

Department of Social and Health Services
Olympia, Washington

ELIGIBILITY A-Z MANUAL REVISION

Revision #	677
Category / Section	Payees on Benefit Issuances - Protective Payees
Issued	May 18, 2009
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Summary

<http://www.dshs.wa.gov/manuals/eaz/sections/Payee-C-Prot.shtml>

The chapter has been re-written to simplify the language.

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PAYEES ON BENEFIT ISSUANCES - PROTECTIVE PAYEES

Revised July 22, 2008

Purpose: This section describes who can be a protective payee, what situations require a protective payee be established, and the protective payee's responsibilities. This section also describes how to develop and review protective payee plans.

WAC 388-460-0020	Who is a protective payee?
WAC 388-460-0025	Who can be a protective payee?
WAC 388-460-0030	When is an emergency or temporary protective payee (TANF/SFA) used?
WAC 388-460-0035	When is a protective payee assigned for mismanagement of funds?
WAC 388-460-0040	When is a protective payee assigned to TANF/SFA pregnant or parenting minors?
WAC 388-460-0055	What are the protective payee's responsibilities?
WAC 388-460-0060	When are protective payee plans done?
WAC 388-460-0065	When is the protective payee status ended and how is a protective payee changed?
WAC 388-460-0070	What are your fair hearing rights regarding protective payment?

ACES PROCEDURES

See [Authorized Representative / Protective Payee](#)

PROTECTIVE PAYEE PROCEDURES

Procedures and instructions given to protective payees can be found in the [Protective Payee Handbook - Vendor's Edition](#). (PDF file - Acrobat Reader required.)

WAC 388-460-0020

Effective ~~July 1, 2002~~ June 1, 2006

WAC 388-460-0020 Who is a protective payee?

1. A protective payee is a person or an employee of an agency who manages client cash benefits to provide for basic needs - housing, utilities, clothing, child care, and food. They may also provide services such as training clients how to manage money.
2. Clients are assigned to protective payees for the following reasons:
 - a. Emergency or temporary situations where a child is left without a caretaker (TANF/SFA) per [WAC 388-460-0030](#),
 - b. Mismanagement of money (TANF/SFA, GA, or WCCC) per [WAC 388-460-0035](#), ~~or~~
 - ~~c. Non-cooperation with WorkFirst program requirements per WAC 388-310-1600 or 1650, or~~
 - ~~d.c.~~ Pregnant or parenting minors per [WAC 388-460-0040](#).

This is a reprint of the official rule as published by the [Office of the Code Reviser](#). If there are previous versions of this rule, they can be found using the [Legislative Search page](#).

WHO IS A PROTECTIVE PAYEE?

~~4.~~ Under [WAC 388-460-0001](#)(1)(d) the department can establish a protective payee for cash benefits in many situations including but not limited to the following:

- ~~2.1.~~ The head of the assistance unit is an unmarried pregnant or parenting minor. See [Teen Parents](#).
- ~~3.2.~~ The adult head of the assistance unit has demonstrated an inability to use the cash benefits in a responsible manner;
- ~~3.~~ A person who has had an ADATSA assessment and ~~who is~~ participating in an ADATSA funded chemical dependency treatment program. See [Chemical Dependency](#).

NOTE: The protective payee is not responsible for maintaining client eligibility; that is still the client's responsibility.

~~1. A protective payee is not responsible for maintaining client eligibility; that is still the client's responsibility.~~

~~2.1. Vendor payments are most often done for cash benefits issued under the Additional Requirements programs. See **EMERGENCY ASSISTANCE** **Additional Requirements (AREN)** and **ONGOING ADDITIONAL REQUIREMENTS (OAR)**.~~

WORKER RESPONSIBILITIES

~~The Use the mandatory of the~~ Protective Payee Tracking System (PPTS) in barcode is mandatory. Staff ~~to completes~~ the assessment, payment plan, transfer, reassignment, and closing in PPTS. For more information on PPTS see [The Protective Payee Tracking System Guide](#).

