

Daily

Money

Management



A “How-to” Manual for Care Management Agencies

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BROOKDALE CENTER
for Healthy Aging & Longevity

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[**NOTICE:** Be advised that all content should not be construed as legal advice or a legal opinion on any specific factual situation. The content is intended for educational purposes only.]

FOREWORD

In 1993 the Brookdale Center on Aging of Hunter College received an endowment from an anonymous donor to establish the Jacob Reingold Institute (the "Reingold Institute") to address problems of elder abuse. The Reingold Institute was created at a time of growing concern about the issues of elder abuse by families and friends, health and social service agencies, law enforcement officials and senior citizens. Endowment income supports research, conferences, legislative initiatives and the development of training programs and manuals.

The first initiative of the Reingold Institute, the Elderly Financial Management Project (the EFM Project), addressed problems of financial abuse, including fact finding, legal research, training programs, conferences and surveys of New York City care management agencies and banking institutions. In 1994, an EFM Project survey found that even though 88% of the care management agency respondents had encountered financial abuse among their clients only one-third of these agencies were offering Daily Money Management (DMM) as a service option for clients. The primary reasons given for agency reluctance to become involved with client money management were:

1) High liability risks; 2) lack of knowledge about how to set up and run such programs; and 3) lack of funding for these services. The "EFM Project Year One Report" made the following recommendations to address this survey response.

1. Daily Money Management services should be provided by a greater number of care management agencies.
2. Staff engaged in Daily Money Management activities require specialized training.
3. Risk management principles must be applied to DMM services.
4. Agencies should develop specific written procedures for handling client finances.
5. Agencies should develop DMM service forms to create documentation trails for risk management, quality assurance and liability purposes.

Consistent with these findings and recommendations, a major goal of the Reingold Institute has been to offer agencies technical assistance in daily money management to enable the initiation of DMM services or to enhance existing services through the development of risk management practices.

The Reingold Institute has a deep sense of gratitude to the philanthropist whose support made this manual possible. Hopefully, it will offer agencies another tool to develop quality money management services for their elderly clients.

INTRODUCTION

MARY

For two years the neighborhood care management agency has assisted Mary with her home care needs. Mary is 84 and suffers from diabetes, rheumatoid arthritis and congestive heart failure. Lately, Mary has confided to the agency social worker that she just can't handle things anymore, in particular, her money. Mary has extreme difficulty writing checks, going to the bank and keeping track of her bills. She also has piles of outstanding medical bills and health insurance forms. Mary asks the agency to please help her with all this.

ED

Ed is 80 years old and lives alone in his apartment. The care management agency has helped Ed apply for government benefits and set up housekeeper-chore services. On a recent home visit, the agency caseworker finds stacks of unpaid bills (phone, utilities, rent etc.), a notice from the landlord regarding overdue rent payments and a utility shut-off notice. The worker also finds three un-cashed Social Security checks.

When questioned about the bills, Ed states, "I've never been late paying my bills. I've taken care of these bills". When the worker shows Ed the rent and utility notices he states, "Yes, I see these bills need to be paid." Ed then proceeds to ask the worker "who are all these letters for?" The caseworker has noted in the client's file (over the past two months) several incidents of forgetfulness, confusion and disorientation to time.

MS. ADAMS

Ms. Adams' nest egg of \$120,000, saved during a lifetime of hard work, is kept in a savings account from which she rarely withdraws any money. Ms. Adams, who is ninety years old and who lives alone, recently acquired a new friend, John, who lives in the neighborhood. He visits her frequently, escorts her to the bank, and occasionally does her marketing. John obtained power-of-attorney for Ms. Adams' checking and savings accounts so that he can pay bills and balance her checkbook. Without her knowledge, however, John has also been steadily withdrawing funds from Ms. Adams' savings account. Ms. Adams' "friend" is likely to disappear. A concerned neighbor makes a referral to a social services agency.

Such stories are not unusual. They exemplify the kinds of situations frequently encountered by care management agencies. Often a long-time client physically declines like Mary and no longer has the dexterity and/or mobility to deal with bill paying and banking. Clients like Ed have memory loss and exhibit periods of confusion and disorientation which lead to financial self-neglect and often the possibility of eviction. In cases like that of Ms. Adams, financial abuse and exploitation occur. The common thread in these situations is the need for assistance with finances. Whether it is to keep a client at home, to prevent a crisis such as eviction or to stop or prevent financial abuse, money management becomes an essential needed service.

Most care management agencies have "backed into" assisting their clients with money management as their clients have aged or declined. Often agencies initiate informal money management services cautiously, frequently as part of a broader care management function. This phenomenon, "Daily Money Management" (DMM) has evolved nationally to encompass the full range of money management services that may be offered.

In working with New York agencies providing DMM services it is evident that the tasks performed by agency staff reach into every aspect of a client's life enabling them to remain safer in the community. The list below exemplifies financial problems of DMM clients and the assistance given by the staff of a NYC Care Management Agency.

- Help filing current and back tax returns (help finding Tax Service/accountants)
- Rent arrears and utility shut off notices/ avoiding eviction by working out payment plans with landlords and utility companies
- Assisting clients in applying for Medicare Part A&B
- Assisting clients in applying for entitlements (MA, SCRIE, EISEP, SSI)
- Paying for home care
- Educating clients on advance directives (Power Of Attorney, Health Care Proxy) and helping to execute the documents
- Negotiating for clients in housing court (eviction, nuisance cases)
- Financial abuse by home attendant (making long distant calls out of the country) negotiating the subsequent phone bill with the phone company
- Referring clients for Guardianship proceedings
- Helping clients set up reasonable payment schedules with creditors
- Helping clients to find appropriate professional assistance (attorneys, accountants)
- Assisting clients with bankruptcy

Daily Money Management may consist of supportive assistance or surrogate decision making. Supportive decision making services are tasks such as information/education, public benefits advocacy, budgeting, bill paying, banking assistance, credit management and medical insurance billing. These services "support" the clients in their decisions when the client is presumed to have capacity and thus is able to act as the "decision maker". The agency, as money manager, becomes the "decision implementer" since the client has the ability to consent to services and to direct or oversee the tasks performed by the provider. Surrogate decision making services, on the other hand, occur when an agency is authorized to make decisions on behalf of a client who no

longer has the capacity to make decisions. Surrogate decision making authority may have been given to the agency by the client prior to the client's incapacity, as when a client signs a power of attorney or voluntarily requests or agrees to the appointment of a representative payee or a guardian, or it may be given after a client becomes incapacitated by the appointment of a representative payee by the Social Security Administration or of a guardian by a court. The money manager in these situations becomes the "decision maker", acting according to the previously expressed wishes of the client or, if the client's preferences are unknown, in the best interests of the client.

SUPPORTIVE DECISION MAKING SERVICES

Clients who retain decision making ability but need assistance with their finances are prime candidates for supportive decision making services. Generally, these clients have a medical condition that either impairs their physical ability to perform money management tasks or creates symptoms of confusion and memory loss. Also, recently widowed clients who have never been involved with household finances may need assistance. Since only the least restrictive alternative should be utilized, agencies must establish exactly what the client can and cannot do at the outset. Often a monthly session is all that is needed for the agency to write out checks for the client to sign or to make sure that the client who is becoming forgetful pays the right bills and properly balances the checkbook. Remember that when supportive services are provided, the client remains in control.

EDUCATION AND ADVOCACY

The agency may be able to provide education and training for clients who know little or nothing about daily money management which will enable the client to eventually take over the tasks. Initially, organizing finances can be a formidable task if the client's records have fallen into disarray. Working with the client, the agency must determine which bills should be paid first. Next, a monthly budget showing the client exactly how much income is available and what the expenses are should be set up. If appropriate, teach the client how to write a check and balance the checkbook. Inform the client of available entitlements and assist in the application process. Over time, whether the client is able to take over the money management function or whether the agency

is needed to provide DMM services on an ongoing basis should become clear. All agency efforts to educate the client and the client's response should be well documented in the file.

BILL PAYING

Interviewing the client to establish a list of monthly income [\[Click to go to Appendix A\]](#) and expenses [\[Click to go to Appendix C\]](#) is the first order of business. A standardized form should be used. The agency and client should talk about the easiest and most efficient way for the monthly bills to be paid. For instance, will staff go to the client's home to pay bills, or is the client able to come to the office? Arrangements can be made for the bills to be sent directly to the agency for payment avoiding unnecessary home visits. The client's children may have a Power of Attorney but live out of state. Arrange for the Power of Attorney to send a monthly check to the agency for payment of the parent's bills. Also options such as direct deposit of income checks, consolidation of bank accounts and automatic bill paying services by the bank directly out of the client's checking account should be considered. Explore the services your neighborhood bank offers and at what charge. Agencies offering bill paying services to many clients often set up a "client fund account" which allows income deposits and bill paying for individual clients out of one account. Most banks have a "Client Funds Account" startup package which can be requested.

INSURANCE CLAIMS

Bill paying often includes medical bills. To appropriately pay these expenses the agency must know what, if any, third party payors are involved such as Medicare, private insurance policies and Medicaid. Claims must be submitted to Medicare first with the balance paid by Medicare

Supplemental or private insurance policies. Any remaining balance must be paid from client funds. For clients who are eligible, Medicaid will cover most medical expenses not covered by Medicare.

Since the process of handling Medicare and private insurance policy claims can become complex, agencies should explore the possibility of sub-contracting with a medical bill paying service if available. Individuals and companies specialize in claims submission and medical bill paying for a fee. Often claims are initially denied and appeals are required. Although this process can be technical and extremely time consuming, many appeals are successful. If an agency is going to offer this activity as part of the DMM services, the staff must acquire expertise in this area or have access to those who do. New York has volunteers trained to give seniors advice on health insurance matters through the Health Insurance Information Counseling and Assistance Program (HIICAP). In NYC the program can be located through the Department for the Aging at <http://www.nyc.gov/html/dfta/html/senior/hiicap.shtml> and (212)341-3200. The NYS Office for the Aging has extensive information on this program at <http://hiicap.state.ny.us/>. The HIICAP Hotline Number - For local assistance in answering Health Insurance (HIICAP) questions call (800) 701-0501.

TAX RETURNS

The preparation of simple tax returns or helping the client to locate a tax preparation service is often included in DMM. The agency should become aware of tax assistance programs for seniors in the community. These programs are often free of charge and offered at local senior centers and public libraries. Federal, state and local tax returns are to be filed for your clients before April 15th each year. If you are a guardian for your client attach a photocopy of your certified commission to any tax form you send to the IRS or state tax authorities, and sign as, "Agency X,

guardian for Mary Smith, an incapacitated person”. If you can’t finish the taxes on time, you can request an extension for up to six months using IRS form 4868 (Application for Automatic Extension of Time). You may still have to pay penalties and interest for your client when you have an extension.

