



**RICARDO LARA**  
CALIFORNIA INSURANCE COMMISSIONER

## **BULLETIN 2021-8**

**TO: All Admitted Life Insurance Companies**  
**FROM: Insurance Commissioner Ricardo Lara**  
**DATE: October 25, 2021**  
**RE: California Supreme Court Decision Governing Life Insurance  
Grace Period and Notice to Designees**

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On August 30, 2021, the California Supreme Court in *McHugh v. Protective Life Insurance Company* (2021) 12 Cal. 5<sup>th</sup> 213 unanimously determined that Insurance Code sections 10113.71 and 10113.72 “apply to all life insurance policies in force when these two sections went into effect, regardless of when the policies were originally issued.” In other words, the court held that Insurance Code sections 10113.71 and 10113.72 apply not only to policies issued or delivered after the effective date of those statutes, but also to policies in force on the effective date of the laws: January 1, 2013. The court held that this interpretation “fits the provisions’ language, legislative history, and uniform notice scheme, and it protects policy owners – including elderly, hospitalized, or incapacitated ones who may be particularly vulnerable to missing a premium payment – from losing coverage, consistent with the provisions’ purpose.” The California Supreme Court remanded the *McHugh* case back to the Court of Appeal for proceedings consistent with its opinion.

Insurance Code section 10113.71 provides that all group and individual life insurance policies must contain a grace period of not less than 60 days to allow additional time for a policyholder to pay their policy premium before an insurer may terminate the policy for nonpayment of premium. Insurance Code section 10113.72 requires insurers to give applicants and owners of individual life insurance policies the right to designate at least one person, in addition to the applicant or policy owner, to receive notice of lapse or termination of the policy for nonpayment of premium. Sections 10113.71 and 10113.72 contain additional insurer requirements not summarized in this Bulletin.

All life insurance policies currently in effect must comply with the *McHugh* decision and Insurance Code sections 10113.71 and 10113.72, including these requirements:

**CALIFORNIA DEPARTMENT OF INSURANCE**

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- Group and individual life insurance policies must contain a grace period of not less than 60 days, by endorsement if necessary, as required by Insurance Code section 10113.71 and the *McHugh* decision.
- Insurers must give applicants and policy owners of individual life insurance policies the right to designate at least one person, in addition to the applicant or policy owner, to receive notice of lapse or termination of the policy for nonpayment of premium, as required by Insurance Code section 10113.72 and the *McHugh* decision.

The main issue before the *McHugh* court was whether Insurance Code sections 10113.71 and 10113.72 apply to all life insurance policies in force as of January 1, 2013, as well as policies issued after that date. The court was not asked to decide what remedies are available to policyholders or beneficiaries in the event an insurer has not complied with these code sections. The California Department of Insurance (Department) anticipates that future court decisions will provide guidance to insurers and to policy owners and beneficiaries, including policy owners and beneficiaries of policies no longer in effect, regarding how to apply the *McHugh* decision and the statutes to specific facts and circumstances. Until the courts provide additional guidance in future court decisions, the Department will follow the *McHugh* decision and enforce Insurance Code sections 10113.71 and 10113.72 in accordance with existing law.

The Department encourages life insurers to review the *McHugh* decision and the requirements of Insurance Code sections 10113.71 and 10113.72 in their entirety to ensure consumers, policyholders, beneficiaries, and policy owners are aware of these requirements.

Any life insurance company with questions about this Bulletin may contact:

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