

MANAGING SOMEONE ELSE'S MONEY

Help for representative payees and VA fiduciaries

About the Consumer Financial Protection Bureau

The Consumer Financial Protection Bureau, or the CFPB, is focused on making markets for consumer financial products and services work for families – whether they are applying for a mortgage, choosing among credit cards, or using any number of other consumer financial products. We empower consumers to take more control over their financial lives.

The CFPB Office for Older Americans is the only federal office dedicated to the financial health of Americans age 62 and over. Along with other agencies, the Office works to support sound financial decision-making and to prevent financial exploitation of older adults. To help people (including family members) with legal authority to handle an older person's money, the Office contracted and worked closely with the American Bar Association Commission on Law and Aging to prepare this guide.

Though the guide was developed by the American Bar Association Commission, it is not intended to provide legal advice or serve as a substitute for your own legal counsel. If you have questions or concerns, we recommend that you seek the guidance of the appropriate legal professional.

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Why read this guide?

Like many people, you may never have been a representative payee or VA fiduciary before. That's why we created *Managing someone else's money: Help for representative payees and VA fiduciaries*. This guide will help you understand what you can and cannot do in your role as a **representative payee** or **VA fiduciary**. In both these roles, you are a **fiduciary**. For this guide, a fiduciary is anyone named to manage money or property for someone else. You'll find brief tips to help you avoid problems and resources for finding more information.

This guide is for family and friends serving as a representative payee or VA fiduciary, not for professionals or organizations. The guide does not give you legal advice. State laws vary, so you may have additional duties. Talk to a lawyer if you have questions about your duties.

If you want to learn about how to become a representative payee or VA fiduciary, this guide is not designed for you. You should contact the federal agency that pays the benefits.

Let's start with a scenario about how you might have become a representative payee or VA fiduciary

Your family member or friend receives Social Security or veterans benefits. For this guide, let's call him Roberto. The Social Security Administration has named you as **representative payee** for Roberto, or the Department of Veterans Affairs has named you as Roberto's **VA fiduciary**.

You now have the duty and power to manage his Social Security or Veterans Affairs benefit checks.

In this role on Roberto's behalf, the federal government gives you a lot of responsibility.

You are now a **fiduciary** with **fiduciary duties**.

What is a fiduciary?

Since you have been named to manage money or property for someone else, you are a **fiduciary**. The law requires you to manage Roberto's money for HIS benefit, not yours. It does not matter if you are managing a lot of money or a little. It does not matter if you are a family member or not.

The role of a fiduciary is a serious one and carries with it legal responsibilities. When you act as a fiduciary for Roberto, you have four basic duties that you must keep in mind:

1. Act only in Roberto's best interest.
2. Manage Roberto's money and property carefully.
3. Keep Roberto's money and property separate from yours.
4. Keep good records.

As a fiduciary, you must be trustworthy, honest, and act in good faith. If you do not meet these standards, you could be removed from that role. You could be investigated by the government and have to repay money. It's even possible you could go to jail. **That's why it's always important to remember: It's not your money!**

Representative payee or VA fiduciary questions and answers

What is a representative payee or VA fiduciary ?

A government agency may appoint someone to manage income benefits for a person who needs help managing those benefits.

For example, the Social Security Administration, the Office of Personnel Management, and the Railroad Retirement Administration call the person who is appointed a **representative payee**. The Department of Veterans Affairs has a similar program, but the person appointed is called a **VA fiduciary**. State agencies may have similar arrangements. Each agency may have different rules and procedures. This guide covers two of the largest



Different types of fiduciaries exist

In your role as rep payee or VA fiduciary, you may act as or deal with other types of fiduciaries. These may include:

Agents under a power of attorney—someone names an agent to manage their money and property in case they are not able to do it.

Trustees under a revocable living trust—someone names them to manage money and property.

Guardians or Conservators—a court names them to manage money and property for someone who needs help.

Other guides explaining the duties of these fiduciaries are at: www.consumerfinance.gov/managing-someone-elses-money.

agencies, Social Security and the VA, but the duties described in this guide may be helpful to other representative payees.

Since you have been appointed as Roberto’s representative payee, we will call you a rep payee for short. Roberto is the beneficiary.

