


POLICY AND PROCEDURE

<u>POLICY TITLE:</u> Representative Payee	<u>POLICY #:</u> DSAMH027
<u>PREPARED BY:</u> CBHSD	<u>DATE ISSUED:</u> 6/23/2021
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<u>APPROVED BY:</u>  <small>1B71C05196B24CA...</small> 8/23/2023 1:57 PM PDT	<u>NOTES:</u> <input type="checkbox"/> DSAMH Internal Policy <input checked="" type="checkbox"/> DSAMH Operated Program <input checked="" type="checkbox"/> DSAMH State Providers <input type="checkbox"/> Delaware Psychiatric Center <input type="checkbox"/> Targeted Use Policy (Defined in scope)

- I. **PURPOSE:** To establish a policy that addresses beneficiary choice of representative payee, in addition to providing guidelines for organizations providing representative payee services. This includes collaboration between the representative payee organization and behavioral health providers, guidelines for the discontinuation of representative payeeship, and closing accounts of discharged or deceased beneficiaries. This policy does not eliminate other federal, State, or regulatory requirements required for specific programs and services.
- II. **POLICY STATEMENT:** Applies to all beneficiaries aged 18 or older who receive DSAMH services (hospital and community-based) who are incapable of managing their own funds and need a representative payee; all DSAMH-certified providers who provide care to program beneficiaries who need a representative payee; behavioral health providers who provide treatment and care to program beneficiaries who need a representative payee; organizations that act as representative payee; and DSAMH.
- III. **DEFINITIONS:**
- “Applicable program”** means programs and services contracted by the Division of Substance Abuse and Mental Health. Policy applies to subcontractors, where applicable, as well.
- “Beneficiary”** means adults who seek or receive mental health and substance use disorder services, or behavioral health supports, funded or regulated by DSAMH.
- “Collective Accounts”** means when the representative payee places funds for more than one beneficiary in a single checking or savings account, it is referred to as a "collective account."
- “DSAMH”** means Delaware Division of Substance Abuse and Mental Health.

“Firewall” means a legal barrier preventing the transference of inside information and the performance of financial transactions between commercial and investment banks. Restrictions placed on collaborations between banks and brokerage firms under the Glass-Steagall Act of 1933 acted as a form of firewall.

“Incapable” means lacking the ability to manage one's own financial affairs; unable to provide regularly for their housing, food, and other necessities, and unable to direct others to do so for themselves.

“Representative Payee” means individual or organization that receives payments from various funding sources for someone who is incapable of managing or directing someone else to manage their financial affairs. In this policy, the representative payee is an organization.

“SAMHSA” means the U.S. Substance Abuse and Mental Health Services Administration.

“Social Security Administration (SSA)” means the organization that administers financial benefits to persons who meet criteria for disability. Authority: Social Security Act of 1935 and DSAMH 16 Del. Admin. Code § 13000-13730.

“Social Security Disability Income (SSDI)” means a federal income maintenance program administered by the Social Security Administration that protects workers and their families from loss of earnings because of retirement, death, or disability. This benefit is available to individuals with substantial work history.

“Supplemental Security Income (SSI)” means a federal income maintenance program administered by the Social Security Administration for aged, blind, and disabled persons with little or no income or resources.

IV. **SCOPE:** Limited to DSAMH-contracted providers who meet the representative payee criteria and are working with clients aged 18 or older with a behavioral health diagnosis. Any DSAMH provider that holds a contract, if providing representative payee services, must meet the requirements within this policy.

V. **PROCEDURES/RESPONSIBILITIES:**

A. Beneficiaries:

1. Beneficiaries' funds are handled in accordance with federal and local governing financial and accounting guidelines and practices, consistent with Social Security Administration (SSA) guidelines for developing a representative payee accounting system.
2. Beneficiaries have easy access to their available funds, account information, education to assist them in developing skills to become as independent as possible and have the least restrictive Ninety-Day (90 day) Budget and Spending Plan.
3. All beneficiaries who are determined by their treatment team (with acceptance from SSA) to be incapable of managing their own funds will be given choice of representative payee regardless of the funding source of their income. It is the position of the DSAMH that all beneficiaries are able to handle their own funds unless there is compelling evidence to the contrary.