Clients with real property, securities or more complicated assets, however, should have their return prepared by a CPA or other professional. If an agency discovers that a DMM client has not filed or paid back taxes, the State Department of Taxation and Finance and the Internal Revenue Service should be notified. Ask if any enforcement actions have been taken by the agency such as the filing of a tax warrant which constitutes a legal judgment against the taxpayer.

Also, if a client did not file a tax return because of incapacity, contact the IRS and ask for a suspension of the tax filing deadline pending appointment of a guardian. Some people who get Social Security will have to pay federal income tax on their benefits. At the beginning of each year, Social Security will mail you a *Social Security Benefit Statement* (Form SSA-1099) that shows the amount of benefits paid during the previous year. Give this statement to the person who prepares the beneficiary’s tax returns to use in figuring out if any tax must be paid on the beneficiary’s Social Security benefits.

NOTE: Federal IRS (Internal Revenue Service) forms are available through its website, www.irs.gov , or at (1-800-829-3676).

SURROGATE DECISION MAKING SERVICES

POWERS OF ATTORNEY

A person who creates a power of attorney (known as the principal) authorizes someone else to act in his/her place regarding financial matters. The person who receives the authority is known as the agent or attorney-in-fact. A power of attorney might, for example, authorize someone to manage bank accounts, obtain public benefits, receive income, or sell property. Powers of attorney may be created by adults who have the capacity to understand the nature and significance of what they are doing. Persons who have been declared legally incapacitated to manage their property cannot create a power of attorney.

Executing a power of attorney in New York is a simple procedure. The principal writes and signs a statement which makes clear what the agent is authorized to do. Witnesses are not needed; the document, however, must be notarized. A standardized form (Statutory Short Form Power of Attorney) can be used and must be accepted by banks and other financial institutions.

A durable power of attorney remains effective after the principal loses capacity. The document creating the durable power of attorney must explicitly say that the power "shall not be affected by the subsequent disability or incompetence of the principal." A durable power of attorney can be very helpful in allowing a trusted person to continue financial management for those who no longer have the capacity to manage their own affairs and is an effective way to plan for future incapacity.

If a legal guardian is appointed for the principal, the agent can continue to act but becomes responsible to the guardian instead of to the person who created the power of attorney.

A power of attorney can be revoked whenever the principal wishes. A written and signed statement or revocation form should be used, and all appropriate parties must be notified that the power is no longer in effect. If the statutory short form is used, third parties who honor the power of attorney, such as banks, are not liable for doing so unless they received actual, written notice of the revocation. All powers of attorney end upon the death of the principal. A power of attorney also ends when the principal loses capacity, unless it is a durable power of attorney.

Special Considerations in New York

1. Agencies who wish to act as agents for their clients must designate an individual within the agency to act as the attorney-in-fact. The client could, for example, give the power to the "Executive Director of Agency X, Mary Jones and her successors". This makes it clear that the agent is a person in an official capacity such as, "Mary Jones, Executive Director" whether it is Mary Jones or her successor. The client has the option of giving the agent unqualified authority to delegate any of the agent's powers to any person or persons whom the agent may select. Thus the named agency official may delegate powers to other agency staff members.
2. If a client wishing to give power of attorney is of questionable capacity or has vacillating periods of lucidity, obtaining a physician's statement to document the client's mental capacity at the time of signing should be considered.
3. Power of attorney forms can be drawn up by attorneys or purchased at an office supply store [\[Click to go to Appendix D\]](#) for the current New York Statutory Short Form.
4. Under New York law banks and other financial institutions are required to accept the standardized form. Nevertheless, practitioners have often found that institutions refuse to honor these forms without referral to legal counsel. The bank often will only recognize its own power of attorney form. To avoid this problem have the principal execute the statutory form and the financial institution's power of attorney form. If the bank Power of Attorney form was not signed and the institution refuses to honor a properly executed statutory form, the provider may need to write, or have a lawyer write, a letter to the bank's legal department citing the appropriate provisions of New York Law [\[Click to go to Appendix E\]](#).

5. Since agents manage money or property for another they are considered fiduciaries and are legally required to act in the best interests of the Principal at all times. Agents may be sued for breach of their fiduciary duty. The court may compel a POA to give an accounting during an Article 81 guardianship proceeding.
6. In New York a Power of Attorney can never be used to make health care decisions. It is only to be used for financial management purposes.

REPRESENTATIVE PAYEE

Representative payees may be appointed to manage funds for clients who receive a government benefit check such as Social Security, Supplemental Security Income (SSI) or Social Security Disability Income (SSDI) if the Social Security Administration (SSA) determines they are not able to manage or direct the management of their benefit payments and that it is in their best interest.

In deciding whether there is a need for representative payment, the SSA considers the following:

- lay evidence such as statements from friends, relatives, neighbors, landlords or provider agency staff as to the recipient's ability to manage funds and meet daily needs, eviction notices, utility shut off notices and un-cashed benefit checks to prove benefits are not being properly handled;
- medical evidence such as an opinion from a medical professional based upon an examination conducted within the past year concerning the nature of the recipient's illness, the chance of recovery, and the ability to manage finances (medical evidence is to be considered whenever possible but if none is available, other proof of incapability should suffice) [\[Click to go to Appendix G\]](#), and;
- legal evidence of incapacity such as certified copy of a court order or commission in a guardianship proceeding.

In selecting a payee SSA will try to select the person, agency, organization or institution that will best serve the interest of the beneficiary. In making this selection SSA considers:

- The relationship of the person to the beneficiary;
- The amount of interest that the person shows in the beneficiary;
- Any legal authority the person, agency, organization or institution has to act on behalf of the beneficiary;
- Whether the potential payee has custody of the beneficiary; and
- Whether the potential payee is in a position to know of and look after the needs of the beneficiary.

Individuals or agencies wishing to apply for appointment as a representative payee must complete an SSA-11 form, Request to be Selected as Payee [\[Click to go to Appendix R\]](#). This form must be completed in a face-to-face interview at the local district SSA office; if a face-to-face interview is not possible, the application may be completed by phone. Agencies should get the name and phone number of the SSA representative who handles the application so they know who to contact if there are delays in processing.

Clients for whom payees are requested are entitled to advance written notice of the appointment of a payee from the SSA with the right to appeal a determination that a payee is needed and/or the designation of a particular person or agency to serve as payee. SSA should notify the selected payee in writing. In many cases, however, the agency receives no official notification from SSA but rather the appointment is confirmed when the payee first receives the client's benefit check. Payeeship can be ended when there is evidence that recipients have regained the ability to manage their checks or die.

Once an agency has been designated payee, the benefits are mailed to the agency and are to be deposited into a separate designated payee account, titled "agency X, as representative payee for

Mary Jones”, with signature cards signed by the payee. Only the client's social security number should be used on the account.

Federal legislation requires all individuals eligible for Social Security or SSI benefits to receive their benefits by direct deposit into a bank account at a financial institution. An agency acting as payee must arrange to have all future SSA or SSI checks deposited directly into an individual payee account or into an agency "Client Funds Account" discussed below. The fastest way to arrange for direct deposit is by calling Social Security with the account number and routing number. A slower alternative method is to obtain a Direct Deposit Sign Up Form SF-1199A from the Financial Management Service website [Click to go to Appendix R](#) and fill it out. Agencies should meet with the banking staff that handles payee accounts to inform them that they are now acting as representative payee for clients. If these benefits are commingled with the client's funds from non-benefit sources, the payee must be able to identify what portion of the account are payee benefits. This usually can be documented with bank statements reflecting monthly deposits of the benefit amount.

Sometimes an organization will place funds for several beneficiaries in a single checking or savings account. This is called a “collective account.” This is usually acceptable, but the following special rules apply to these accounts:

- the account title must show that the funds belong to the recipients and not the payee;
- the account must be separate from the agency's operating account;
- for each recipient who has a monthly account balance after payment of expenses of \$150 an interest-bearing account is recommended, with the interest prorated and credited to the individual recipients on the basis of their share of funds in the account;
- clear and current records must show the amount of each individual recipient's share in the account with proper procedures for documenting credits and debits to the account for each individual, and;
- accounts and supporting records must be made available, upon request, to SSA.

An agency acting as payee has the obligation to spend the funds in the recipient's or clients best interest. To meet this obligation, the payee needs to know the client's current and future maintenance needs such as costs incurred in obtaining food, shelter, clothing, medical care and personal comfort items. Often the agency is already intimately aware of the situation having previously provided care management services. The payee may purchase personal needs items for the beneficiary such as:

- clothing;
- personal articles (jewelry, grooming aides, special soaps, cosmetics etc.);
- medical expenses and equipment not paid by Medicare or Medicaid (eyeglasses, hearing aids etc.);
- therapeutic services (special tutors, participation in companionship programs);
- room furnishings (bedspreads, curtains, mirrors, lamps, pictures, etc.);
- supplies and equipment for occupational therapy;
- recreational items (cameras, radios, televisions, etc.), and;
- miscellaneous items (restaurant meals, movies, stationary, tobacco, candy, etc.).

If the client has outstanding debts, some general principles should be kept in mind. The agency's authority as representative payee extends only to the funds over which the agency has payeeship. Unless the agency is a legal property management guardian, a representative payee does not control the client's complete financial picture. The client still retains the legal right to make financial management decisions including entering into contracts and incurring debts. On the other hand, assisting the client with debt resolution is appropriate if done in accord with the client's wishes. Federal regulations state that a creditor cannot force a representative payee to pay debts incurred by the client prior to the establishment of the payeeship. Furthermore the regulations

protect the client's benefits from attachment by creditors. Thus the Payee is not required to pay these past debts from benefit funds unless it involves:

- Refund of entitlement benefit overpayment;
- An IRS levy for income tax purposes;
- Garnishment authorized by a court order for child support or alimony obligations;
- Bank account fees, or;
- Support of legal dependents. If the current maintenance needs of the beneficiary are met, the payee may use part of the payments for the support of the beneficiary's legally dependent spouse, child, and/or parent.

If the client wishes to pay debts, the payee, with consent of the client, can contact the creditor by letter explaining the client's situation and proposing a minimal monthly payment schedule. [\[Click to go to Appendix H\]](#)

An agency acting as payee is required to submit an annual report, SSA-623-F6, to SSA [\[Click to go to Appendix R\]](#) accounting for benefits received and spent for each client. It must be shown how the benefit payments were used; and how much of the benefit payments were saved and how the savings were invested.

The payee must therefore keep records such as receipts, bank account statements and detailed entries in bank books in order to complete this report accurately. A payee is also required to report certain changes which affect the client's right to receive payment or the amount of the payment. For example, an inheritance for an SSI recipient must be reported since eligibility for this benefit is based upon income and resource levels. Because representative payees are civilly and criminally liable if they misuse a recipient's funds, close adherence to the principles discussed and careful documentation of payee activities are extremely important.

In summary, an agency acting as representative payee must act only within the scope of the payee-beneficiary relationship as defined by SSA. A listing of what payees generally can and cannot do follows.