Once you are appointed as a rep payee or VA fiduciary, you must follow the basic fiduciary duties in this guide. Plus, you also must meet certain reporting requirements of the particular agency.

What money does a representative payee or VA fiduciary manage?

You only have authority to manage the benefit checks of the agency appointing you. You have no legal authority to manage other property, financial affairs, or medical matters for Roberto. To control other matters, you must have legal authority from another source, such as through a power of attorney, trust, or court appointment.

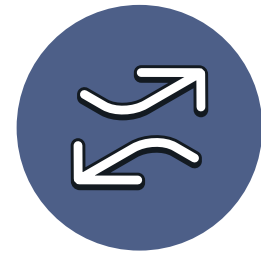
Even if you are Roberto’s agent under a power of attorney or a trust, or if you are his guardian or conservator, you don’t have legal authority to manage his federal benefits checks. You still must be appointed representative payee or VA fiduciary by the agency paying the benefit.



Don’t expect others to know what a rep payee or VA fiduciary is or does.

They may not understand that you have been named as a rep payee or VA fiduciary. They may think you have either more authority or less authority than you really have. You may need to educate them. You could show them this guide and the letter appointing you.

Four basic duties of a fiduciary



Avoid possible conflicts of interest

Sometimes people have good intentions, but do things they shouldn't. Because you are now a fiduciary, you should avoid any conflicts of interest. Here are a few examples of possible conflicts of interest:

Whose car is it?

You used Roberto's money to buy a car. You use it to drive him to appointments, but most of the time you drive the car just for your own needs. This may be a conflict of interest.

Should you do business with family?

Roberto needs repair work in his apartment. You hire your son and pay him from Roberto's money. This may be a conflict of interest, even though the work was needed. It appears that you have put your personal interest to benefit your son in conflict with Roberto's interests.

Duty 1 | Act only in Roberto's best interest

Because you are dealing with Roberto's money, your duty is to make decisions that are best for him. This means you must ignore your own interests and needs, or the interests and needs of other people such as Roberto's relatives who are not his dependents.

To help act in Roberto's best interest, follow these guidelines:

- **Avoid conflicts of interest.** A conflict of interest happens if you make a decision about Roberto's money that may benefit someone else besides Roberto. As a fiduciary, you have a strict duty to avoid conflicts of interest—or even the appearance of a conflict of interest.
- **Don't borrow, loan, or give Roberto's money to yourself or others.** The VA may allow gifts in certain circumstances, but be sure to check with them first.
- **Don't pay yourself for your services.** Only certain organizations or qualified individuals are allowed to charge a fee to serve as rep payee or VA fiduciary if the particular agency approves it.

Duty 2 | Manage Roberto's money carefully

As Roberto's fiduciary, you might pay bills or taxes, oversee bank accounts, pay for things he needs, and do other things to manage his benefits. You have a duty to manage Roberto's money very carefully. Use good judgment and common sense. As a fiduciary, you must be even more careful with Roberto's money than you might be with your own!

Follow these guidelines to help you make careful decisions:

- **Make sure Roberto's day-to-day needs for food, clothing, and shelter are met first.** Only then should you spend money on Roberto's medical, dental, and personal needs to improve his daily living conditions or comfort, such as:
 - Improvements in his home or apartment;
 - Recreational activities, magazine subscriptions, cable TV;
 - Educational or training expenses, if they are needed to improve Roberto's life; and
 - Car payments, if his other needs are met and Roberto needs or owns the car.
- **Pay bills on time.** Make sure bills are sent to you. Review bills and bank statements promptly.
- **Protect unspent funds.** After you pay Roberto's regular expenses, if money is left over, you must save it in a federally protected or state-insured interest-bearing account or U.S. savings bond. The interest earned always belongs to Roberto.
- **Consider Roberto's dependents.** If Roberto has a spouse or dependent family members, consult with the Social Security Administration or the VA about whether you can use any of his money to pay for their needs.
- **Protect Roberto's money from creditors' claims.** The law protects Roberto's benefits. Creditors are not allowed to legally take his Social Security or VA funds, with certain exceptions. His bank must protect up to 60 days' worth of benefits. But if Roberto owes a debt to the federal government or for child or spousal support, special rules apply. Seek legal help if a debt collector sues Roberto.
- **Don't overlook taxes.** Be aware that some people who get Social Security or other federal benefits may have to pay federal income tax, depending on their total income. As Roberto's fiduciary, each year you will receive a form showing the amount of benefits paid to him during the previous year. Consult an income tax preparer to determine whether Roberto will owe taxes. Be sure to pay taxes on time.