B. SSA Guide for Organizational Representative Payees shall be used to govern SSI/SSDI accounts. To the extent feasible, it shall also be used as a guide in managing other types of beneficiary

accounts when no other governing guidelines exist. Updates are located in the SSA website <http://www.ssa.gov/payee/>.

- C. Background: DSAMH does not act as representative payee for beneficiaries in the community. If the beneficiary's behavioral health provider is also the representative payee, there must be established policies and procedures for appropriate and distinct separation of representative payee functions from those of the provider services. This is to ensure that there is no potential for, or appearance of, impropriety in the handling of beneficiary funds. The provider who also assumes representative payee services for the beneficiary must maintain a firewall between the representative payee actions and the behavioral health services. The provider must have policies and procedures to ensure the provider is completely acting in the best interests of the beneficiary. DSAMH reserves the right to determine if there needs to be additional policy and procedural protections regarding the beneficiary's funds and the service provider also functioning as the representative payee.
1. The intent of DSAMH is to promote an efficient process and procedure that provides the beneficiary with more timely, efficient, and convenient access to their remaining funds after other necessary services have been paid.
 2. Providers that have a representative payee contract with DSAMH will use commercial banks and automated banking systems (or other appropriate systems approved by DSAMH) for the convenience of beneficiaries. Cash withdrawal limits will be set in accordance with the beneficiaries' Ninety-Day Budget and Spending Plan developed during individual recovery planning.
- D. Responsibilities and Procedures:
1. Behavioral Health Authority: DSAMH, as the Behavioral Health Single State Authority, shall:
 - a. Contract directly with organizations to serve as the representative payees for DSAMH beneficiaries.
 - b. Prefer that the representative payee organization is not a currently contracted provider for the same clientele that may need to utilize representative payee services. Organizations with an existing DSAMH relationship must provide in detail how the organization will maintain a firewall that ensures the representative payee service is separate and independent of their existing services. The provider must also detail how the client is informed of this separation of services and the firewall between the representative payee service and the organization's other services.
 - c. Monitor representative payee services annually to ensure beneficiary accounts are being managed in accordance with contract provisions and this policy. DSAMH reserves the right to audit any representative payee who is providing services through contract with DSAMH.
 2. Representative Payee: shall adhere with scope of services per contract and the following:
 - a. Arrange a face-to-face meeting with each beneficiary to explain the role and responsibilities of the representative payee, related rights, and responsibilities of the beneficiary, and to discuss the Ninety-Day Budget and Spending Plan. All contact with the beneficiary and provider must be documented.
 - b. Collaborate closely with the clinical team to provide education to beneficiaries in developing money management skills that lead to independent money management and self-sufficiency. The representative payee organization should be committed to

working with beneficiaries to either gain or re-gain control of their own finances. These financial and independent money management trainings should be part of the beneficiary's care plan and reported to DSAMH as requested.

- c. Provide general money management education to beneficiaries and, if allowed by the client, their families at least annually.
- d. Serve as liaison and advocate between the beneficiary and their funding source.
- e. Establish an interest-bearing, direct deposit, checking or savings bank account in accordance with SSA guidelines and serve as liaison between the beneficiary and the commercial banking institution that manages the beneficiary's funds.
- f. Title bank accounts to show the beneficiary as the owner in accordance with SSA guidelines.
- g. Educate and advise the beneficiary about the type of account, how to access information, use of ATMs, SSI/SSDI, electronic payment systems, and other funding sources.
- h. Perform the functions required of a representative payee as outlined in the Social Security Representative Payment Program, including determining continuing eligibility for benefits, and in accordance with this policy and DSAMH contract provisions.
- i. Collaborate and coordinate with the clinical team and the funding source to expedite exchange of needed information to facilitate an efficient, seamless process.
- j. Provide monthly statements to the beneficiary, including an account balance and transactions. At the beneficiary's request, the same information may be shared with the clinical team.
- k. Provide account balance statements to the beneficiary upon beneficiary request.
- l. Maintain a record of account transactions for three (3) years.
- m. Notify the beneficiary and the clinical team when the beneficiary's account is in jeopardy, such as the balance in the beneficiary's account is either over the SSA cash allowance limit or too low to meet the beneficiary's support needs.
- n. Provide an annual report of each beneficiary's account as required by SSA (or other funding sources, if applicable). Beneficiaries may get a copy of the report upon request and may request that a copy be given to the clinical team.
- o. Ensure that each beneficiary's regularly scheduled bills are paid directly to the respective landlord/vendor unless the Ninety-Day Budget and Spending Plan specifies other arrangements.
- p. Ensure that funds of DSAMH beneficiaries are kept separate from agency accounts for other clients of the representative payee.
- q. Maintain SSA funds in either an individual or collective account, separate and exclusive from other funds, and not co-mingled with operating funds. The representative payee must meet SSA conditions for establishing and maintaining a collective account, including having clear records showing the amount of each beneficiary's share in the account.
- r. Record that all the beneficiary's documented needs and wishes are consistent with the Ninety-Day Budget and Spending Plan.
- s. Provide a monthly summary report to the DSAMH Chief of Community Mental Health, or