Representative Payees are expected to:

- use benefits only for the personal interest and well-being of the client;
- keep records of how benefits are spent, submitting annual accountings;
- report to SSA any event affecting eligibility or the amount of benefits;
- monitor and report to SSA savings and investments for recipients;
- register all accounts in a way that clearly indicates that the funds belong to clients;
- notify SSA if the payee cannot continue, if the client leaves the area, or if the client dies; and
- disburse all accumulated funds and interest as directed by SSA when payeeship ends.

Payees are not permitted to:

- admit clients to a nursing home or hospital;
- make decisions regarding medical care and treatment;
- release financial information except to gain entitlements or medical treatment;
- sell, dispose of, or make decisions about property belonging to the client;
- handle property or income from sources other than SSA;
- spend money or pay bills after notification of the client's death; or
- co-mingle personal or other funds with the client's account.

Special Considerations

1. As payee, an agency's authority is limited to management of the benefit checks only. If other income and resources need to be managed and no power of attorney is in place, a property management guardian may be needed.
2. Appointment of a payee, without appointment of a guardian, is not a determination of legal incapacity. Recipients therefore maintain the right to make personal decisions and lifestyle choices.

3. A payee does not have the authority to consent to medical treatment or the release of medical records unless the payee is also the legal guardian or health care agent of the beneficiary.
4. If the client needs assistance with income from other sources such as the Veterans Administration (VA), private or public pension systems or the military, agencies must contact each payment source and inquire as to their procedure for appointment of a fiduciary.

For additional information about the Representative Payee Program

<http://www.socialsecurity.gov/payee/>

ORGANIZATIONAL PAYEE

Overview

If your organization serves as representative payee for multiple clients and/or you want the option of collecting a fee for your services, you may want to consider applying to be an organizational representative payee. These organizations are also called “Fee for Service (FFS)” representative payees. To qualify to be considered for organizational payee status, your organization must:

- be a community based, nonprofit social service agency that is bonded and licensed (providing licensing is available) in the state in which you serve as a payee; or
- be a state or local government agency with responsibility for income maintenance, social service, health care, or fiduciary duties.

In addition, an FFS organization must:

- regularly serve as a payee for at least five beneficiaries; and
- *not be a creditor* of the beneficiary; and
- formally apply and be authorized by SSA to collect a fee.

Advantages of FFS Representative Payee Status

The largest advantage of FFS status is the ability to collect a fee. Effective December 2007, FFS organizations can collect the lesser of 10% of the combined Social Security and SSI monthly payment or \$35 from the beneficiaries. For beneficiaries determined by SSA to have a drug or alcohol condition, the monthly fee is the lesser of 10% of the combined monthly payment or \$68. SSA must authorize the higher \$68 fee. Each year, SSA sends a letter to FFS payees notifying you of any fee increase due to the annual Cost of Living Adjustment (COLA).

An organization may collect a fee for any month in which:

- You meet all qualification requirements AND have been authorized by SSA to collect a fee; and
- The beneficiary receives a Social Security and/or SSI payment; and
- The organization is performing payee services for the beneficiary.

An organization may not collect a fee if any of the following apply:

- No payment is received in the month,
- Your organization is receiving compensation for performing representative payee services from another source (i.e., guardianship fees);
- Payee services were not performed in the month; and
- Fees for prior months cannot be collected from current benefits.

NOTE: There is an exception -- an organization may collect a fee from current benefits when a past due payment is made for a prior period of nonpayment or incorrect payment AND

- *The organization was approved to collect a fee for the months for which the payment is made;*
- *The organization provided payee services in the months for which payment is made; and*
- *The organization is payee of record when the past due payment is received.*

Applying for FSS Representative Payee Status

To apply, your organization must contact your local Social Security office. SSA requires this application be completed in a face-to-face interview. This requirement may be waived where organizations have an established relationship with their local offices.

The face-to-face interview is used to:

- Determine your organization's relationship to and interest in the beneficiary
- Discuss your organization's qualifications
- Discuss your organization's ability to carry out the responsibilities of a payee
- Explain the payee duties
- Explain the payee's reporting responsibilities
- Explain the liabilities for not reporting changes to SSA

If you wish to apply for the ability to charge a fee, you must make a request to file an Application to Collect a Fee for Payee Services SSA-445 [Click to go to Appendix R](#) from SSA and that request must be approved in writing. Fees may not be collected for the months before the month that SSA issues the fee approval notice to you.

The written request must include all of the following information and documents:

- Your Employer Identification Number (EIN) or your own social security number (if applying as an individual doing business as a sole proprietorship);
- Your organization's statement of purpose (mission statement);
- Your organization's service area (include the neighborhoods, cities and counties served);
- A list of the names, SSNs, and residence addresses of beneficiaries for whom you are already serving as payee;
- A statement as to whether or not your organization currently changes any of the beneficiaries for its services; and
- The signature of the director of your organization or another individual who can legally act for the organization.

If your organization is not a state or local government agency, you must also submit the following:

- Proof of tax-exempt status under Section 501(c) of the Internal Revenue Code;
- A copy of your organization's current bonding agreement with an insurance company or mortgage holder (NOTE: The type of bond required is one that guarantees payment to SSA for unforeseen financial loss through the actions of a corporate officer or employee dishonesty); and
- A copy of your organization's current license, if available in the state you operate in, that allows you to provide services within the state.

Monitoring

SSA actively monitors all representative payees through their reports and through scheduled visits. As with individual payees SSA requires all Organizational/FSS representative payees to file a Representative Payee Report SSA-6230 [\[Click to go to Appendix R\]](#) each year. This form asks for information relating to the use of the beneficiary's payments, how much (if any) was saved and whether or not the beneficiary's custody changed.

In addition, FSS payees are required to show that you continue to meet the requirements to charge a fee. For example, if you are required to present licensing, you must show that and proof that you are continuing to serve at least five beneficiaries.

SSA makes site visits to FSS payees. They will visit FSS payees six months after SSA initially approves authorization to ensure that you understand your duties and responsibilities and are keeping accurate records and are notifying SSA when events occur that may affect a beneficiary's payment. SSA will review FSS payees at least once every three years.

At the site visit, you will be asked about how you manage beneficiary's funds and how you make sure that their needs are met. SSA will review your records including bank records and ledgers that document management of beneficiary's funds and will review receipts and cancelled checks for purchases made for beneficiaries. SSA may also ask the beneficiaries you serve about your performance.

Maintaining an Effective Accounting System

SSA recommends establishing internal procedures and guidelines for managing beneficiary funds. The following is a list of some common practices that you may find useful in setting up your own internal protocols and guidelines. The ability to adopt some of these suggestions may depend on the size of your staff and budget.

- Assigning different people to perform different basic duties including: logging paper checks into the organization when received; depositing paper checks into the bank; maintaining ledgers and bank records; making requests for goods and services on behalf of the beneficiary; holding blank check stock; writing checks for approval disbursements; signing checks; reconciling ledgers and bank accounts.
- Require the approval of a second employee when a proposed disbursement exceeds a certain limit.
- Assign a second employee to review bills before a paper check is issued.
- Require a countersignature for all checks.
- Conduct regular reconciliations of ledgers and bank records.
- Conduct monthly internal audits of bank statements and financial records by someone who is not the person responsible for daily upkeep of ledgers and bank accounts.
- Have an outside contractor or entity conduct annual audits of your financial and bank records.
- Keep checks and signature stamps in a secure, access controlled area and regularly change the key or combination.
- Shred papers with information identifying beneficiaries before discarding.
- Make regular backup copies of computer and/or paper records.
- Create a disaster recovery plan so procedures are in place for using backup copies to restore records and files if it ever becomes necessary.

Best Practices

Listed below are some “Best Practices” that organizations have shared with SSA. You may also find them useful.

- Establish a line of communication with your local Social Security office.

- Some organizations flag the financial accounts of SSI beneficiaries when conserved funds reach \$1500. This serves as an alert to assess the personal needs of the beneficiaries and maintain countable resources below the \$2000 limit.
- Call the Social Security office and schedule an appointment to come into the office and take care of all your business for your clients at one time.
- Discuss with your local Social Security office the types of forms you should use to advise SSA of changes affecting beneficiaries. You may be able to “package” materials in such a way that when the local office receives them they can move more quickly to take the necessary action.
- Some Social Security offices are able to designate a contact person for specific organizational payees. When you call the office, you can ask for this person and they can advise you on how to proceed.
- Some representative payees have negotiated arrangements with local merchants to purchase goods such as food, clothing or household furnishings. The beneficiary can select his or her items and buy them with a pre-approved credit voucher or after the merchant verifies the purchase with the representative payee. Alcohol is excluded from these arrangements.
- Representative payees have negotiated with financial institutions to provide checking accounts with no or reduced service charges. An organization with a substantial number of beneficiaries may be able to get a more favorable group rate.
- Some organizations use a “contract” between the organization and the beneficiary to ensure cooperation. It is not required, but many organizations have found it useful.
- You may wish to use a “Change of Events – Representative Payee Reporting Form” when sending information to your local SSA office.
- Develop internal procedures and guidelines governing the management of funds and ensure that all employees follow them.
- Use gift cards or debit cards from a retail store instead of spending money by check or cash.

A Guide for Organizational Payees can be found at

<http://www.socialsecurity.gov/payee/NewGuide/toc.htm>

PROPERTY MANAGEMENT GUARDIAN

All states have guardianship laws to protect individuals who are unable to make personal and/or property decisions for themselves. Through a legal proceeding, a court appoints a guardian to assist individuals, found to be incapacitated, with personal needs and/or property management needs. New York has two guardianship statutes; Article 81 of the Mental Hygiene Law for all adults and Article 17-A of the Surrogates Court Procedure Act for the mentally retarded and developmentally disabled population.

Agencies can both petition the court for appointment of a guardian for a client and act as guardian if appropriate. For purposes of this manual, the focus will be guardians of the property only. Article 81 requires that a person alleged to be in need of a guardian agree to the appointment or be determined incapacitated by a court. A determination of incapacity requires strong evidence that the client is likely to suffer harm because of inability to manage property and financial affairs and that the client cannot adequately understand and appreciate the nature and consequences of such inability. Article 17-A requires a showing that mentally retarded or developmentally disabled persons are incapable of managing themselves and/or their affairs by reason of mental retardation or developmental disability and that such condition is permanent in nature. For a detailed discussion of the process of guardianship appointment and reporting requirements under both Article 81 and 17-A see the Guardianship special resources list. [Click to go to Appendix R](#)

A property management guardian can be given power over any income and resources indicated in the Order of Appointment. A guardian is a fiduciary and as such must act with trust, loyalty, and fidelity, making well-reasoned decisions that protect the personal and pecuniary interests of the incapacitated person. Thus a legal guardianship creates a very high standard of responsibility and accountability.

