

# Fiduciary Relationships

	Power of Attorney	Conservatorship	Representative Payee
<b>Owner of funds</b>	Principal (i.e. John Doe)	Protected Person* (i.e. John Doe) *Also a 'Ward'	Principal (i.e. John Doe)
<b>Tax reporting under</b>	Principal	Protected Person	Principal
<b>Membership</b>	Principal	Protected Person	Principal
<b>Account Title &amp; Signing Required</b>	John Doe by Jane Lucky, POA	John Doe by Jane Lucky, Conservator	John Doe by Jane Lucky, Rep Payee
<b>Who signs account card?</b>	Either principal or fiduciary	Conservator	Representative Payee
<b>Who grants the authority?</b>	Principal	District Court	Social Security Administration (SSA)
<b>Paperwork required to open account</b>	Notarized original or copy of POA form (Fiduciary should complete "Agents Certification" form)	Appointment papers from court; occasionally will have a temporary appointment with expiration date	Appointment papers from SSA
<b>Types available</b>	General (is durable unless states otherwise) Special/Limited (Springing)	Conservatorship Guardianship	Individual Family* *Exceptions apply to family accounts receiving benefits for multiple children
<b>Number allowed per account</b>	Multiple, but generally one	Often one, but sometimes two are named as co-conservator and either can transact	One
<b>Type of account allowed</b>	Any **For real estate transactions, must be filed with local clerk and recorder's office	Any	Typically, savings, but checking account allowed if receiving benefits for multiple children in same family. Each child should still have a savings account in their name for any excess funds to be saved.

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<b>Situations used</b>	<ul style="list-style-type: none"> <li>✓ Elderly persons needing assistance</li> <li>✓ Military personal overseas or away from home</li> <li>✓ Spouse, sibling, friend, etc for person unable to come in to transact (i.e. incarceration, travel, illness)</li> </ul>	Given for persons not capable of making own financial decisions: <ul style="list-style-type: none"> <li>✓ elderly</li> <li>✓ incapacitated</li> <li>✓ mentally incompetent</li> <li>✓ minor child</li> </ul>	Granted for person designated to receive and manage Social Security benefits on behalf of another person: <ul style="list-style-type: none"> <li>✓ elderly</li> <li>✓ minor child</li> <li>✓ mentally handicapped adult</li> </ul>
<b>Can principal transact too?</b>	Yes	No	No
<b>Checks payable to</b>	Principal or Fiduciary with capacity listed (i.e. Jane Lucky, POA for John Doe)	Protected Person or Fiduciary with capacity listed (i.e. Jane Lucky, Conservator for John Doe)	Principal or Fiduciary with capacity listed (i.e. Jane Lucky, FBO John Doe) [FBO- For Benefit Of]
<b>Fiduciary relationship ends upon</b>	<ul style="list-style-type: none"> <li>✓ Death</li> <li>✓ Revocation</li> <li>✓ Expiration</li> <li>✓ Incapacitation (if not durable)</li> </ul>	<ul style="list-style-type: none"> <li>✓ Death</li> <li>✓ Termination by court</li> <li>✓ Expiration</li> </ul>	<ul style="list-style-type: none"> <li>✓ Termination by SSA</li> <li>✓ Resignation</li> <li>✓ Death</li> </ul>
<b>Special notes about these accounts</b>	<ul style="list-style-type: none"> <li>✓ SSA does not recognize POA, so Rep. Payee must be used</li> <li>✓ Not allowed on trust accounts; successor trustee should be named</li> <li>✓ Commonly called "attorney in fact"</li> </ul>	If no conservator is named, the guardian has the right to also make financial decisions. Normally, the guardian has authority over health and education decisions and conservator has rights over financial.	Often ACH deposits will start coming in without paperwork or proper account set up. Watch for funds coming into the fiduciary's personal account!
<b>Additional resources</b>	<ul style="list-style-type: none"> <li>• POA MontGuide</li> <li>• Statutory POA form</li> <li>• Agent Certification form</li> </ul>		<ul style="list-style-type: none"> <li>• <i>SSA A Guide for Rep Payees</i></li> <li>• <i>CFPB Guide for Rep Payee &amp; VA Fiduciaries</i></li> </ul>