1. ~~Assessing the need for a protective payee:~~

~~Social Workers Staff~~ assesses the need for ~~a client to be assigned to protective~~ a protective payee status, using the Protective Payee Assessment Form (DSHS 14-349) in PPTS. This form identifies the reasons protective payee payments are needed and documents the evidence used to make the determination. A copy is e-mailed through the secure e-mail process in PPTS to the protective payee.

2. ~~Automatic assigning of protective payee:~~

~~Some circumstances~~ The following automatically require participants be assigned to protective payee status. ~~These include:~~

- a. Teen parents (Head of household, non-married, non-emancipated pregnant or parenting teens under age 18). See [WAC 388-460-0040](#)
- ~~b. Emergency assignment when the caregiver is temporarily out of the home. See [WAC 388-460-0030](#)~~
- b. Persons using their EBT card or money from EBT to buy or pay for lottery tickets or gambling. See [WAC 388-460-0035](#)
- c. Anyone receiving ADATSA services (WAC 388-800-0115 What cash benefits can I receive through ADATSA if I am in outpatient treatment?). The outpatient provider acts as the protective payee.

NOTE:

If you receive a complaint about a participant using their EBT card or money from their EBT card for gambling, you need to refer the caller to (360) 725-4552. All of these complaints will be investigated.

~~If you receive a complaint about a participant using their EBT card or money from their EBT card for this purpose, you need to refer the caller to (360) 725-4552. All of these complaints will be investigated.~~

3. ~~Protective pPayee pPlan:~~

Protective Payee Payment Plan, Case Assignment, and Closure Notice (DSHS 14-426) is completed and indicates when there are instructs the payee what payments are to be made. ~~other~~

~~than verified housing and utility expenses. This includes housing, utilities, any other payments needed or a holding account for homeless clients to pay the deposit on an apartment. PPTS uses secure e-mail to send~~ a copy ~~using secure e-mail of this form~~ to the protective payee. See [WAC 388-460-0060](#).

NOTE:

A new plan is required anytime there is an ongoing change such as rent change. If it is a onetime payment then a new plan is not needed. Document the onetime request in the narrative in ACES.

4. Selecting and assigning a protective payee:

- a. ~~The Social Worker is responsible for assigning the protective payee vendor. You Staff should must offer allow~~ the client the opportunity to participate in the process. Clients can suggest ~~whom they want for an emergency- a~~ protective payee but staff makes the final decision.
- b. Clients are assigned to a protective payee using the Protective Payee Payment Plan, Case Assignment, and Closure Notice (DSHS 14-426) in PPTS. Use this form when ~~you are~~ assigning the client for services and when ~~you are~~ closing the service. PPTS automatically ~~e-mails- sends~~ a copy to the protective payee through secure e-mails. ~~A copy is given or sent to the client and is~~ Translations are available in ~~translated formats in~~ Forms.
- c. Clients, who do not speak or read English, may be assigned to protective payees who are bi-lingual. If none are available, ~~arrangements must be made by~~ the Community Services Office (CSO) is responsible to assist with interpreter services ~~by three-way telephone or other means that allows interpretation for the client so the payee is able to communicate with the client~~.

5. Notifying the participant-client and the protective payee of the assignment:

- a. Timing of assignment is very important. If a case is assigned ~~near or~~ after ACES cut-off, the grant may will not be sent to the protective payee the next month.
- b. Assignment to a protective payee is a negative action. Advance and adequate notice (minimum of 10 days) to on-going clients must be given before assignment becomes effective.

Ten-day notice to applicants is not required ~~before assignment~~ if the applicant is notified when the case is approved that with a protective payee ~~is~~ assigned.

~~b.c.~~ _____ The protective payee is notified through secure e-mail using PPTS.

~~c.d.~~ _____ The department must notify the Protective Payee if the client has an Equal Access (EA) plan and provide a copy of the plan. DSHS staff must contact the Protective Payee directly to provide the particular accommodations that are appropriate for the client. Services needed for EA clients to work with the Protective Payee may be provided through the CSO. An example would be if the client needed sign language: The CSO would provide the

interpreter to the Protective Payee to meet the EA plan for that client.