Post Appointment Procedures

Once appointed guardian, an agency must complete the post-appointment procedures before acting as legal guardian. The signed Order along with the Designation, Bond (if required) and Statement of Real Property (if the IP owns a home or property) must be submitted to the County Clerk to obtain the signed Commission. A guardian may need several certified copies of the Commission to authorize dealing with landlords, banks and other financial institutions. The court will inform the guardian of these post appointment steps and required forms. Once the copies of the Commission have been obtained, all appropriate parties and institutions should be informed of the appointment.

To monitor the appointment, the guardian is required to submit an initial and annual report to the court. **[Click to go to Appendix R](#)** A detailed and accurate documentation trail is needed to meet this legal mandate.

Marshalling Assets

Finding all the accounts and investments your Incapacitated Person (IP) has can be a difficult task. Usually there is a list of the Alleged Incapacitated Person's income and assets in the guardianship petition however you must attempt to find any additional assets the IP may have. Send a letter of inquiry to all financial institutions in the neighborhood where the IP has been living. You will inform the bank of your guardian status and ask if there are any accounts held by the IP (giving the IP's social security number) in that bank. The Internal Revenue Service is often a good source of information. IRS Form 4506T is a Request for Transcript of a Tax Return. Check item #8 on this form and you will receive information about accounts of the IP that have sent information to the IRS. There are also services that will do this for you for a

fee. Search for any unclaimed funds the IP may have. The National Association of Unclaimed Property Administrators, www.naupa.org, has links to unclaimed property in each state and of all other resources: tax refunds, insurance reimbursement, neglected bank accounts, etc. The New York State unclaimed funds website is: <http://www.osc.state.ny.us/> . Once all resources have been identified the title on the accounts must indicate that a guardian is now in charge of these funds. The client's social security number remains but the title should read "Agency X as Guardian for Mary Brown, an Incapacitated Person".

WHEN THE CLIENT DIES

The legal authority of an agency to manage a client's money, whether formal or informal, ceases once the client dies. All of the client's assets and personal property become part of the deceased client's estate. Only the executor of the estate named in the client's will or, if none, an administrator of the estate appointed by a court, can collect the assets, pay any outstanding claims and make distributions. If no will exists or the executors named in the will are unable to serve, a willing family member or friend can be appointed by the court as the administrator of the estate. If no one is available to act as administrator, the office of the County Public Administrator must be notified to handle the estate. All assets held in the deceased client's name individually are frozen until an executor or administrator has been appointed. Outstanding bills will be paid by the executor or administrator of the estate, once they are appointed. The agency, as money manager and/or representative payee, should notify creditors of the client's death and that payment of outstanding debts will be delayed. Similarly, all banks handling client accounts, the SSA and any other source of income must be informed of the client's death. Death certificates, usually available through the funeral home, will be required by banks and income payors. A representative payee or guardianship

bank account must remain open so that SSA can deal directly with the bank to reverse direct deposit or refund money. Social Security and Veterans' checks must be returned starting with and including the check for the month in which the death occurred. An agency acting as power of attorney, representative payee or guardian may not close bank accounts, incur new expenses, cash checks, pay bills or authorize payments for funeral expenses or related costs since these matters now must be handled through the estate. If the agency is a property management guardian, Article 81 of the Mental Hygiene Law allows the guardian to pay funeral expenses and pay post-death bills if they had bill paying power when the IP was alive. A guardian must also file a Final Report with the court to be formally discharged. This process is complex and time consuming requiring the assistance of an attorney.

Public Administrator

The Office of Public Administrator administers a decedent's estate where no person entitled to take or to share in the estate will accept the responsibility to act, or where the decedent leaves no will or a personal representative entitled by law to act.

The Public Administrator (PA) investigates the affairs of the decedent. The PA's office may authorize a funeral as well as an amount of money permitted for the funeral out of the estate of the decedent. Also the PA's office may search for relatives, pay debts of the estate and perform other duties. If a relative is located, the PA determines whether that individual is prepared to accept responsibility for the estate of the decedent. Contact the PA in the Borough or county in which the decedent resided.

Special Considerations

1. An agency, as guardian must still be appointed as Representative Payee to receive the benefit check on behalf of the beneficiary if the incapacitated person receives income from the SSA, Veterans Administration or a pension system. A certified copy of the Commission is legal evidence of appointment and should suffice for purposes of a payee appointment.
2. If financial exploitation is suspected, a guardian appointed under Article 81 can initiate a Summary Discovery Turnover Proceeding (Section 81.43 of the Mental Hygiene Law) to allow the guardian to discover property withheld and have the court order the turnover of these proceeds to the guardian.

DAILY MONEY MANAGEMENT AND LIABILITY

Deciding to offer DMM services is a serious step for most agencies. Even when the provider has acquired the skills needed to effectively manage client's money, fear of being sued remains. After all, even one lawsuit can financially destroy or do incalculable harm to the reputation of an agency and the individuals involved. In reality, however, agencies have rarely been sued or held liable for mismanagement of client funds. Providers must nevertheless focus on these issues in order to operate safely and effectively. A legitimate purpose of the legal system is to insure that people do their jobs in good faith and in a responsible manner.

When agencies or persons associated with agencies are sued, the underlying legal theory is usually negligence or breach of contract. The elements of both theories are briefly discussed below.

LIABILITY BASED ON NEGLIGENCE

Liability for negligence results when the omission or commission of an act that a reasonably prudent person or agency would, or would not have, committed under the circumstances causes harm to an individual. To establish negligence, the plaintiff must be able to prove all of the following:

- 1) a duty of care was owed by the defendant to the plaintiff;
- 2) the duty of care was breached by the defendant;
- 3) injury resulted to the plaintiff; and
- 4) the defendant's action or inaction caused the injury.

First, the plaintiffs must prove that the agency owed a duty of care to them. A duty of care is created when a "special relationship" is formed between the agency and the client. Often the

agency has already established such a relationship through the provision of care management services. To extend or create the relationship for DMM services the provider's actions can be either formal or informal. To have a written, signed agreement between the client and provider is the most formal and advisable way to initiate money management services. In the absence of a formal agreement, a special relationship may have been established indirectly by provider actions. For example, an agency speaks to a client about unpaid bills and proceeds to assist in bill paying. The client can logically and reasonably infer from the agency's actions of taking on a new or additional task, that a special relationship has begun. Once a special relationship is created, a legal duty of care is owed by the agency to the client. An agency providing money management services must act with reasonable care in the provision of those services.

Second, plaintiffs must prove that the agency breached this standard of reasonable care. A standard of care describes what is expected of an individual or agency in a given situation. Generally the standard of care required is what a reasonably prudent person or agency acting under similar circumstances would do. The standard of care is determined by examining existing laws, regulations, directives and industry standards applicable to the situation. If an agency is providing services under contract with a state agency such as the Office of Children and Family Services or Office for the Aging, State regulations governing actions by subcontractors of the State establish the required standard of care. Nonprofit community service agencies, on the other hand, have little guidance in the area of money management and few industry standards upon which they can rely. If agencies have developed protocols to aid care managers in the decision making process involved with DMM services those protocols can serve as evidence of an industry standard of care in a negligence suit. An industry standard of care can also be established through the use of expert

witnesses such as care managers, supervisors, directors etc. from other agencies providing DMM services who can give opinions as to appropriate behavior under similar circumstances.

Once the plaintiff establishes a reasonable standard of care, the plaintiff must prove that the defendant breached or violated the duty of care. If the plaintiff cannot establish that the defendant's actions did not comply with reasonable industry standards, the plaintiff has failed to prove the second required element of the case. Agencies and agency care managers are not expected to render perfect services but to use reasonable care under the circumstances. Mistakes in judgment are not necessarily breaches of reasonable standards of care.

Third, plaintiffs must prove that they were injured, and fourth, their injuries were caused by the defendant's breach of duty. There may be factors, other than agency negligence which could have contributed to or caused the injury. For example, inappropriate interference by family, failure of another service provider to act in a reasonable manner or the acts of a noncompliant client may have caused all, or a portion of the injury.

Duty to the client also includes using reasonable care when terminating services and when referring clients to other agencies. When terminating services an agency should communicate to the client and family, if appropriate, that the agency is no longer able to provide services. The dangers of not having the client's money managed should be discussed, and an offer to make a referral to a provider that offers DMM services should be made. All discussions should be fully documented in the client's file.

Liability for negligent referral can result if an agency/individual does not exercise due care in making a referral and harm occurs. Generally, no liability results for a good faith referral unless the individual/agency knew or should have known that an injury might result from the referral.

Some tips to avoid referral liability are:

- if possible, give several names rather than a single source;
- do not influence the selection process;
- state basis for referral in writing;
- update referral list;
- note limitations of referral services;
- establish uniform policy for referrals; and
- teach staff referral policies.

Since lawsuits can be brought under the theory of negligent hiring or negligent supervision, agencies need to use reasonable care in selecting, training, monitoring and supervising employees and volunteers. In particular, when staff is involved with handling client's money, adequate background checks and close supervision is paramount.

LIABILITY BASED ON A CONTRACT

An agreement between two or more persons which creates an obligation to do or not to do a particular thing is a contract. This agreement or promise must be made between competent parties. For example, an agency and a competent client may agree to the provision of money management services by the agency whether for a fee or not. If the agreement or promise is broken or breached by either party, a legal action for failure to comply with the agreement may result.

Contracts can be made when words are clearly expressed either orally or in writing as in a written service agreement. On the other hand, a contract can be made by implication when a client can indirectly but logically infer that a promise has been made based on the actions or words of the

provider. For instance, when an agency case worker begins helping with budgeting and bill paying when a client is no longer able, the client can infer from these actions that the agency has promised to manage the client's money in a reasonable manner. Likewise, the agency infers that the client agrees to cooperate with the money manager in supplying financial information needed to perform bill paying functions.

Whether a lawsuit is brought under negligence or contract theory often depends on the evidence available to the plaintiff and the time that has passed since the alleged injury or breach has taken place. A statute of limitations is the fixed period of time in which a legal action must be commenced after the event which caused the harm. In New York, a plaintiff has six years to sue on a contract theory and three years for a negligence claim.

LIABILITY WHEN SAFEGUARDING VALUABLES

Often social service agencies are asked by clients to hold or "keep safe" such valuables as money, checks, bonds, safe deposit box keys, jewelry, a will etc. In accepting responsibility for such items, a legal relationship called a bailment arises between the client and the agency concerning an item of personal property. A bailment occurs when the client (bailor) delivers personal property for a specific purpose to the agency (bailee) which has an obligation to return the property or account for it. Parties to a bailment should have contractual capacity (the capacity to understand the nature of their actions and the consequences).

Bailment, having elements of contract, negligence and property law, is somewhat of a legal hybrid. Social service agencies in the course of providing bailment services could find themselves in circumstances which would give rise to a civil lawsuit under any one of three theories of legal liability.

Under contract law, a bailment can arise out of an express, written contract or an implied contract - based on the actions of the parties. Thus, when a written agreement is signed by a client and an agency or a client with capacity asks a worker to accept a watch for safekeeping and the worker takes control of the property, a legally effective bailment contract is created. The client then has the right to sue for breach of contract if the agency departs from the terms of the written bailment agreement or the oral instructions of the client. On the other hand, a contract of bailment cannot be created involuntarily, and acceptance cannot be implied if the agency actively protests and refuses the responsibility.