Can Roberto get any benefits?

Find out if Roberto is eligible for other benefits that would enable his Social Security or Veterans benefit to go further.

For instance, you could help Roberto apply for other private benefits such as employer pensions or disability, or public benefits such as Medicaid, housing assistance, or food stamps (now known as Supplemental Nutrition Assistance Program, or SNAP). Use the National Council on Aging benefits check-up at www.BenefitsCheckUp.org.

The Area Agency on Aging where Roberto lives can help you find information. Find the local Area Agency on Aging through the Eldercare Locator at www.eldercare.gov.

Medicaid is complicated

Get legal advice and be very careful about decisions that may affect Roberto's eligibility for Medicaid. The Medicaid program provides medical assistance and long-term care to low-income people. It may have another name in your state. To find your state Medicaid agency, visit: www.benefits.gov/benefits/browse-by-category/category/MED.

Duty 3 | Keep Roberto's money separate

Never mix Roberto's benefit money with your own or someone else's. Mixing money makes it unclear who owns what. Confused records can get you in trouble with government agencies and law enforcement.

Follow these guidelines:

- **Separate means separate.** Never deposit Roberto's money into your own or someone else's bank account or investment account. The VA fiduciary program makes an exception to this rule if you are a fiduciary for your spouse.
- **Avoid joint accounts.** If you and Roberto already have benefit money in a joint account, take his money out and put it in a new account. The box to the right shows you how to title the account and sign checks. Arrange for direct deposit of his benefits.
- **Pay Roberto's expenses from his funds, not yours.** Spending your money and then paying yourself back makes it hard to keep good records. If you really need to use your money, keep receipts for the expense and maintain a good record of why, what, and when you paid yourself.

- **Don't sign contracts or leases on Roberto's behalf**, even if they are entirely paid by benefits. You don't have the authority to sign contracts or leases for Roberto, unless you have some other legal arrangement such as a power of attorney or guardianship.

How to title an account if you are a rep payee

TYPE OF ACCOUNT	TITLE
For bank accounts	<p><i>(Name of beneficiary) by (Your name), representative payee</i></p> <p>OR</p> <p><i>(Your name), representative payee for (Name of beneficiary)</i></p>
For U.S. savings bonds	<p><i>(Name of beneficiary) (His Social Security Number), for whom (Your name) is representative payee for Social Security benefits</i></p>

How to title an account if you are a VA fiduciary

TYPE OF ACCOUNT	TITLE
For bank accounts	<p><i>(Name of beneficiary) by (Your name), fiduciary</i></p> <p>OR</p> <p><i>(Your name), fiduciary for (Name of beneficiary)</i></p>
For U.S. savings bonds	<p><i>(Name of beneficiary) (His Social Security Number), under custodianship by designation of the Department of Veterans Affairs of the Department of Veterans Affairs</i></p>

Duty 4 | Keep good records and report as required

You must keep true and complete records of Roberto's money and how it is used. As Roberto's fiduciary, you must be able to account for everything you've done with his money.

Practice good recordkeeping habits:

