

## § 266.5

## 20 CFR Ch. II (4-1-07 Edition)

(2) Failure to comply with any provision of or regulation under the Railroad Retirement Act or the Social Security Act; or

(3) Failure to meet the requirements of this part.

(i) Whether the potential payee is a creditor of the annuitant. A creditor who provides goods and services to the annuitant ordinarily may not serve as a representative payee unless such appointment poses no substantial conflict of interest and unless the creditor is:

(1) A relative who resides with the annuitant;

(2) A legal guardian or legal representative of the annuitant; or

(3) A licensed or certified care facility (or owner, administrator or employee thereof) where there annuitant resides.

### § 266.5 Order of preference in selecting a representative payee.

As a guide in selecting a representative payee, categories of preferred payees have been established. These preferences are flexible. The primary concern of the Board is to select the payee who will best serve the annuitant's interest. The preferences are:

(a) For annuitants 18 years old or older, the preference is:

(1) A legal guardian, spouse, or other relative who has custody of the annuitant or who demonstrates strong concern for the personal welfare of the annuitant;

(2) A friend who has custody of the annuitant or demonstrates strong concern for the personal welfare of the annuitant;

(3) A public or nonprofit agency or institution having custody of the annuitant;

(4) A private institution operated for profit and licensed under State law, which has custody of the annuitant; and

(5) Persons other than those listed above who are qualified to carry out the responsibilities of a representative payee and who are able and willing to serve as a payee for an annuitant; *e.g.*, members of community groups or organizations who volunteer to serve as representative payee for an annuitant.

(b) For annuitants under age 18, the preference is:

(1) A natural or adoptive parent who has custody of the annuitant, or a legal guardian;

(2) A natural or adoptive parent who does not have custody of the annuitant, but is contributing toward the annuitant's support and is demonstrating strong concern for the annuitant's well-being;

(3) A relative or stepparent who has custody of the annuitant;

(4) A natural or adoptive parent who does not have custody of the annuitant and is not contributing toward his or her support but is demonstrating strong concern for the annuitant's well-being;

(5) A relative who does not have custody of the annuitant but is contributing toward the annuitant's support and is demonstrating concern for the annuitant's well-being;

(6) A relative or close friend who does not have custody of the annuitant but is demonstrating concern for the annuitant's well-being; and

(7) An authorized social agency or custodial institution.

### § 266.6 Information to be submitted by a representative payee-applicant; face-to-face interview.

Before the Board selects a representative payee, the Board may request the payee-applicant to provide information concerning the factors listed in § 266.4 of this part. An employee of the Board may also conduct a face-to-face interview with the payee-applicant.

(Approved by the Office of Management and Budget under control number 3220-0052)

### § 266.7 Accountability of a representative payee.

(a) A representative payee is accountable for the use of benefits. The Board will require periodic written reports from representative payees. The Board may also, at the Board's option, verify how a representative payee used benefit payments. A representative payee must keep records of what was done with all benefit payments in order to make accounting reports. The Board may ask the following questions:

(1) The amount of benefit payments on hand at the beginning of the accounting period;