Under property law, a client who gives property to an agency for safekeeping retains ownership, but the agency has the right of possession. An agency has no greater ownership right in the bailed property, however, than the client has. This means, for example, that if an agency worker accepts a ring from a client for safekeeping while the client is temporarily hospitalized, the worker can refuse to deliver the ring to a cousin of the client who presents herself and asks for the ring, saying she will feel more "comfortable" if the ring is held for safekeeping by a family member. But if the agency is informed that the ring is actually owned by the cousin, the agency/worker might be liable for refusing to turn over the ring to its rightful owner. Some delay for the agency to investigate the true ownership of the ring would be permitted.

Once in possession of a bailed item, principles of negligence law require the agency to use reasonable care in safekeeping the property. For instance, in the example above, once the agency accepts the client's ring, it must exercise reasonable care while in possession of the ring. The ring should be locked in a safe rather than being left on the worker's desk or in a desk drawer, with documentation in the client's record as to when the ring was received and where it was kept. The reasonable care which agencies should take with clients' property varies, of course, depending upon

the nature and value of the property and the security of the surroundings. An agency is under a duty to store the bailed property safely, and if the agency fails to take reasonable measures to secure the safety of the property and the property is lost or damaged, the agency may be held liable for its negligent failure to do so.

Agencies have the option of insuring bailed property, but no duty to insure the bailed property applies unless insurance is required under a specific contract or agency policy. An agency/bailee is not an insurer and thus is not liable for loss by fire, theft or casualty which is not based on its own negligence.

MANAGING THE RISK OF LEGAL LIABILITY IN DAILY MONEY MANAGEMENT SERVICES

Risk management is a term used to describe an agency's process of understanding risks that are inherent in certain types of service provision and the steps taken to reduce the risk of legal liability. Provision of care management in itself is a risk for social service agencies. Adding the provision of DMM services to an agency's tasks only increases risk and responsibility. Increased risk alone should not stop agencies from offering DMM services. Most agencies already engage in some risk management or quality assurance techniques. Such things as agency hiring practices, staff education requirements and documentation protocols are examples of risk management. Encouraging safe procedures that protect everyone involved (client, staff, volunteers, board members and the agency) is the bottom line of risk management. Although an agency or individual can always be sued if harm is alleged, reasonable procedures employed by the agency may avoid liability. Similarly, an explicit risk management program reduces liability anxiety and encourages agencies to provide DMM services.

A risk management program based upon sound business practices should be developed when care management involves handling client funds or assets in any manner. Some risk management practices that financial service providers should consider follow:

- obtaining written releases from clients granting permission to handle client assets;
- maintaining separate bank accounts for each client to avoid commingling funds;
- requiring detailed and consistent documentation for all financial decisions and transactions;
- monitoring monthly bank statements and written check requests;
- planning and performing internal and external monitoring mechanisms such as field visits and regular independent audits;
- obtaining adequate insurance and bonding to cover losses;
- developing and reviewing regularly written money management procedures;

- providing regular staff in-service trainings on money management procedures and issues; and
- communicating openly and regularly with the client and family regarding the scope and nature of DMM services being provided (Kapp and Detzel, 1993).

The following discussion focuses on several important areas of risk management that agencies should examine when providing money management services.

INSURANCE

Maintaining adequate insurance to cover potential losses from the provision of DMM services is the baseline of risk management. A Professional Liability policy provides protection from claims arising from the professional care management services however an additional Fidelity Bond (sometimes called a Crime Bond) will be needed to specifically address theft and embezzlement committed by a staff member. As one DMM Program Director stated,

“Another requisite for our program was finding an insurance carrier to cover the liability of all three parties, the agency, the client and the worker. We found an Insurance Company which wrote what is described as a crime bond policy to cover employee theft and theft of clients' property meaning both the agency and the client are covered if I ran away with the client's funds. A background check was also secured on me.”

INTERNAL AGENCY POLICY & PROTOCOLS

Many agencies providing daily money management services do so without the assistance of financial specialists. The social worker is the staff person most likely to be engaged in client money management activities. Bookkeepers and/or accountants are rarely used. Professional crossovers of this nature (social workers doing bookkeeping and accounting activities) are generally not desirable since social workers have no formal training in money management. The reality, however, is that most agencies do not have the resources to hire financial specialists. Developing formal written agency policy on Daily Money Management is therefore essential. The program policy should establish standards for determining when a client needs DMM and describe which DMM services will be offered. Internal protocols should also be developed to define procedures for bill paying, check writing, money distribution and supervision. These protocols can be brief summaries or detailed step by step procedures depending upon what is appropriate and comfortable for each agency. For example, the following is a procedure developed for the distribution of cash to the client.

Receipt and Disbursement Procedures

Cash Disbursements to Client

When the worker delivers the cash to the client, the worker will obtain a receipt signed by the client for the exact amount of the check. If the client refuses to sign a receipt, then the worker will not give the client the cash. That cash must be re-deposited into the client's account and a duplicate receipt obtained. Other arrangements must then be made to obtain spending money for the client such as providing the client with a check made out to the client or arranging to have a caretaker be responsible for the cash and retention of expenditure receipts.

Standardized forms help to document compliance with the agency's policy. Any staff and volunteers who will be participating in the DMM program must be given in-house training on all financial management procedures. Each training session should be documented with a list of attendees included.

All staff should be closely supervised with periodic, written evaluations. The roles and responsibilities of the DMM staff should be clearly delineated in their job description. Future staff positions for the DMM program should be carefully screened and hired pursuant to a job description which clearly defines the role and responsibility of the position.

Having written protocols for money management improves an agency's risk management practices by giving direction to staff, lessening the likelihood of mistakes, and providing a monitoring tool. Taking these steps will greatly reduce liability potential for the agency. A copy of the DMM program policy should be given to all clients receiving this service, any person acting in a fiduciary capacity for the client and appropriate family members.

AGENCY-CLIENT SERVICE AGREEMENTS

Agencies should consider incorporating the use of consent forms into regular practice. A letter of agreement should specifically provide for the provision of DMM. These express contracts should make clear to the client and the agency exactly what tasks are to be performed by the agency and the responsibilities of the client. [\[Click to go to Appendix I\]](#) For example, the agreement can cover:

Scope of work:

- what's to be done,
- where it will be done, and
- who is responsible for what;

Duration:

- for how long the DMM services will be provided;
- if and when the contract will be renewed; and
- whether the contract terminates upon the incapacity of the client;

Fees:

- cost of the service (set fee for service or sliding scale); and
- when and how is client to be billed;

Recordkeeping:

- who is responsible for keeping the records of financial transactions; and
- confidentiality of the DMM records.

In order for a contract to be legally valid, both parties must understand the nature, purpose, and effect of the agreement. The agency should pay particular attention to the client's capacity before and at the time of signing the contract since a client may be able to make decisions in one area and not in another.

If there is a question as to whether a client has the ability to enter into the contract, an evaluation should be made to determine the client's decision-making capacity. The mental status examination should focus specifically on the client's ability to address the particular decision at hand and should include issues such as:

- Is the client able to make and express choices in relation to this particular service intervention?

- Is the client able to provide reasons for his or her choices?
- Do the client's reasons have some basis in fact and reality?
- Is the client able to understand and appreciate the consequences of his or her chosen course of action?

A mental status examination, along with a physical and social assessment, may also determine whether or not a person suffers from cognitive deficits sufficient to impair the person's judgment. Also, a doctor's letter addressing the patient's ability to understand the situation and/or a witness at the signing of the contract should be considered. Remember a finding that the client lacks capacity to make financial decisions does not imply a lack of capacity for any other purpose.

Conversations between the client and caseworker regarding the need for money management assistance along with the client's response to this proposed service should be well documented in the client's file.

In anticipation of future incapacity, some agencies include an "incapacity clause" in the contract. This provision recognizes that the authorization given for DMM is durable and will not be affected by any future disability of the client, much like a durable power of attorney. If such a clause is not used the contract will terminate upon incapacity. Agencies need to seriously consider and discuss with the client what will happen if the client loses capacity. Designation of the agency by the client as a preferred guardian should one become necessary or having the client sign a springing durable power of attorney with incapacity as the triggering event are options.

DOCUMENTATION

One of the best ways to manage risk is to ensure good documentation practices. Agency records such as intake sheets, client files and progress notes, personnel files, and written protocols and procedures serve many functions. These documents preserve a chronological overview of how the agency handles their clients, staff, volunteers and business management. They enhance service delivery by giving continuity and providing accurate descriptions of each client's situation. Records can be used as evidence in a lawsuit to show what was known about a client, what was done and why, thus helping to prove that the agency acted in a responsible rather than a negligent manner. For instance, if suddenly a DMM client refuses to cooperate with the program procedures which affects the agencies ability to pay the bills the reason for this change in behavior must be explored. Since any disruption in bill paying can have dire consequences the situation should be a priority with full documentation of what actions were taken to address it. The following are some suggestions for documenting non-compliance:

- Document your efforts to enlist the client's family or significant others to reinforce with the client the reasons for the intervention.
- Document the essential content of telephone conversations during which you urge compliance and provide explanations and warnings to clients or the family.
- Place copies in the client file of written instructions given to the client or family.
- Document a client's failure to cooperate with DMM procedures.
- Document client's decision to forgo DMM or refusal to cooperate with the agency DMM procedures including the client's reasons for refusing financial management and the warnings given the client about the risks of foregoing this service.
- Document attempts to follow up with the client and family once he/she has refused DMM services.
- Document examples of current mental capacity and its effect, if any, on compliance with the plan of care in those instances.
- To avoid allegations of abandonment, document attempts to arrange care by another provider if you exhaust attempts to secure cooperation from the client and judge it to be in the client's best interests to be referred to another provider.

- Remember that client's have the right to refuse care and services, but you should make and document reasonable efforts to ensure that the client and significant others understand what is at stake.

[Adapted from FOCUS "Risk Management Guidelines for Medical Record Documentation". FOJP Service Corporation, No.2, 1993]

To engage in a serious bill paying program, the agency must develop internal protocols for handling money. Proper record-keeping and documentation are essential risk management practices and keep the process more efficient and reliable. For example, a bill-payor (or representative payee) should use checks whenever possible and avoid cash transactions. When writing checks, the bill-payor should note the purpose on the memo line and write separate checks for separate categories of expenditures (food, housing etc.). If separate checks are not feasible, a breakdown of expenses should be indicated on the memo line. An account log should be kept for each client. This is a listing of all checks written and for what purpose. [\[Click to go to Appendix N\]](#) At the end of each month expenses can be totaled and categorized (food, shelter, medical, etc.). Receipts should also be categorized for easy reference. These totals show how much was spent and whether to make budget adjustments. These forms must be periodically reviewed by an individual within the agency who is designated as a monitor.