- **Keep a detailed list of all money you receive or spend for Roberto.** Your records should include the amount of checks written or deposited, dates, reasons, names of people or companies involved, interest rates on savings or investments, and other important information.
- **Keep receipts and notes, even for small expenses.** For example, write, "\$50, groceries, ABC Grocery Store, May 2" on the receipt soon after you spend the money.
- **Avoid paying in cash.** Try not to pay Roberto's expenses with cash. Also, try not to use an ATM card to withdraw cash or write checks to cash. If you need to use cash, be sure to keep receipts or notes.
- **Make annual reports on time:**
 - If you are a Social Security representative payee, every year you must fill out a form to account for the benefits you have received and spent and verify your status and the beneficiary's. You can fill this form out online at: www.socialsecurity.gov/payee.
 - If you are a VA fiduciary, you must submit accountings when you are asked for them. For the VA form, go to: www.vba.va.gov/pubs/forms/VBA-21p-4706b-ARE.pdf. VA provides helpful tips on filling out the accounting at http://benefits.va.gov/fiduciary/Fid_Guide.pdf.
- **Keep the agency informed about Roberto.** You must notify the agency of any event or change in Roberto's situation that will affect the amount of his benefits or how they are received. For example, let the agency know if Roberto:
 - Moves or changes his contact information
 - Has a change in income from any sources
 - Is imprisoned or faces criminal charges for a felony
 - Has a change in dependents
 - Will be outside of the U.S. for 30 days or more

- Improves to the point that he no longer needs a rep payee or fiduciary, or no longer qualifies for benefits
- Dies
- **If you are a representative payee and Roberto receives Supplemental Security Income (SSI), you have special reporting requirements.** Let the Social Security Administration know if Roberto:
 - Moves to or from a hospital, nursing home, correctional facility, or other institution
 - Separates from his spouse or begins again living with his spouse after they were separated
 - Moves into someone else's household or someone moves into or out of his household
- **Special reporting for VA fiduciaries.** Let the VA know if Roberto is receiving hospital treatment or other institutional, nursing, or residential care.
- **Keep the agency informed about yourself.** Let the agency know if you:
 - Move
 - No longer wish to be Roberto's payee
 - Are convicted of a felony or face criminal charges for a felony
 - Have any other change of circumstances that would affect your performance as a payee

More things you should know

What if there are other fiduciaries?

Other fiduciaries may have some authority to make decisions for Roberto. For example, Roberto may have an agent under a power of attorney who is managing other money or property for him. The court might have appointed a guardian of property, or there may be a trustee under a trust account. Remember, you only have authority over Roberto's VA, Social Security, or other federal benefit.

To the extent that you can, if you coordinate with Roberto's other fiduciaries, you will generally be able to manage his affairs more cost effectively.

How can you avoid problems with family or friends?

Family or friends may not agree with your decisions about Roberto's money. To help reduce any friction, follow the four duties and the guidelines we've given you.

Sharing information may help. For example, you might want to share reports you complete or summaries of how you've spent Roberto's money, unless Roberto has said that you should not. It usually is easier to deal with questions about a decision when it happens than to deal with suspicion and anger that may build over a long time. In the end, you have to make the final decisions.

Some family or friends may be so difficult that it is better not to share information with them. Use your best judgment.

If family or friends don't agree with your decisions, try to get someone to help sort it out—for example, a family counselor or mediator. See *Where to go for help* on page 20 of this guide.

Watch out for financial exploitation

Family, friends, neighbors, caregivers, fiduciaries, business people, and others may try to take advantage of Roberto. They may take his money without permission, fail to repay money they owe, charge him too much for services, or just not do things he has paid them to do. These may be examples of *financial exploitation* or *financial abuse*. As Roberto's rep payee or VA fiduciary you should help protect him. You should know the signs of financial exploitation for five important reasons:

1. Roberto may still control some of his funds and could be exploited;
2. Even if Roberto does not control any of his funds, he still may be exploited;
3. Roberto may have been exploited already, and you may still be able to do something about that;
4. People may try to take advantage of you as Roberto's rep payee or VA fiduciary; and
5. Knowing what to look for will help you avoid doing things you should not do, protecting you from claims that you have exploited Roberto.

Look for these common signs of financial exploitation

- **You think that some money or property is missing.**
- **Roberto says that some money or property is missing.**
- **You notice sudden changes in Roberto's spending or savings.** For example, he:
 - Takes out lots of money from the bank without explanation;
 - Tries to wire large amounts of money;
 - Uses the ATM a lot;
 - Is not able to pay bills that are usually paid;
 - Buys things or services that don't seem necessary;

- Puts names on bank or other accounts that you do not recognize or that he is unwilling or unable to explain;
 - Does not get bank statements or bills;
 - Makes new or unusual gifts to family or others, such as a “new best friend”;
 - Changes beneficiaries of a will, life insurance, or retirement funds; or
 - Has a caregiver, friend, or relative who suddenly begins handling his money.
- **Roberto says he is afraid or seems afraid of a relative, caregiver, or friend.**
 - **A relative, caregiver, friend, or someone else keeps Roberto from having visitors or phone calls, or does not let him speak for himself, or seems to be controlling his decisions.**

What can you do if Roberto has been exploited?