6. Extremely difficult cases:

Some cases prove to be extremely difficult. Some clients may be difficult to serve because of mental health problems, involvement with drugs, ~~and or~~ aggressive behavior. There may be a history with the client making it difficult to place with a Protective Payee. There may not be a Protective Payee available. ~~Protective payees as they~~ can refuse to provide services. These clients should be reviewed to see if there are EA issues not being addressed.

If it is not possible to find protective payee to accept these clients then there are three alternative ways to provide services:

a. Direct vendor payments:

Direct ~~payments via~~ vendor payments must be changed in ACES before cut-off to be effective the first of the month. Vendor payments are not well suited to situations where the ~~rent and~~ utilities costs change each month. See ACES Manual - [Vendor Payments](#)

b. Use a staff person as protective payee:

The department prefers not to add the duties of protective payee to a staff position. It is not funded or allocated. Only select staff can serve in this capacity. No one with responsibility over the assigned client can fill this role.

c. Establish a limited guardianship. See [WAC 388-460-0050](#)

WAC 388-460-0025

Effective July 1, 2002

WAC 388-460-0025 Who can be a protective payee?

1. Clients may ask for a particular protective payee, but the department makes the final choice.
2. Protective payees must contract with the department, except for employees of the department who are assigned this function as part of their job duties.
3. The contracted protective payee and their staff must pass a [criminal background check](#) for the crimes listed in WAC 388-06-0170, 0180 and 0190.
4. A departmental employee acting as a protective payee cannot:
 - a. Have the client in their caseload,
 - b. Have the client in the caseloads of other employees under their supervision,
 - c. Be responsible for determining or issuing benefits for the client,
 - d. Be the office administrator, or
 - e. Be a special investigator.

5. For TANF/SFA, a department employee cannot act as a protective payee when the department has legal custody or responsibility for placement and care of the child.

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CLARIFYING INFORMATION

1. Criminal Background check:

All protective payees, their employees, and their designees who have unsupervised access to participants must pass a yearly criminal background check. This background check is administered by the DSHS ~~Criminal~~ Background Check Central Unit (BCCU). Some offenses are automatically disqualifying ~~a protective payee~~ (See [WAC 388-06-0170](#) and [WAC 388-06-0180](#)).

If the crime is not an immediate disqualification, then DSHS headquarters staff review the background check on a case-by-case basis to decide whether or not the protective payee or employee should be disqualified from working with our clients. See [WAC 388-06-0190](#).

WORKER RESPONSIBILITIES

1. The regional designee:
 - a. Notifies protective payees to:
 - i. Complete a Background Inquiry Application form, DSHS 09-653 for themselves and all employees or designees dealing or having access to our clients. This is done yearly and when hiring a new employee or signing a new contract.
 - ii. Instruct the person completing the background check to answer all the boxes in section 2 leaving no blanks. If there is no answer then enter "NONE".
 - iii. Return the completed forms to Region.
 - b. In section 1 Box 3 A, writes in check the ESA box "Protective Payee";
 - c. Completes Section 1 box 4 with just the BCCU Account Number according to your region:
 - i. Region One _____ 11001440
 - ii. Region Two _____ 11001441
 - iii. Region Three _____ 11001442
 - iv. Region Four _____ 11001443
 - v. Region Five _____ 11001445
 - vi. Region Six _____ 11001439
 - d. Complete Box 5 A with Contractor Contract number.
 - e. Copyies the completed forms.

- f. Keeps the originals on file.
- g. Sends the copy to BCCU at MS 45035 or by fax to (360) 902-0292. BCCU will image the copy, and process the request. BCCU will mail the result letter back to the region.
- h. Reviews the results of the background check and files a copy with the original background check. A protective payee, a payee's employee, or designee cannot provide protective payee services to our clients if they fail the background check.

WAC 388-460-0030

Effective July 1, 2002

WAC 388-460-0030 When is an emergency or temporary protective payee (TANF/SFA) used?

An emergency or temporary protective payee is assigned when a caretaker relative or adult acting in loco parentis per [WAC 388-454-0005](#) is not available to take care of and supervise a child due to an emergency.

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CLARIFYING INFORMATION

In most cases, the client can request an authorized representative to receive the benefits for the family.

WAC 388-460-0035

Effective July 1, 2002

WAC 388-460-0035 When is a protective payee assigned for mismanagement of funds?