Because records are so important, agency personnel should use care when documenting. Files should be kept up to date with factual, descriptive entries. Client behavior should be specifically described in an objective manner. Likewise the social and environmental setting along with the client's ability to function in it should be documented. Staff contacts with other service providers regarding a client must also be recorded with a summary of the discussion and a description of actions to be taken and by whom. All entries must be timely recorded (at or near the time an event took place), signed and dated. [\[Click to go to Appendix O\]](#) As previously

mentioned, the use of standardized forms will help staff observe and record in a consistent manner.

Some keys to effective documentation are:

- Keep sentences short;
- Utilize the simple, not the complex;
- Use verbs that convey action;
- Avoid abbreviation and technical jargon;
- Avoid obscure terms, use familiar terms;
- Write to express not to impress;
- Avoid unnecessary words;
- Avoid being judgmental;
- Avoid conclusion without facts;
- Quote accurately;
- Write with clarity.

FEE FOR SERVICE

As the demand for DMM grows, strategies need to be developed to make it more widely available. Most agencies provide this service free of charge to their clients. Agencies, however, should bear in mind that a modification of this model into a full or partial fee-for-service program could be self-sustaining allowing the agency to serve more individuals. On the other hand, there are issues unique to a fee-for-service program that must be considered. What actions are subject to the hourly fee, when does the hourly rate begin, is travel time included, what about waiting in line at the bank, when and how is the client to be billed and if DMM is to be billed on an hourly basis the agency will need to develop a method of tracking staff time spent on DMM activities.

A sliding fee scale with adjustable hourly rates must be developed that both sustains the program and is flexible enough to be appropriate for clients of vastly different income and resource levels. [\[Click to go to Appendix Q\]](#)

CONCLUSION

In light of the information just discussed, money management plans for the three clients, introduced in the beginning of this Manual can be re-evaluated.

MARY

Mary appears to have the capacity to discuss money management with the agency and would probably sign an appropriate DMM service agreement. Supportive money management services such as direct deposit, automatic bill paying by the bank, check writing, and organizing bills would help her immensely. The agency would also have to sort the medical bills and submit claims to appropriate third party payors or refer her to a resource that provides this service.

ED

Ed appears to be deteriorating mentally. He is confused and forgetful with obvious short term memory loss. The first issue that should be addressed is what has caused his deterioration? Is this a physical problem, depression, medication mismanagement? A physical and/or mental assessment may be needed to determine if his decline is reversible. Ed's capacity is questionable, and therefore surrogate decision making services may be in order. An application for representative payee and guardianship should be considered. As a payee, the agency could deposit the un-cashed social security checks and pay future bills out of payee funds. If Social Security benefits are not adequate to pay all of Ed's bills and he has other funds that could be used, a property management guardianship may be needed.

Whatever measures are undertaken, the agency needs to address the unpaid rent, utilities and phone immediately. Contacting the landlord, utility and phone companies to explain the situation

could ward off eviction proceedings. If a guardianship is initiated, appointment of a temporary guardian should be requested with power to access funds (if available) to pay the past due bills. This case has the benefit of good worker documentation to help supply the evidence needed in a request for payeeship or guardianship petition.

MS. ADAMS

In the case of Ms. Adams, a crime has possibly been committed. Assisting the client in contacting a lawyer and/or the District Attorney's elder abuse unit should be attempted immediately. Ms. Adams' capacity will determine how to proceed. Pursuing legal remedies in the criminal or civil realm requires careful consideration and consultation with Ms. Adams. If Ms. Adams has capacity, supportive services could be offered to help her adjust to her new financial situation. Organizing, budgeting, bill paying and possibly applying for benefits will be important tasks. Daily money management, in this instance, becomes an important tool in the prevention of future victimization. If a guardianship is appropriate, both the theft and future money management could be addressed in the course of the proceeding.

With societal demographics changing the increasing number of frail elderly living in the community will compel care management agencies to become involved with client finances. This Manual has discussed both the complexities of providing DMM services and the risk management techniques which can ensure that client funds are handled safely and effectively while protecting agencies from liability. Hopefully this information will encourage more agencies to undertake the provision of Daily Money Management.

REFERENCES

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Social Security Administration: Representative payment www.socialsecurity.gov/payee

Social Security Administration's Policy and Information Site, Program Operations Manual System (POMS) GN 005: Selection of a Representative Payee

<https://secure.ssa.gov/apps10/poms.nsf/subchapterlist!openview&restricttcategory=02005>

Social Security Administration's Online Services

<http://www.ssa.gov/online/forms.html>

APPENDICES

- A. [Income summary](#).....
- B. [Assets Summary](#).....
- C. [Monthly Expenses](#).....
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Income Summary

Client Name _____
(last) (first)

Month _____ **Year** _____

Source	Amount
Social Security	
Supplemental Security Income (SSI)	
Social Security Disability (SSD)	
Pension	
VA Benefits	
Interest	
Wages	
Other1 (specify)	
Other2 (specify)	
Total Monthly Income	

This material has been developed by BCHA in conformance with accepted Daily Money Management practice. Any modifications in content are solely the responsibility of the entity/organization making such modifications.

BROOKDALE CENTER
for Healthy Aging & Longevity
Hunter College / The City University of New York

Assets Summary

Client Name _____
(last) (first)

Month _____ **Year** _____

Source	Amount
Checking Account	
Savings Account	
CD	
IRA	
Keogh	
Stocks	
Securities	
Bonds	
Real Estate	
Other (specify)	
Total Assets	

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BROOKDALE CENTER
for Healthy Aging & Longevity
Hunter College / The City University of New York

Monthly Expenses

Client Name _____
(last) (first)

Month _____ **Year** _____

Expense	Amount
Rent/Mortgage	
Maintenance	
Electricity	
Gas	
Oil	
Water	
Telephone	
Cable	
Food	
Transportation	
Medication	
Doctors	
Medical Equipment	
Insurance Premiums	
Personal Items	
Loan/debt payments	
Other (specify)	
Total Monthly Expenses	

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DURABLE GENERAL POWER OF ATTORNEY

NEW YORK STATUTORY SHORT FORM

**THE POWERS YOU GRANT BELOW CONTINUE TO BE EFFECTIVE
SHOULD YOU BECOME DISABLED OR INCOMPETENT**

CAUTION: THIS IS AN IMPORTANT DOCUMENT. IT GIVES THE PERSON WHOM YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY DURING YOUR LIFETIME, WHICH MAY INCLUDE POWERS TO MORTGAGE, SELL, OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. THESE POWERS WILL CONTINUE TO EXIST EVEN AFTER YOU BECOME DISABLED OR INCOMPETENT. THESE POWERS ARE EXPLAINED MORE FULLY IN NEW YORK GENERAL OBLIGATIONS LAW, ARTICLE 5, TITLE 15, SECTIONS 5-1502A THROUGH 5-1503, WHICH EXPRESSLY PERMIT THE USE OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY.

THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH CARE DECISIONS. YOU MAY EXECUTE A HEALTH CARE PROXY TO DO THIS.

IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.)

THIS is intended to constitute a DURABLE GENERAL POWER OF ATTORNEY pursuant to Article 5, Title 15 of the New York General Obligations Law:

I, _____ do hereby appoint:

(insert your name and address)

(If 1 person is to be appointed agent, insert the name and address of your agent above)

(If 2 or more persons are to be appointed agents by you insert their names and addresses above)

my attorney(s)-in-fact TO ACT

(If more than one agent is designated, CHOOSE ONE of the following two choices by putting your initials in ONE of the blank spaces to the left of your choice:)

[] Each agent may SEPARATELY act.

[] All agents must act TOGETHER.

(If neither blank space is initialed, the agents will be required to act TOGETHER)

IN MY NAME, PLACE AND STEAD in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in Title 15 of Article 5 of the New York General Obligations Law to the extent that I am permitted by law to act through an agent:

DIRECTIONS: Initial in the blank space to the left of your choice any one or more of the following lettered subdivisions as to which you WANT to give your agent authority. If the blank space to the left of any particular lettered subdivision is NOT initialed, NO AUTHORITY WILL BE GRANTED for matters that are included in that subdivision. Alternatively, the letter corresponding to each power you wish to grant may be written or typed on the blank line in subdivision "(Q)", and you may then put your initials in the blank space to the left of subdivision "(Q)" in order to grant each of the powers so indicated.

- | | |
|--|---|
| <input type="checkbox"/> (A) real estate transactions; | <input type="checkbox"/> (K) records, reports and statements; |
| <input type="checkbox"/> (B) chattel and goods transactions; | <input type="checkbox"/> (L) retirement benefit transactions; |
| <input type="checkbox"/> (C) bond, share and commodity transactions; | <input type="checkbox"/> (M) making gifts to my spouse, children and more remote descendants, and parents, not to exceed in the aggregate \$ 10,000 to each of such persons in any year; |
| <input type="checkbox"/> (D) banking transactions; | <input type="checkbox"/> (N) tax matters; |
| <input type="checkbox"/> (E) business operating transactions; | <input type="checkbox"/> (O) all other matters; |
| <input type="checkbox"/> (F) insurance transactions; | <input type="checkbox"/> (P) full and unqualified authority to my attorney(s)-in-fact to delegate any or all of the foregoing powers to any person or persons whom my attorney(s)-in-fact shall select; |
| <input type="checkbox"/> (G) estate transactions; | <input type="checkbox"/> (Q) each of the above matters identified by the following letters: |
| <input type="checkbox"/> (H) claims and litigation; | _____ |
| <input type="checkbox"/> (I) personal relationships and affairs; | _____ |
| <input type="checkbox"/> (J) benefits from military service; | |

(Special provisions and limitations may be included in the statutory short form durable power of attorney only if they conform to the requirements of [section 5-1503 of the New York General Obligations Law.](#))

This durable Power of Attorney shall not be affected by my subsequent disability or incompetence.

If every agent named above is unable or unwilling to serve, I appoint *(insert name and address of successor)*

_____ to be my agent for all purposes hereunder.

TO INDUCE ANY THIRD PARTY TO ACT HEREUNDER, I HEREBY AGREE THAT ANY THIRD PARTY RECEIVING A DULY EXECUTED COPY OR FACSIMILE OF THIS INSTRUMENT MAY ACT HEREUNDER, AND THAT REVOCATION OR TERMINATION HEREOF SHALL BE INEFFECTIVE AS TO SUCH THIRD PARTY UNLESS AND UNTIL ACTUAL NOTICE OR KNOWLEDGE OF SUCH REVOCATION OR TERMINATION SHALL HAVE BEEN RECEIVED BY SUCH THIRD PARTY, AND I FOR MYSELF AND FOR MY HEIRS, EXECUTORS, LEGAL REPRESENTATIVES AND ASSIGNS, HEREBY AGREE TO INDEMNIFY AND HOLD HARMLESS ANY SUCH THIRD PARTY FROM AND AGAINST ANY AND ALL CLAIMS THAT MAY ARISE AGAINST SUCH THIRD PARTY BY REASON OF SUCH THIRD PARTY HAVING RELIED ON THE PROVISIONS OF THIS INSTRUMENT.