- Call the emergency 911 number if Roberto is in immediate danger.
- Call local adult protective services or the police or sheriff. You may be required by law to do this.
- Alert Roberto’s bank or credit card company.
- Call the local prosecutor or state attorney general.
- Call the long-term care ombudsman program or the state Medicaid fraud control unit if Roberto is in a nursing home or assisted living.
- Consider talking to a lawyer about protecting Roberto from more exploitation or getting back money or property taken from him.

Each agency or professional has a different role, so you may need to call more than one. For more information, see *Where to go for help* on page 20 of this guide.

Be on guard for consumer scams

As Roberto's fiduciary, you should be alert to protect his money from consumer scams as well as financial exploitation. Criminals and con artists have many scams, and change them all the time. They often seek unsuspecting people who have access to money. Learn to spot consumer scams against Roberto—and against you as his fiduciary.

How can you protect Roberto from scams?

Consumer scams happen on the phone; through the mail, e-mail, or the Internet; and they occur in person, at home, or at a business.

Here are some tips:

- **Help Roberto put his number on the National Do Not Call Registry.** Go to www.donotcall.gov or call 1-888-382-1222.
- **Don't share numbers or passwords for Roberto's accounts, credit cards, or Social Security,** unless you know whom you're dealing with and why they need the information.
- **After hearing a sales pitch, take time to compare prices.** Ask for information in writing and read it carefully.
- **Too good to be true?** Ask yourself why someone is trying so hard to give you a "great deal." If it sounds too good to be true, it probably is.
- **Watch out for deals that are only "good today" and that pressure you to act quickly.** Be suspicious if you are not given enough time to read a contract or get legal advice before signing. Also watch out if you are told that you need to pay the seller quickly, for example by wiring the money or sending it by courier.
- **Never pay up front for a promised prize.** Suspect a scam if you are required to pay fees or taxes to receive a prize or other financial windfall.

- **Watch for signs Roberto already has been scammed.** For example, does he receive a lot of mail or e-mail for sweepstakes? Has he paid people you don't know, especially in other states or countries? Has he taken a lot of money out of the bank while he was with someone he recently met? Does he have a hard time explaining how he spent that money? Is he suddenly unable to pay for food, medicine, or utilities?

What can you do if Roberto has been scammed?

If you suspect a scam, get help. Contact a local, state, or federal agency, depending on the type of scam. You may also need to talk to a lawyer.

Local agencies to call are adult protective services, the long-term care ombudsman program, the police or sheriff, and the local Better Business Bureau.

State agencies to call are the office of the attorney general or another agency that deals with consumer protection.

Call a federal agency if scammers are in other states or countries. Federal agencies are the Consumer Financial Protection Bureau, the FBI, the Federal Trade Commission, or the U.S. Postal Inspection Service.

Each of these agencies and professionals has a different role so you may need to call more than one.

For more information, see *Where to go for help* on page 20 of this guide.