1. The decision to assign a person to a protective payee because of mismanagement of funds must be based on law or with proof the client is unable to manage their cash benefits. The proof must be current and show how this threatens the well being of a child or client on TANF/SFA, GA or WCCC. Examples of proof are:
 - a. Department employees or others observe that the client or client's children are hungry, ill, or not adequately clothed;
 - b. Repeated requests from the client for extra money for basic essentials such as food, utilities, clothing, and housing.
 - c. A series of evictions or utility shut off notices within the last twelve months.
 - d. Medical or psychological evaluations showing an inability to handle money.
 - e. An ADATSA alcohol/drug assessment establishing incapacity due to substance abuse.
 - f. Not paying an in-home child care provider for services when payment has been issued to the client by the department for that purpose.

- g. A complaint from businesses showing a pattern of failure to pay bills or rent.
 - h. Using public assistance Electronic Benefits Transfer (EBT) card or cash obtained through EBT to purchase or pay for lottery tickets, pari-mutuel wagering, or any of the activities authorized under chapter 9.46 RCW.
2. A lack of money or a temporary shortage of money because of an emergency does not constitute mismanagement.
 3. When a client has a history of mismanaging money, benefits can be paid through a protective payee or directly to a vendor.

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CLARIFYING INFORMATION

Assessment for mismanagement of funds

1. Cases are assessed on an individual basis to determine if there is mismanagement of funds. ~~Cases can be referred for a Protective Payee assessment for a number of reasons.~~ Examples are:
 - a. Multiple requests for emergency additional requirements or eviction notice or shut off notices.
 - b. Landlords threaten to evict participants that aren't paying rent.
 - c. Clients request help to deal with bills or get housing.
 - d. Neighbors or family members complain that children are hungry or ill clothed.
 - e. Clients who receive direct child care payments with a history of failure to pay the third party provider.
2. Evaluate the case.
 - a. Is the complaint legitimate?
 - b. What is the history in the case notes of multiple problems with paying bills?
 - c. Are public assistance funds not being used for basic needs?
 - e-d. Have there been multiple requests for AREN?
 - e. Are there difficulties due to basic lack of funds?
 - d-f. Is it beyond the control of the client such as a roommate moving out?
 - e-g. Are assistance funds being used for other things?
 - h. Are the children or the participant at risk?
 - f-i. Is this a case of Domestic Violence causing the money issue?
3. Include an interview with the client as part of the assessment and assignment, when possible. It is not required to have the client participate. If the client is uncooperative, complete the action without the ~~ir~~ client's input.
4. A basic lack of funds is not grounds for establishing mismanagement, but it may indicate a need for other help such as housing assistance. An example: A roommate has moved out or the client has

only just come on assistance and the client is not able to pay the rent.

5. ~~Only m~~Mismanagement of funds case decisions must be reviewed and approved by the Supervisor when initially imposing the payee.

WAC 388-460-0040

Effective July 1, 2002

WAC 388-460-0040 When is a protective payee assigned to TANF/SFA pregnant or parenting minors?

Pregnant or parenting minors must be assigned to protective payees if the clients are:

1. Head of a household;
2. Under age 18;
3. Unmarried; and
4. Pregnant or have a dependent child.

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CLARIFYING INFORMATION

Limited guardianship can only be used on TANF / SFA cases. If a case fits the following criteria, consider referring to the Assistant Attorney General to establish a limited guardianship:

1. The case has been in protective payee status or is expected to be, for over two years,
2. It is not anticipated that the responsible adult will be able to manage the funds for the assistance unit,
3. There are no protective payee vendors which will provide services for the case, and
4. Other alternatives for services have been explored and have proven unfeasible.

WAC 388-460-0055

Effective July 1, 2002

WAC 388-460-0055 What are the protective payee's responsibilities?

1. The protective payee's responsibilities are to:
 - a. Manage client cash and child care assistance benefits to pay bills for basic needs, such as

- housing and utilities, or as directed in the protective payee plans,
- b. Provide money management for client if this item is included in the protective payee plans,
 - c. Encourage clients to comply with WorkFirst and other program requirements, such as getting a job or attending school, and
 - d. Provide reports to the department on client progress.