THIS DURABLE GENERAL POWER OF ATTORNEY MAY BE REVOKED BY ME AT ANY TIME.

In Witness Whereof I have hereunto signed my name this ____ day of _____, 20____

(YOU SIGN HERE:) →

(Signature of Principal)

ACKNOWLEDGEMENT
(for use within the State of New York)

STATE OF NEW YORK, COUNTY OF _____ ss.: _____

On the ____ day of _____ in the year _____, before me the undersigned, a Notary Public in and for the said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in her/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individuals(s) acted, executed the instrument.

Notary Public, State of New York

The execution of this statutory short form durable power of attorney shall be duly acknowledged by the principal in the manner prescribed for the acknowledgement of a conveyance of real property.

No provision of this article shall be construed to bar the use of any other or different form of power of attorney desired by the parties concerned.

Every statutory short form durable power of attorney, to be valid, must be written, typed or printed using letters which are in legible writing of or clear type of no less than twelve-point in size or if in writing a reasonable equivalent thereof and must contain, in bold face upper case or upper and lower case type or a reasonable equivalent thereof the "CAUTION" which is printed in bold face type at the beginning of the statutory form printed above and the "DIRECTIONS" which are printed in bold face type immediately before subdivisions (A) through (Q) of the statutory form printed above.

NY CLS Gen Oblig § 5-1504 (2007)

§ 5-1504. Acceptance of statutory short form power of attorney

1. As used in this section, the term "financial institution" means each of the following: a bank, trust company, national bank, savings bank, federal mutual savings bank, savings and loan association, federal savings and loan association, federal mutual savings and loan association, credit union, federal credit union, branch of a foreign banking corporation, public pension fund, retirement system.
2. No financial institution located in this state shall refuse to honor a statutory short form power of attorney properly executed in accordance with section 5-1501 or 5-1506 of this title.
3. The failure of a financial institution to honor a properly executed statutory short form power of attorney shall be deemed unlawful.
4. No financial institution receiving and retaining a statutory short form power of attorney properly executed in accordance with section 5-1501 or 5-1506 of this title or a complete photostatic copy of the properly executed original thereof nor any officer, agent or employee of such financial institution shall incur any liability by reason of acting upon the authority thereof unless the financial institution shall have actually received, at the office where the account is located, written notice of the revocation or termination of such power of attorney.
5. If the application of the provisions of subdivision two or three of this section shall be held invalid to any financial institution the application of such provisions to any other financial institution other than those to which it is held invalid, shall not be affected thereby.

Representative Payee

Social Security Administration - Programs Operations Manual (POMS)

The Programs Operations Manual System (POMS) are a series of written directives by the Social Security Administration interpreting the Federal Regulations pertaining to provisions in the Social Security Act. The POMS is a primary source of information used by Social Security employees to process claims for Social Security benefits. They are written to instruct the SSA claims managers at each local office. The POMS sections included below are NOT things you as advocate or representative payee have to do but the steps the SSA worker must take in determining whether a person is in need of a representative payee. Thus the reference to other POMS sections and forms are to direct the SSA worker NOT requirements of the payee or beneficiary. This information is included so you the advocate will have an accurate understanding of what the law and regulations require.

To access the POMS online go to <http://so44a90.ssa.gov/apps10/poms.nsf/> .

DEVELOPING CAPABILITY

00502.020 - Developing Capability – Adult Beneficiaries

A. Policy – When to Develop Capability

1. General

Unless direct payment is prohibited, an adult beneficiary is presumed to be capable of managing or directing the management of benefits. However, if you have information that the beneficiary has a mental or physical impairment which prevents him/her from managing or directing the management of benefits, develop capability. (If direct payment is prohibited, capability development is not needed). Key questions in assessing whether capability development is needed include:

- Does the individual have difficulty answering questions, securing evidence or understanding explanations and reporting instructions?
- If so, do you think this difficulty indicates the beneficiary cannot manage or direct the management of funds?

Do not assume capability development is needed solely because of the disability diagnosis (see GN 00502.25 for exception). Develop capability only if there is an indication the beneficiary cannot manage or direct the management of benefits.

CAUTION: Do not delay or suspend benefits while developing capability (See GN 00504.100).

2. Mental Impairments

If the beneficiary has a mental impairment, develop the capability issue if there is an indication that the beneficiary may not have the ability to reason properly, is disoriented, has seriously impaired judgment or is unable to communicate with others.

3. Physical Impairments

If the beneficiary has a physical impairment, develop the capability issue only if the impairment makes the beneficiary dependent upon others to meet daily needs and to make decisions for him/her. If the beneficiary can direct the management of the benefits, the payee should not be appointed unless a voluntary conservatorship (guardianship) is in effect. (See GN 00502.130A.)

4. Reevaluating Capability

Reevaluate capability whenever there is an allegation or indication that an incapable beneficiary is now capable (including a request for direct payment) or a capable beneficiary has become incapable (including admission to a mental hospital).

Consider a review of a capability determination whenever you receive a request to change a beneficiary's payee. Also consider reviewing capability whenever you make any subsequent

contact with the beneficiary or payee. Situations where capability review should be considered include:

- Continuing disability reviews (CDRs),
- SSI redeterminations,
- Changes of address, especially when the payee ceases to be the beneficiary's custodian.

If you decide a capability review is not needed, no additional action/documentation is needed.

B. Policy – Acceptable Evidence

Acceptable evidence of capability includes medical, legal and lay evidence. Lay evidence must be obtained in all cases. Medical evidence must be obtained whenever possible.* Legal evidence is required only where there is an allegation that the beneficiary is legally incompetent.

C. Policy – Written Documentation Required

In all cases where a question of capability is raised, document your capability decision (e.g., whether representative payment or direct payment is in the beneficiary's best interests) on either an RC or an SSA 553.

** The agency should document all attempts to access medical information. If the agency fails to get any medical evidence this should not, in and of itself, prevent the appointment of a payee.*

00502.025 – Medical Evidence of Capability

Policy

Medical evidence is a major factor in the capability determination. However, by itself, it is NOT a final determination on capability. It must be carefully weighed with evidence from all sources. The FO is responsible for the final capability determination.

Preferred medical evidence is that from a treating physician. A medical opinion of capability from a consultative examiner or another physician following limited contact with the beneficiary is less convincing than an opinion from the treating sources. The DDS opinion is evidence of capability; it is NOT a final determination on capability (see GN 00502.060).

1. Medical Evidence

Medical evidence must:

- a. Include an opinion from a physician, psychologist or other qualified medical practitioner about the beneficiary's capability;

- b. Summarize the findings that led to this opinion;
- c. Be based upon a recent examination (i.e., one conducted not longer than a year before the date submitted and the date capability decision made); and
- d. Be signed by the person who conducted the examination or a person authorized to sign such certifications (e.g., a medical records librarian).

CAUTION: An actual signature is needed. Do not accept a rubber stamp signature.

2. Format for Medical Evidence

Form SSA-787 is the usual vehicle for obtaining medical evidence of capability. However, other forms or summary reports from the medical source may be used if they include the information required in number 1. above.

3. DDS Opinion on Capability

In cases where capability development is requested or otherwise initiated by the DDS (see GN 00502.050), the State DDS will enter its opinion in item 34 of the SSA-831-F5.

00502.030 – Lay Evidence of Capability

Policy

1. Lay Evidence Always Needed

Evidence of how the beneficiary is meeting daily needs, especially how he/she is managing money, must be developed and considered in your capability determination. Lay evidence is also important in determining whether the medical evidence is truly indicative of the beneficiary's capability.

Acceptable lay evidence includes:

- a. your observations (when made) of the beneficiary's behavior, reasoning ability, how he/she functions with others and how effectively he/she pursues the claim
- b. the payee applicant's answer to question 2 on the SSA-11-BK (see GN 00502.165), and
- c. when available, statements from or contacts with knowledgeable sources describing the beneficiary's ability to manage funds and meet daily needs.

Have the source describe how the beneficiary is meeting daily living needs, how he/she manages any money now received and who (if anyone) is helping with money management. It is preferable to obtain statements signed by the source, but do not delay a capability decision merely to obtain a signature. Likely sources of such information include the beneficiary, the beneficiary's custodian friends, relatives, neighbors, landlord and/or representatives of community groups.

SAMPLE LETTER TO CREDITORS

44 Wing Away Drive
Los Angeles, CA, 90004
October 1, 200_

National Express Card Company
P.O. Box 8823
Boston, MA 19805

RE: Appointment of Representative Payee to manage the Social Security and/or
Supplemental Security Income benefits of John Smith (Account No. 98-505-70-113)

Dear National Express Card Company:

Please be advised that on September 5, 200_, the Social Security Administration appointed
(Agency)_____ as Representative Payee for (Client)_____.
In that capacity, we have the authority to manage (client) _____
Supplemental Security/Social Security/Disability Income benefits on his behalf.

According to the U.S. Code of Federal regulations:

*“A payee may not be required to use the benefit payments to satisfy a debt of the
beneficiary, if the debt arose prior to the first month for which payments are certified to a
payee. If the debt arose prior to this time, a payee may satisfy it only if the current and
reasonably foreseeable needs of the beneficiary are met.”* 20 Code of Federal
Regulations, Part 416.645.

In addition, as your know, neither Social Security nor Supplemental Security Income benefits
can be attached by a creditor, regardless of whether it has obtained a court judgment. These
benefits are protected income as per 42 U.S.C. Section 407.

Our Agency’s obligation, therefore, is to use (client’s)_____ government benefit
(currently \$ a month) for his current basic needs such as shelter, food and clothing. He has no
other income or assets and his monthly payment barely covers his basic needs so he has no funds
to pay your company. Because he has no extra funds and because the debt was incurred prior to
the first month before the SSA appointed this Agency as Representative Payee for
(client)_____ we are not compelled to direct the payment, which the
National Express Card Company seeks.

Please contact me if you have any questions.

Sincerely,

Daily Money Management Service Agreement

I ask that (Agency) _____ assist me in handling my financial responsibilities.

I request (Agency) _____ to assist me in the following ways (select only those items the client requests assistance with):

- help sort my mail and organize my bills for payment
- balance my checkbook
- help me set up a list of monthly income and expenses
- obtain, distribute and/or deposit cash for me on a regular basis in the amount that I have designated.
- submit claims to health insurance companies
- write checks from a designated account for my signature and/or pay bills by electronic transfer.
- cash checks from my account for household expenses
- deposit my funds in a bank account established by (Agency) _____

____ Out of said bank account, I request (Agency) _____ to pay for:

_____	_____
_____	_____
_____	_____
_____	_____

I understand that (Agency) _____ staff will need to review my monthly bank statements and canceled checks and check register, and I agree to make these available. This review is for both my protection and that of (Agency) _____.

