitoring program does not require an accounting of benefits - only verification that the child remains in the parent's custody.
- C. Notification of Field Offices - Operations must notify the appropriate field office whenever information is received in headquarters that was not forwarded by the field office that:
- The annuitant has died. The field office will close the representative payee file; or
 - The representative payee has died. The field office will select a new representative payee.

5.10.52 Evidence of Possible Unsatisfactory Performance of Representative Payee

Request a field investigation when one or more of the following conditions occur:

- The representative payee does not appear to meet the required qualifications as outlined in this chapter and FOM-I-1405.20;
- The representative payee refuses to furnish requested information;
- The representative payee refuses to defray appropriate expenses of an institutionalized annuitant;
- The representative payee uses benefits for support of a person for whom the annuitant is not legally responsible;
- The former representative payee refuses to transfer funds or other questions arise about handling conserved funds; or
- Information indicates that benefits are not being used in the best interest of the annuitant or the fitness of the representative payee to act on behalf of the annuitant is questionable.

If the field investigation indicates that benefit payments have been misused, or that there has been fraud, refer the case to OIG for further investigation. If there has been no fraud or misuse of funds but a change in representative payee is indicated, the field office will develop and select another representative payee.

5.10.60 Child Under Age 16

A. Preferred Payee for Child - The person who has primary responsibility for the child should be selected to receive payments for the child. If there is no guardian or legal representative, the order of preference is:

- A parent (including an adopting parent);
- A stepparent with whom the child is living;
- Any relative, person, or agency caring for the child.

Before a person lower in the order of preference can be paid, it must be determined that either the person in the higher order does not wish to file an application or that payment to the person in the higher order would not serve the child's best interest.

B. Development Actions - If the child resides in a field office area, the application in his behalf is developed by the field office. If payments were in force to another payee, the field office will secure a Form AA-5 instead of an application; the field office will also secure a certification from the new payee. An application or a Form AA-5 filed on behalf of a child under age 16 is acceptable if executed by:

1. A natural parent or stepparent - No special action (other than obtaining the usually required proofs) is required if the child is living with the parent or stepparent and that is shown on the application or Form AA-5.
2. An adoptive parent - A certified copy of a decree of adoption, or a certificate evidencing adoption, duly executed by the custodian of such records is required (see RCM 4.4.27).
3. A guardian or other legal representative - Form AA-5 is required in addition to the application and required proofs. If payments were in force to another payee, another application need not be submitted.
4. A person or an agency other than a parent or legal representative - Form AA-5 is required in addition to the application and required proofs in initial developments. The field office will not secure an application other than the AA-5 when payments were in force.

The field office will report the circumstances under which the person, institution or agency assumed responsibility for the child. If the child has been placed in the care of the person who filed the application in the child's behalf or in the care of anyone else by a social agency or court order, the field will find out from the agency or court official whether there would be any objection to having payments made to the person behalf of the child. If the agency or court official indicates that it would be in the best interest of the child for the RRB to select another

person for representative payee, the field will obtain an application and an AA-5 from that person. The AA-5 should show whether the person will use the benefit for the child. If an applicant not having the child in his care claims to have made contributions or displayed interest in the child, the field office will confirm the alleged contributions or display of interest with the school or institution.

If there is no person qualified to act as payee, the field will develop a representative payee in the same manner as for a child over 18. If there is no available qualified payee who can be selected and the superintendent of the institution or resident school is either not willing to receive the benefit or states that there is a State law which prevents his receiving payments, the field may not be able to select a representative payee to act on behalf of the child. In these situations, it may be necessary for the field to have a guardian or other legal representative appointed.

- C. Selection of Payee - The person who has primary responsibility for the child's welfare will ordinarily be selected to act on behalf of the child unless evidence indicates that payment to that person would be adverse to the child's interest. If the child resides in an area served by the field, the field office will select the representative payee. If the child resides outside areas served by our field offices, BDB will select a representative to act for the child as follows:
1. A guardian or other legal representative will be selected unless it would not serve the best interest of the child.
 2. A relative or other person having custody of the child should next be considered. Custody should be considered in connection with all other factors. If the child was placed in the care or custody of any person by a social agency or by court order, the opinion of that agency or court must be secured and considered before payments are made to any other person.
 3. A relative or other person not having custody of the child is qualified to act as payee if he is one of the following:
 - A natural or adoptive parent, stepparent, or relative who does not have custody but is making regular and substantial contributions for the child's support, unless the child has been removed from the person's custody by court or other legal authority because of neglect, abandonment, or improper guardianship.
 - A natural or adoptive parent who does not have custody, who is not making regular and substantial contributions for the child's support, but who displays an active continuing interest, unless there is an indication that payment to the parent will not serve the beneficiary's interest. One instance where payment to the parent may not serve the child's interest is where the child has been removed from the parent's custody by court or

other legal authority because of neglect, abandonment or improper guardianship.

- A relative or close friend who demonstrates a strong interest in the child's personal welfare.

The applicant on behalf of the child may not have custody because the child is an inmate of a mental institution or has been placed in the care and custody of a special resident school. If the applicant does not have custody, a parent or relative may be selected, but only if our investigation shows that such action would be in the best interest of the child. The investigation should include confirmation from an institution or school of any alleged contributions or display of interest on the part of the applicant.

5.10.61 Child Between Age 16 And 18

- A. Child Living at Home or Not Self-Supporting - If the child is living at home or is not self-supporting, follow the procedure in sec. 5.10.60, the same as for a child under age 16.
- B. Child Living Away from Home and Self-Supporting - A child who is living away from home and is self-supporting may qualify as payee on his own behalf, and there is usually no need to have other potential payees contacted. Assume that a child in military service has the capacity to act in his own behalf. In all other cases, have the field contact and interview the child. In initial cases, have the field secure the application, certification form, and proofs from the child. If payments are in force, have the field office secure a certification from the child; a new application is not required.

If the interview with the child indicates that direct payment would not be in the child's interest (e.g., the child seems immature or unstable), the field office will follow the procedure in RCM 5.10.60, as for a child under age 16.

5.10.62 Child Age 18 Or Over

DBD will determine the competency or incompetency of a disabled child when making the disability rating. If a disability rating was previously made, a current competency determination for the disabled child is necessary. If the medical evidence in the file is insufficient to make a competency determination, the field office should be contacted to develop updated information. If it is determined that the child is incapable of managing benefit payments in his own interest, a representative payee will be secured for the child.

- A. Child Is Inmate of Institution - If the incompetent disabled child is an inmate of a mental institution located in an area served by a field office, the claims examiner will request that office to develop for a representative payee under FOM-I-1410.

- B. Child Is Not Inmate of Institution - If the child is not an inmate of a mental institution and lives in an area served by a field office, DBD will request that office to develop for a representative payee. The field will conduct, if indicated, an investigation to determine whether some person other than the child's parent should be selected to act as a representative payee for the child.

If payments are in force to an allegedly incompetent disabled child residing in a field office area, the case is to be handled as outlined in RCM 5.10.10 .