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## **Signing the Social Security Application**

A question often arises when an individual with disabilities applies for Social Security Disability Income (SSDI) or Supplemental Security Income (SSI): Who can sign the paperwork when the applicant is unable to do so? In addition to needing assistance with filing the necessary documents, a person with disabilities also may need to name someone else to receive the benefits on the applicant's behalf (this person is known in Social Security parlance as the "representative payee"). The rules controlling who may sign SSDI and SSI applications are similar to those governing who may be appointed as a representative payee.

We are all used to having agents under a power of attorney being authorized to take action for their principals, but Social Security regulations do not follow this practice. A power of attorney alone cannot authorize the agent to sign an application.

Almost all SSA business is completed after an interview, either face-to-face or by telephone. However, the Social Security Administration (SSA) is now favoring online services, and then requiring that a physically-signed application be submitted following the completion of the online application process.

Although the Social Security Act contains no express guidance as to how an application must be signed, the SSA has adopted formal rules governing who may sign an application for benefits. The SSA also provides detailed instructions to its regional offices, found in its Program Operations Manual System (POMS), outlining how claims/applications should be handled.

The general rule: a claimant who is 18 years of age or older, mentally competent and physically able to do so, must sign his or her own application. If the claimant is under the age of 18, or mentally incompetent or physically unable to sign, there are several people who may sign the application on the claimant's behalf. These include a court appointed representative (such as a guardian), the manager of an institution providing care to the claimant, or any other person who is responsible for the claimant's care, including a relative.

A parent or person standing in place of a parent may sign for an applicant between age 18 and the claimant's twenty-second birthday. Otherwise, the general rule for an adult is that a court-appointed representative or a person who is responsible for the claimant's care may sign the application only if the claimant has been adjudged incompetent, is unable to understand what filing for benefits means, or is physically unable to do so. In addition, if a person is in danger of losing certain benefits, an emergency application process is available in order to preserve the claimant's rights.

There are other instances when someone else may sign an application on behalf of a claimant, such as when the claimant is unavailable and a loss of benefits would otherwise result. However, these unusual situations must be promptly followed up with an application signed by the claimant. These are called “protective filings”.

While the POMS Manual gives considerable authority to the local office receiving the application, certain general rules apply for claim processing. For instance, durable powers of attorney appointing an agent to manage financial affairs do not give authority to another person to sign for the claimant, even if State laws provide that the agent is authorized. If a recent court order has found the claimant incapacitated and appointed the person seeking to sign the application as guardian of the claimant, the guardian *may* be able to sign the application.

While a court-appointed guardian may sign an application for benefits, it does not necessarily follow that the guardian will be the one to receive payments once the application is approved. A guardian may only be authorized to receive benefits for the ward if (a) there is no spouse, parent or other relative with custody or who shows strong concern for the claimant AND (b) the Social Security office finds that the guardian either has custody of the claimant or shows strong concern.

In other cases, however, the local office must develop evidence to support an exception to the requirement that the claimant actually sign the application. The analysis will address three questions: (a) Is the claimant physically unable to sign? (b) Does the claimant have mental capacity to sign? and (c) If the answer to either question is “no”, then is the person proposing to sign on behalf of the claimant authorized to do so?

Determining a claimant’s physical inability to sign is relatively straightforward. The POMS gives the following examples: (a) an individual who has both arms in traction; (b) an individual who is paralyzed and unable to communicate clearly; and (c) an individual who is comatose. The examples make it clear that there should be observable physical limitations that prevent the claimant from signing the application, making a mark or otherwise “signing in a manner that is considered the claimant’s normal signature”.

Determining mental capacity is more complicated. From the outset, “if the beneficiary can direct someone else to manage his/her benefits, he/she must be found capable unless a voluntary conservatorship is in effect.” Thus, the fact that a beneficiary/claimant recently has named an agent under a power of attorney would tend to suggest that the claimant has capacity, and therefore could sign.

Under the POMS, the local interviewer must develop evidence of capacity. This means the interviewer must have a “clear understanding of the beneficiary’s abilities.” Evidence from a physician, psychologist or other professional may be submitted on the question of capacity and would be considered a major factor in the local official’s determination of capacity. Using these standards, the official must be satisfied that the claimant does not understand what filing for benefits means before a claimant will be excused from signing the application.

If the local office determines that a claimant cannot sign, then it must evaluate who may sign on

the individual's behalf. As discussed above, although an agent under a power of attorney is not an authorized signer, a court-appointed representative/guardian or the manager of an institution caring for the claimant may sign an application. Additionally, a person responsible for the care of the claimant can sign on the person's behalf if the signer submits a statement describing his/her relationship to the claimant, as well as the extent to which the person is responsible for the claimant's care. The latter is not required if the person is the claimant's parent and the claimant is living with the parent.

In summary, for a claimant who is asserted to lack capacity to sign the application for benefits, the local SSA office must make two specific determinations: (a) that the claimant in fact lacks capacity (capacity being defined as the ability to understand what it means to sign an application for benefits), and (b) that the person proposing to sign is a formal court-appointed representative/guardian, the manager of an institution caring for the claimant, or an individual primarily responsible for the claimant's care.

[Thanks to H. Amos Goodall, Jr., Esq. of State College, Pennsylvania for this article that recently appeared in *The Voice*, the e-mail newsletter of [The Special Needs Alliance](#).]

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