



CLIENT BULLETIN

Pennsylvania Act 2016-132: Unclaimed Life Insurance Benefits

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Pennsylvania revised its laws concerning unclaimed life insurance benefits on November 3, 2016, adding Chapter 37 entitled “Unclaimed Life Insurance Benefits” to the Pennsylvania Insurance Code. The Act will take effect next year on November 3, 2017, and its stated purpose “is to require the complete and proper disclosure, transparency and accountability relating to a method of payment for life insurance death benefits regulated by the Insurance Department.” The Act requires insurers to implement procedures for performing a comparison of its insureds’ in-force life insurance policies against the death master file on at least a semiannual basis. The “death master file” is defined as the Social Security Administration’s death master file “or any other database or service that is at least as comprehensive for determining that an individual has reportedly died.” Thus, the purpose of the search is to seek a match of an insured’s Social Security number or name and date of birth to an individual who has reportedly died. Within 90 days of discovering any death master file match, an insurer must do two things: (1) make a good faith effort to confirm the insured’s death and document those efforts; and (2) determine whether benefits are due under the applicable policy. If the insurer determines benefits are due, then two more obligations are triggered: (1) make a good faith effort to locate the beneficiary and document those efforts; and (2) provide the appropriate claims forms and instructions to the beneficiary to make a claim for the policy benefits. The benefits paid to the beneficiary must include applicable accrued contractual interest. In the event the insurer cannot locate the beneficiary, the benefits shall escheat to the Commonwealth as unclaimed property pursuant to 72 P.S. § 1301.1 *et seq.*, known as the Fiscal Code. An insurer must also

be mindful that neither it nor its service providers may charge an insured or a beneficiary for costs associated with conducting death master file searches pursuant to the Act.

Notwithstanding the foregoing obligations under the Act, there are important exceptions and exemptions. At the written request of an insurer, the Insurance Commissioner may: (1) limit an insurer’s obligation to conduct death-master-file searches to searches of the insurer’s electronically-stored files (as opposed to requiring searches of files that are not stored electronically) or it may approve a plan that allows an insurer to convert its paper files to electronically-stored files before its obligation to search arises; (2) exempt the insurer completely from the required death master file searches or allow less frequent searches; or (3) phase in the insurer’s compliance with the Act according to a plan and timeline approved by the Insurance Commissioner. Furthermore, the Act shall not apply to any of the following types of life insurance policies: (1) an annuity contract that does not require the insurer to pay benefits to the beneficiary; (2) a policy providing death benefits under an employee benefit plan subject to ERISA; (3) a federal employee benefit program; (4) a policy to fund funeral or burial services; and (5) a policy of credit life insurance or health and accident insurance.

Finally, the Insurance Commissioner is tasked with enforcement of the Act and is empowered to promulgate rules and regulations for the Act’s administration. If an insurer violates the Act, the Insurance Commissioner may either revoke or refuse to issue a certificate of qualification or license to the



insurer and/or impose a civil penalty of up to \$5,000 per violation. The protection for insurers is that any action or adjudication of the Insurance Commissioner shall be preceded by an administrative hearing and shall be subject to appeal and judicial review.

If you have any questions about this Client Bulletin, please feel free to contact any of the attorneys listed or the CMN attorney with whom you regularly work.

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