- designee, indicating name of each beneficiary and each service provided to them during that month, such as intakes, education, burial fund activity, paid bills, and liaison activities.
- t. Establish an irrevocable end-of-life fund in a separate, exclusive account if the beneficiary makes a written request and identifies money that they wish to place in an end-of-life fund, up to the cash amount allowed by SSA for those recipients.
 - u. Handle discharged or deceased beneficiary accounts in accordance with Section V.F below.
3. Behavioral Health Providers: Behavioral health providers shall:
- a. Determine and document if a beneficiary is incapable of managing their own funds and needs a representative payee.
 - b. If the client is deemed incapable, submit an SSA-787, Physician's/Medical Officer's Statement of Patient's Capability to Manage Benefits, signed by the treating psychiatrist to SSA for persons receiving funds from SSA, for approval by SSA.
 - c. Provide general information on representative payee services and share a listing of the representative payee providers, inclusive of those contracted with DSAMH, with the beneficiary. The beneficiary and/or family may also select an individual representative payee who satisfies the SSA requirement. SSA provides final appointment of representative payees.
 - d. Assist the beneficiary in keeping the appointment with SSA (or other funding source) to finalize the choice of representative payee.
 - e. Contact the representative payee organization chosen by the beneficiary by phone or email, then forward the written referral from the behavioral health provider.
 - f. Inform and offer choice, change, and discontinuation of representative payee relationship to beneficiaries at four points of service: (1) upon initial determination of need for representative payee by SSA, (2) during service planning, (3) during discharge planning, and (4) upon beneficiary/guardian complaint against current representative payee services.
 - g. Give the beneficiary the right to change representative payee whenever they desire, limited only by SSA guidelines and approval.
 - h. Document the beneficiary's choice, change, or discontinuation of representative payee-relationship, and file the original document in the beneficiary's clinical record.
 - i. At least annually, reevaluate and document whether each beneficiary still needs a representative payee, while working with the beneficiary towards their highest level of independence.
 - j. Document all matters regarding representative payee in the beneficiary's record.
 - k. Collaborate with the representative payee and the funding source as needed to expedite exchange of needed information to facilitate an efficient process.
 - l. Notify the representative payee, in writing, within five (5) business days when a beneficiary is discharged or dies (see Section V.F below).
 - m. Develop policies that address, but are not limited to, the following:
 - i. requirement that the clinical team be educated on representative payee services and client choice;
 - ii. training that will be provided on representative payeeship and SSA guidelines;
 - iii. collaboration between the behavioral health provider and the representative payee to accomplish the beneficiary's choice and other required actions;
 - iv. process for providing the beneficiary information on representative payee services

and for offering the beneficiary choice, change, or discontinuation of representative payee services;

- v. clinical record documentation;
- vi. notifications to representative payee on changes in beneficiary status that impact SSI or other benefits (including re-hospitalization, incarceration, family circumstances, living arrangements, beneficiary employment, missing person, other income sources, etc.);
- vii. assistance that will be provided to the beneficiary, when needed, in completing certain required reporting documents, e.g., continuing disability reviews, work related reports;
- viii. collaboration between the behavioral health provider and representative payee to expedite exchange of needed information such as copies of medical record material consistent with release of behavioral health information guidelines, including time frames for response; and
- ix. specific actions and steps required by the clinical team to ensure that coordination with the representative payee is a seamless process, such as establishing the beneficiaries' Ninety-Day Budget and Spending Plans and discharge planning.