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CLARIFYING INFORMATION

Protective payees provide financial management services to DSHS clients. They work with individual clients to pay their bills, maintain records, complete reports, and work with DSHS staff.

1. Protective payees have three main areas of responsibility:
 - a. Managing clients' funds;
 - b. Providing money management training; and
 - c. Maintaining account and case records and providing reports to DSHS.
2. Protective payees are required to complete and keep the Protective Payee Report (DSHS 01-110 and 01-110C) or its equivalent - This form ~~is used to~~ records how the client's money was used and how the client is progressing. These forms ~~will be~~ reviewed every six months during contract monitoring.
3. On mismanagement of funds cases, the Protective Payees ~~are required to~~ must complete, send in, and keep a copy of the Protective Payee Periodic Social Services Report (DSHS 01-110A) - The report is sent to the CSO three months after the initial contact and every six months thereafter. This report summarizes the Protective Payees experiences with the client. The CSO staff uses this information to determine if a Protective Payee is still needed on the case. See [WAC 388-460-0060](#)

4. Fraud:

Whenever any State employee has a suspicion or there is an allegation of criminal activity or potential fraud ~~with the payee~~, the following policy must be followed:

1. Do not investigate the allegation nor take any action against the protective payee.
2. Follow DSHS Administrative Policy 10.06, which states: Any employee who suspects criminal activity on the part of a contracted vendor must report it to Central Contracts Services (CCS). This report should come out under the signature of the Regional Administrator or designee.
 - a. CCS refers to the Division of Fraud Investigations (DFI)
 - b. DFI investigates the allegation and reports to Region with the findings.
 - c. DFI refers any overpayments to the Division of Financial Recovery (DFR).

- d. Regions take appropriate action with the protective payee.

WAC 388-460-0060

Effective July 1, 2002

WAC 388-460-0060 When are protective payee plans done?

A protective payee plan may be developed when a case is assigned to a protective payee.

1. A copy of the plan is provided to the protective payee and the client.
2. All cases, except for when a protective payee is assigned due to sanction status, must be reviewed:
 - a. After an initial three-month period; and
 - b. At least every six months beyond the initial period for on going cases.
3. Reviews include evaluation of:
 - a. The need for the client to continue in protective payee status; or
 - b. The need to change the plan; or
 - c. The client's potential to assume control of their funds (or be removed from protective payee status); and
 - d. Protective payee performance.

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WORKER RESPONSIBILITIES

Completing a protective payee plan

1. ~~The WorkFirst Program Specialist/Social Worker Staff~~ completes the initial Protective Payee Payment plan, Case Assignment, and Closure Notice (DSHS 14-426) in PPTS. Include any specific instructions you want the protective payee to follow, such as holding funds back for future rent or to disperse funds evenly in equal payments at weekly intervals or bi-weekly. Make sure you include information about the provider for child care cases.
2. Send a notice to the client setting an appointment time for completing the plan. Assignment to a protective payee is considered a negative action that requires a 10-day notice because it limits client access to monetary benefits.
3. Include the client in the process, if possible.
 - a. If the client appears, discuss the reasons for establishing a protective payee and how to remove the protective payee. The client does not have to agree to the protective payee plan. ~~Have Ask~~ the client sign the form. It is not required to have the client sign the form.

Give the client a copy whether or not signed.

- b. If a client does not show up for the appointment, complete the Protective Payee Plan based on available case information. Note on the plan that the client did not appear. PPTS will Sendmail a copy to the client.
4. ~~Place the original plan in the case file.~~ PPTS Ssend a copy through secure e-mail to the assigned protective payee, along with the assignment form.

Changing the Protective Payee Plans

Protective Payee Plans can be modified. All changes **must** be documented in the case file and a copy of the revised Protective Payee Plan provided to the vendor and the participant within one business day. If the client or the payee contacts you for a onetime change, as you approve it you do not have to change the plan but narrate the change and approval in ACES narrative.

Example: Client needs a fine paid to reinstate the driving license. You approve it and inform the payee of the onetime payment and make an entry into the narrative of your approval and what the payment is for.