I agree to provide these documents when (Agency) _____ asks for them. (Agency) _____ will treat these documents as private records, and only designated persons will be allowed access to them, for review purposes only.

I understand that (Agency) _____ is not responsible for any matters concerning my money or other information, which I have chosen not to tell them.

I understand that ALL financial decisions about the handling of my money will be made by me.

This material has been developed by BChAL in conformance with accepted Daily Money Management practice. Any modifications in content are solely the responsibility of the entity/organization making such modifications.

I give (Agency) _____ the authority to interact with other designated fiduciaries (attorney-in-fact, trustee, etc.).

(Agency) _____ does not take responsibility for paying bills if funds are not on deposit.

I understand that a new client service agreement will be prepared whenever there are significant changes in this agreement. I may stop this agreement whenever I wish to do so. Upon termination of this agreement, all remaining funds will be returned to me after any outstanding checks have cleared. If I should die while this agreement is in effect, all remaining funds will be returned to my estate's executor or administrator, after any outstanding checks have cleared.

Should I become incapacitated, (Agency) _____ will do such of the above things which, in their best judgment they feel to be appropriate and necessary, in my place and on my behalf, to ensure that my obligations are met and that money is available as fully as possible to meet my needs. For the purposes of this agreement, "incapacitated" means that I am physically or mentally incapable of managing my own financial affairs, as documented by two independent licensed physicians not related by blood or marriage to any (Agency) _____ director or (Agency) _____ official. I agree that if it should become necessary for (Agency) _____ to obtain such letters, I will pay for the doctors' letters and any other costs associated with this determination and that if (Agency) _____ incurs such cost I will reimburse (Agency) _____.

I agree to pay (Agency) _____ for the above services provided at the rate of \$_____ per hour. The terms of this agreement have been explained to me. I understand them and agree to abide by them.

Signed: _____ Date _____
Client

Accepted by: _____ Date _____

For (Agency) _____

ACKNOWLEDGMENTS

STATE OF _____ COUNTY OF _____ SS: _____

ON _____ Before me personally came: _____

To me known, and known to me to be the individual described in, and who executed the forgoing instrument, and he/she acknowledged to me that he/she executed the same.

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Authorization to Exchange Confidential Information

It is the policy of (Agency) _____ to hold all information received from or about clients in strict confidence and not to release any information without your specific permission.

I, _____, authorize _____ of (Agency) _____ to act on my behalf in obtaining or releasing information regarding my situation with appropriate agencies, businesses, professionals and individuals for the purpose of coordination of Daily Money Management services.

Any information you, the client, authorize other persons to release to this agency will not be released by this agency without your specific authorization.

This authorization is valid only for the period of time you are receiving direct services from this agency.

_____ Signature of client	_____ Signature of Daily Money Management Coordinator
Date _____	Date _____
	_____ Signature of witness
	Date _____

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TERMINATION OF DAILY MONEY MANAGEMENT AGREEMENT

I, _____, cancel the following daily money management (DMM) services that (Agency) _____ is providing for me:

- ___ help sort my mail and organize my bills for payment
- ___ balance my checkbook
- ___ help me set up a list of monthly income and expenses
- ___ obtain, distribute and/or deposit cash for me on a regular basis in the amount that I have designated
- ___ submit claims to health insurance companies
- ___ write checks from a designated account for my signature and/or pay bills by electronic transfer
- ___ cash checks from my account for household expenses
- ___ deposit my funds in a bank account established by the above agency

_____ Signature of Client	_____ Signature of DMM Coordinator
Date _____	Date _____

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CASH WITHDRAWAL AUTHORIZATION

Bank (name) _____

To the Bank Manager:

I hereby authorize the Daily Money Management Coordinator, _____,
of (Agency) _____ to withdraw from my checking/savings account
number _____ the sum of \$_____.

Signature of Client

Date

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RECEIPT FOR CASH WITHDRAWAL

Received from Daily Money Management Coordinator, _____, of
(Agency) _____ the sum of \$ _____ which was withdrawn
for me from my bank account # _____.

Signature of Client

Date

This material has been developed by BChAL in conformance with accepted Daily Money Management practice. Any modifications in content are solely the responsibility of the entity/organization making such modifications.

Check Writing Log

Name of Client: _____

Bank Account #: _____

Month: _____ **Year:** _____

Date (mm/dd)	Check #	Written to	Purpose	Amount
TOTAL				

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DOCUMENTATION TIPS

DO'S	DON'T'S
<ul style="list-style-type: none"> - Write legibly in ink or print or type the entry. - Time and date each entry. - Use clear and concise language, avoid ambiguous terms and phrases. - Review entry before signing. - Make all entries at the time of client contact or as soon after as possible. - Record as accurately as possible conversations with client using direct quotes. - Include information relevant to the services being provided or that may need to be provided, i.e., psychosocial factors, client's support system, physical environment, client behavior and special needs of client. - Include specific information about a complication, special problem, or need of the client. Record how the client was, or will be, affected and what specific actions were taken by your agency to address the problem. These situations should be followed in subsequent notes until the desired outcome has been achieved. - Stick to the facts and choose your words carefully if a mishap occurs. Defensive entries can damage the credibility of the entire record. - Make sure the record reflects client's complaints and concerns and indicates that they are taken seriously. - Record all contacts with other providers that deal with service provision. Record the date contacted, summary of the discussion, actions to be taken, and by whom. - To correct an error, draw a single line through it, write the word "error" above it, date and sign it. 	<ul style="list-style-type: none"> - NEVER use pencil – EVER! - Use ditto marks, abbreviations or initials. - Skip lines or leave blank spaces. - Squeeze in extra words at the end of a line. - Use vague terms. - Record premature conclusions. The record should only reflect what the observer knew to be fact at the time. - Make subjective observations or comments. - Make defensive notations. - Make notations that conflict with earlier entries without explaining the discrepancy.

GUIDELINES FOR WRITING PROGRESS NOTES

Use concrete, descriptive language:

Not: The client was drunk.

Write: The client smelled of alcohol, his eyes were bloodshot, his speech slurred and he had difficulty keeping his balance.

Not: Mr. Jones is abusing and neglecting his wife.

Write: Mr. Jones has refused all services for his wife. There was no food in the house. Mrs. Jones is weak and pale and says she is losing weight. There is dust and dirt all over the furniture, dishes encrusted with food on the table and evidence of rodent activity. He screams at her whenever she speaks and tells her to “shut up”.

Explain what you mean:

Not: Mr. Smith is very nasty to his wife.

Write: Mr. Smith raised his voice several times and shouted at Mrs. Smith to “shut up”. He stood over her, clenched his fist and shook the fist in front of her face.

Avoid judgmental statements:

Not: Mr. Smith is a bully.

Write: Mr. Smith exercises complete control over his wife, answers questions addressed to her, and is preventing her from obtaining necessary services.

Identify and record contacts with other professionals:

Not: Contacted Visiting Nurse Service about client’s need for homecare.

Write: Contacted Judith Smith at Visiting Nurse Service via phone on 9/5/0_. Discussed Mr. Jones’ need for home care services. Ms. Smith agreed to send a nurse to do an admission assessment on 9/7/0_ at 2:30 p.m.

Sample Daily Money Management Fee Schedule

For illustrative purposes only

[\[Go to CD Menu for Excel Form\]](#)

EXPENSES				
<u>Essential Monthly Expenses</u>				
Housing				
Food				
Utilities				
Telephone				
Transportation related to medical care				
Home Care				
Medical/Rx/Insurance				
Total Essential Monthly Expenses	\$-----			
TOTAL INCOME	\$-----			
DISCRETIONARY/DISPOSABLE INCOME	\$-----			
(Total Income) – (Expenses)				
If Disposable Income is less than \$50, participant will pay \$1 per week/hr				
If Disposable Income is between \$51 and \$150, participant will pay 10% of the full fee.				
If Disposable Income is between \$151 and \$250, participant will pay 20% of the full fee.				
If Disposable Income is between \$251 and \$450, participant will pay 40% of the full fee.				
If Disposable Income is between \$451 and \$650, participant will pay 60% of the full fee.				
If Disposable Income is between \$651 and \$800, participant will pay 80% of the full fee.				
If Disposable Income is greater than \$800, participant will pay the full fee.				
For Staff Use Only:				
Full Fee: \$65 per hour				
<u>Total Disposable Income</u>	-			
Fee	-			

Resources and Links

Social Security Forms

<http://www.ssa.gov/online/forms.html>

NOTE: Not all SSA Forms have been posted at this site. If you would like an SSA form and do not see it online, you can request a copy from SSA free of charge. To request an SSA form, call 1-800-772-1213, (TTY 1-800-325-0778) or you can visit your local office.

SSA-11 Request to be Selected as Representative Payee

<http://www.ssa.gov/online/ssa-11.pdf>

SF-1199A Direct Deposit Sign up Form (Financial Management Service website)

<http://www.fms.treas.gov/eft/1199A.pdf>

SSA-6230-F6 Representative Payee Annual Accounting

SSA-445 Application to Collect a Fee for Payee Services (Organizational/FFS Payees)

<https://secure.ssa.gov/apps10/poms/images/SSA4/G-SSA-445-1.pdf>

More information about being a payee is available in the *Guide for Organizational Representative Payees* (Publication No. 17-013) that is available at www.socialsecurity.gov/payee or from any local Social Security office. You also can order a copy by calling **1-800-772-1213**.

Guardianship Resources

NYS Office of Guardian and Fiduciary Services

140 Grand Street – Suite 701

White Plains, New York 10601

Ph (914) 824-5770

Email: gfs@courts.state.ny.us

Internet: www.nycourts.gov/ip/gfs

Article 81 collected Cases

Comments on Article 81 Amendments

Guardianship Practice in New York State

Abrams, Robert, Esq., Editor

New York State Bar Association

“Best practices-Guardianship Proceedings”(Second Judicial Department, 2005)

http://www.nycourts.gov/courts/ad2/pdf/BestPracticesHandbook_1.pdf

Initial and Annual Reports of Guardian (sample forms)

www.courts.state.ny.us/ad3/forms.html#examiner

“A Guide to Adult Guardianship – Article 81 of the Mental Hygiene Law”, Bailey, Rose Mary and Sacks, Debra www.brookdale.org

Miscellaneous

Affordable Senior Housing Directory

<http://seniorhousing.state.ny.us>

Information on money matters including reverse mortgages

www.aarp.org/money/revmort/

NYSHICAAP – Counseling on Medicare and other insurance

Toll-free Hotline: (800) 701-0501

<http://hiicap.state.ny.us/home/hiassist.htm>

American Association of Daily Money Managers (AADMM)

<http://www.aadmm.com>

The American Association of Daily Money Managers (AADMM) is a membership organization comprised of individuals who provide daily money management services directly to their own clients.

The AADMM is committed to promoting high standards of client services provided by members, and to supporting the growth of the daily money management industry, in numbers of providers, in recognition of the field, and in the quality of services provided.