

Can a Power of Attorney Manage Your Social Security Benefits?

By: Brandon C. Walecka, Esq.

Walecka Law, P.C.

774-203-9003

Brandon@WaleckaLaw.com

You did the right thing, you established an estate plan consisting of the five foundational documents, including a durable power of attorney, health care proxy, HIPAA release, personal directive, and last will and testament. In particular, a power of attorney is a powerful document that allows someone to step into your shoes and make legal and financial decisions on your behalf. Depending on how the document is constructed, as POA, a loved one may have the authority to oversee transactions such as change beneficiary designations, access a safe deposit box, deal with the IRS and the state on tax matters, or create, fund, and request distributions from trusts. But, a power that the POA does not have is the ability to manage your monthly Social Security benefits.

Here is why: The Treasury Department does not recognize a power of attorney for negotiating federal payments, including Social Security or SSI checks.

The only way to legally manage an individual's Social Security benefits is to be appointed as a representative payee (sometimes called "rep payee") through the Social Security Administration.

What is a representative payee?

A representative payee is a person (typically a family member or close friend) or entity (such as a nursing home, hospital, group home, or a social service agency) who is appointed by Social Security to manage benefits on behalf of someone who is unable to do so themselves. And, they are almost always assigned for a minor child, disabled adult, or any adult who has been deemed legally incompetent.

A representative payee is responsible for receiving and managing the benefit payments—Social Security and/or Supplemental Security Income (SSI). This includes:

- Taking care of payments for essential needs including food, shelter, household bills, and medical care. Funds can also be used to cover personal needs such as clothing, and even recreation.
- Depositing any leftover funds from benefit payments into an interest-bearing bank account or savings bonds, either of which must be fully owned by the beneficiary (though the representative payee can and should be listed as a financial agent). A representative payee cannot blend the Social Security payments with their own finances.
- Keeping records of all payments received and how those payments were spent and/or saved.
- Reporting—typically on an annual basis—any relevant changes to the Social Security Administration, including any life events that affect the beneficiary's eligibility for payments or the logistics for delivering payments (e.g., moving, getting married, divorcing, or dying), and also any changes that affect the representative payee's ability to uphold their responsibilities in the role.

If you need to apply to become a representative payee for someone in your life, you will need to visit the nearest

Social Security office, provide identity documents, and complete form SSA-11. You can also call your local Social Security office for additional help.

The information contained in this article is not intended to make you an expert on estate planning nor is this article intended to replace the need for the advice of a professional. Rather, this article is simply intended to provide a basic understanding of why estate planning is important for everybody and a basic understanding of some of the more common estate planning tools. This article does not constitute legal advice.