E. Discontinuing Representative Payeeship: Representative payeeship can end:

1. When the clinical team and beneficiary agree that the beneficiary can direct their financial matters, with or without assistance, and can end the representative payeeship.
2. When the beneficiary requests the representative payee to conduct a review to end representative payeeship. This is based on the beneficiary's progressive responsibility in handling expenditures and face-to-face interview with the beneficiary. The representative payee then recommends cessation of representative payeeship to the clinical team. If beneficiaries demonstrate capability, the representative payee can also initiate the recommendation to the clinical team to end representative payee services.
 - a. In each case above when there is agreement to end the services and SSA is the funding source, the clinical team shall complete an SSA-787 and inform the beneficiary that they must contact SSA for an appointment to present the SSA-787 for SSA acceptance of the determination that the beneficiary can manage their own funds.
 - b. When SSA has accepted the determination, the clinical team will notify the representative payee of SSA acceptance. The clinical team shall collaborate with the representative payee, as needed, and implement a plan to begin the beneficiary's independent money management.
 - c. The representative payee shall promptly send a formal cessation letter to SSA or other applicable funding source stating that based on the determination, they are no longer representing the beneficiary as representative payee.
3. If the representative payee seeks to terminate the representative payeeship for the beneficiary due to various reasons (e.g., beneficiary will not comply with Ninety-Day Budget and Spending Plan), the representative payee must provide a sixty (60) day notice to the beneficiary before notifying SSA. The representative payee must continue services until a new representative payee is established and transfer all account history to any successor representative payee.

F. Closing Accounts of Discharged or Deceased Beneficiaries: Accounts shall be handled consistent with applicable governing guidelines (SSA for SSI/SSDI accounts, etc.) and the procedures below. Where no specific governing guidelines exist from the funding source, the SSA guidelines shall be used as a guide for all types of accounts.

1. Discharged Beneficiaries:

- a. Representative payee services through DSAMH shall be discontinued upon a beneficiary's discharge from the DSAMH system of care.
- b. During discharge planning, the behavioral health provider shall offer the beneficiary choice on how the beneficiary wants their account to be handled after discharge. The beneficiary shall be offered opportunity to:
 - i. Manage the account personally, if determined capable by the clinical team, or request someone else to do so; or
 - ii. Continue services with the same representative payee if the beneficiary is still incapable of managing funds; or
 - iii. Choose another representative payee
 - iv. If a beneficiary chooses either (ii) or (iii) above, this is a personal arrangement and is not paid by DSAMH. Approval from SSA must be obtained for any choice made as required/applicable.
- c. The behavioral health provider shall inform the representative payee, in writing, of the beneficiary's choice and the representative payee shall inform SSA or other funding source. The behavioral health provider shall provide the beneficiary assistance as necessary by working with the representative payee to meet their wishes.

2. Deceased Beneficiaries:

- a. The behavioral health provider shall:
 - i. Notify the representative payee in writing of the date and time of the beneficiary's death, including whether next of kin has been notified.
- b. The representative payee shall:
 - i. Notify the beneficiary's account beneficiary in writing, informing them of the existence of a burial fund, where applicable, and of any other financial assistance known to be available.
 - ii. Release the burial funds to the funeral home or other responsible party for payment of the funeral bill if the beneficiary has established a burial fund. If the beneficiary does not have a burial fund, refer the beneficiary's family to the State's Burial Assistance Program.
 - iii. Notify the SSA or other funding source of the beneficiary's death immediately.
 - iv. Upon request, generate a final report of the last sixty (60) days of account activity including balance at close out, and send a copy of the final report to the account beneficiary and to the behavioral health provider of record if the beneficiary so requests.
 - v. Notify the banking institution to freeze the beneficiary's funds at the time of death in accordance with local law and SSA guidelines.
 1. Return any funds to which the client is not entitled to SSA or other funding source.

2. Notify the beneficiary of any other funds of the deceased beneficiary that remain unclaimed. If the funds are still not claimed after two (2) years, and the beneficiary does not claim the remaining funds within sixty (60) days from notification, the representative payee shall report unclaimed funds in accordance with instructions issued by the State of Delaware Unclaimed Property Unit and forward a copy of the report to the responsible behavioral health provider and the designated official at DSAMH.

G. Inquiries: Questions regarding this policy should be addressed to the DSAMH's Bureau Chief of Policy and Compliance.

VI. **POLICY LIFESPAN**: This policy is reviewed annually.

VII. **RESOURCES**: <http://www.ssa.gov/payee/>