Case Reviews

Cases assigned to protective payee status must be reviewed on a regular basis to see if a protective payee is still needed. Most cases assigned due to mismanagement can be removed from protective payee status if it appears they have gained the skills needed to manage their funds. Teen parents are the exception who remain in protective payee status until they turn 18, become emancipated or ~~until~~ they marry.

All reviews for mismanagement of funds cases require the worker to:

- ~~Re~~-assess the need for a protective payee,
- ~~Re~~view of the protective payee plan and assignment of the appropriate protective payee.
- Create a new protective payee plan ~~Anyfor any~~ case that continues in protective payee status ~~requires a new protective payee plan even if there was one created before.~~ Even though the elements may be the same, the dates will differ.

Workers should have a summary social services report from the ~~vendor-payee~~ for each three-month service period for the mismanagement of funds clients. Workers should use these materials and the case record notes for review. Client contact and further staffing of cases is also recommended, as time allows.

The reviews are completed in PPTS.

1. Initial:

All cases assigned to protective payee status **must** be reviewed after the first three months. Since these reviews need to include the Protective Payee Periodic Social Services Report (DSHS 01-110A) for the mismanagement of funds cases, actual completion dates will be between the thirdee and fourth months.

2. Regular:

After the first review at three months, each case must be reviewed every six months. Completion of these

~~reports-reviews~~ should be completed within ~~the last~~ month of the 6-month period.

~~For mismanagement of funds cases only, the decision to continue or delete the protective payee status must be reviewed and approved by the supervisor.~~

WAC 388-460-0065

Effective July 1, 2002

WAC 388-460-0065 When is the protective payee status ended and how is a protective payee changed?

A client may be removed from a protective payee status when a:

1. Protective payee requests the client be reassigned;
2. The department assigns a different protective payee; or
3. Protective payee is no longer required.

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CLARIFYING INFORMATION

1. Clients can be transferred from one Protective Payee to another one if available in your area. This action should be used if a Protective Payee requests transfer of a client or if a client is unhappy with a protective payee and in your professional opinion you feel another protective payee would work better with the client or when needed. In these cases, the DSHS 14-426 form is sent to the new payee and the parent.
2. If a protective payee requests a client be removed from his/her caseload, that action must be taken as soon as possible based on ACES deadlines.
3. Cases that transfer between CSO's may retain the same protective payee. In those cases, the Protective Payee Plan (DSHS 14-426) needs to be updated with the new information on address, landlord, utilities, and rent amount. If the client moves out of a service area of a protective payee, a new protective payee must be assigned. In these cases, the DSHS 14-426 form is sent to the protective payee to end the case assignment. ~~The case manager/social worker~~ Staff needs to work closely with the new CSO or previous Protective Payee to assure that the check is not sent to the former protective payee.

Reminder: You must remember to make the necessary changes to the AREP screen in ACES and, ~~PPTS,~~ and eJAS.

4. If the client's case is closed, the protective payee returns, to the State, any money retained on the client's account using DSHS 01-210. A copy of the DSHS 01-210 is sent to the CSO for their records. No money is returned to the CSO. If the protective payee informs you that the client cashed a check after the payee returned the client's money to the state, see the note below for

instructions.

NOTE:	<p>If are contacted by the protective payee and informed that the client cashed a check after the client's money from the closed case was returned to Office of Financial Recovery (OFR), do the following:</p> <ol style="list-style-type: none">1. Confirm with the Payee that the client has cashed the check. For example, the payee could provide a bank statement or canceled check.2. Call Lavonne Howell, OFR at 360-664-5776 to confirm the payment from the payee was received by OFR and get the "line recorded" number.3. Create an A-19 made payable to the payee for the cashed check amount and reference the "line recorded" number on the A-19. AFRS will issue a warrant directly to the payee.
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WAC 388-460-0070

Effective July 1, 2002

WAC 388-460-0070 What are your fair hearing rights regarding protective payment?

You have the right for a fair hearing if you disagree with the department's decision to:

1. Assign payment of benefits through a protective payee,
2. Continue the assignment,
3. Change the protective payee selected for you, or
4. Change the contents of your protective payee plan.

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Modification Date: July 22, 2008

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