Common consumer scams

SCAM TYPES	DESCRIPTION
Relative in need	Someone who pretends to be a family member or friend calls or e-mails you to say they are in trouble and need you to wire money right away.
Charity appeals	You get a call or letter from someone asking for money for a fake charity—either the charity does not exist or the charity did not call or write to you.
Lottery or sweepstakes	You get a call or e-mail that you have a chance to win a lot of money through a foreign country’s sweepstakes or lottery. The caller will offer tips about how to win if you pay a fee or buy something. Or the caller or e-mail says you already have won and you must give your bank account information or pay a fee to collect your winnings.
Home improvement	Scammers take money for repairs and then they never return to do the work or they do bad work. Sometimes they break something to create more work or they say that things need work when they don’t.
Free lunch	Scammers invite you to a free lunch and seminar, and then pressure you to give them information about your money, and to invest the money with them. They offer you “tips” or “guaranteed returns.”
Free trip	Scammers say you’ve won a free trip but they ask for a credit card number or advance cash to hold the reservation.
Government money	You get a call or letter that seems to be from a government agency. Scammers say that if you give a credit card number or send a money order, you can apply for government help with housing, home repairs, utilities, or taxes.
Drug plans	Scammers pretend they are with Medicare prescription drug plans, and try to sell Medicare discount drug cards that are not valid. Companies with Medicare drug plans are not allowed to send unsolicited mail, emails, or phone calls.
Identity theft	Scammers steal personal information—such as a name, date of birth, Social Security number, account number, and mother’s maiden name—and use the information to open credit cards or get a mortgage in someone else’s name.
Fake “official” mail	Scammers send letters or e-mails that look like they are from a legitimate bank, business, or agency to try to get your personal information or bank account number.

Where to go for help

Local and state agencies

Adult Protective Services

Find the state or local agencies that receive and investigate reports of suspected elder or adult abuse, neglect, or exploitation by contacting the national Eldercare Locator.

1-800-677-1116

www.eldercare.gov

Area Agency on Aging/Aging and Disability Resource Center

Find the local agencies that can give you information about aging and disability services and whether there are any support groups for fiduciaries or caregivers by contacting the national Eldercare Locator.

1-800-677-1116

www.eldercare.gov

Attorney General

Find a listing of state attorneys general on the website of the National Association of Attorneys General. Attorneys general can take action against consumer fraud.

www.naag.org

Better Business Bureau

Find a state or local bureau on the website of the national Better Business Bureau. The BBB can help consumers with complaints against businesses.

www.bbb.org

Long-Term Care Ombudsman Program

Find state and local advocates for residents of long-term care facilities by contacting the national Eldercare Locator.

1-800-677-1116

www.eldercare.gov

Mediators

Find a listing of local mediators on the website of the national Association for Conflict Resolution. Mediation can help resolve disputes and may sometimes be an alternative to legal action.

www.acrnet.org (Click on "Membership," then "Membership Directory," then "Search")

Medicaid/Medical Assistance

Find a listing of state agencies that provide Medicaid/Medical Assistance on the federal Benefits.gov website.

www.benefits.gov/benefits/browse-by-category/category/MED

Medicaid Fraud Control Unit

Find a listing of state units on the website of the National Association of Medicaid Fraud Control Units. These units investigate and prosecute abuse and fraud by health care providers.

www.namfcu.net

Police or Sheriff

Find a law enforcement agency by checking the local directory.

Federal agencies

Numerous federal agencies play a role in combating fraud and abuse and educating consumers. Contact them for more information.

Consumer Financial Protection Bureau

1-855-411-CFPB

www.consumerfinance.gov

Do Not Call Registry

1-888-382-1222

www.donotcall.gov

Federal Bureau of Investigation

www.fbi.gov/scams-safety

Federal Trade Commission

1-877-FTC-HELP (382-4357)

www.consumer.ftc.gov

Financial Fraud Enforcement Task Force

www.stopfraud.gov

Postal Inspection Service

1-877-876-2455

<https://postalinspectors.uspis.gov/>

Social Security Administration

1-800-772-1213

www.socialsecurity.gov/payee

Department of Veterans Affairs

1-888-407-0144

www.benefits.va.gov/fiduciary

For legal help

Free legal services for people over age 60

Find local programs that provide free legal help to people over age 60 by contacting the national Eldercare Locator.

1-800-677-1116

www.eldercare.gov

Free legal services for low-income people

Find local programs that provide free legal help to low-income people on the website of the Legal Services Corporation.

www.lsc.gov/find-legal-aid

Fee-for-service lawyers

This is a web page sponsored by the American Bar Association. It provides information about how to find a lawyer in each state. It also has information about legal resources available in each state, how to check whether a lawyer is licensed, and what to do if you have problems with a lawyer.

www.findlegalhelp.org

For accounting help


Accountants

Find a local certified public accountant on the website of the American Institute of CPAs.

www.aicpa.org/ForThePublic/FindACPA/Pages/FindACPA.aspx

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