

**INVESTIGATORY HEARING**

**REGARDING PRACTICES OF  
METROPOLITAN LIFE INSURANCE COMPANY**

***Conducted by the California Insurance Commissioner  
and the California State Controller***

**SACRAMENTO, CALIFORNIA  
MAY, 23 2011**

# PURPOSE OF HEARING



**The California Commissioner and Controller are conducting this hearing to evaluate potential industry-wide practices related to:**

- Life insurance and annuities claims settlement issues;
- Use of the United States Social Security Administration’s “Death Master” file by life insurance companies;
- Compliance with California’s Unfair Claims Practices Law and other insurance statutes; and
- Compliance with California’s unclaimed property laws.

# LIFE INSURANCE POLICIES



## What is a life insurance policy?

- Two primary types of life insurance: term and whole life.
  - In a **term life** policy, the insured pays a premium for a limited period of time. If the insured dies when the policy is in force, a death benefit is paid. There is no cash value. The policy lapses and no death benefit is paid after premium payments end.
  - In a **whole life** policy, the insured pays a premium. In addition to offering a death benefit, the policy builds up a cash value. If an insured stops paying premiums, the insurer may pay itself premium out of the cash value. The policy pays a death benefit so long as the policy is in force through one of the premium sources.
- **Group life** insurance is either term or whole life insurance covering a group of people, usually employees of a company or members of a defined group.
- Because benefits generally do not become due until many years or decades in the future, a life policy is a long-term promise by an insurer.

# ANNUITY CONTRACTS



## **What is an annuity contract?**

- A contract between an owner and an insurer, where, in exchange for premium payments, the insurer promises to make periodic payments to an annuitant.
- There are many different types of annuities. All annuities are in either the “pay-in” or deferred status, or the “pay-out” or annuitized status.
- Payments begin on a maturity date or annuity commencement date.
- Payments may be for a guaranteed period, for life, or for both.
- Payments generally also due upon death of the owner or annuitant.
- Payments may not become due until many years in the future and also may include a death benefit, making an annuity contract a long term promise by the insurer.

# THE PROBLEM OF UNPAID BENEFITS

**The existence of unpaid benefits is a serious problem in the life insurance industry.**

“ . . . hundreds of millions of dollars in life insurance goes unclaimed each year for one simple reason: the beneficiaries do not know the money exists.”

“It is difficult to accurately estimate the extent of unclaimed life insurance policies.”

“Whether the companies have good recordkeeping I honestly don't know, but I strongly doubt it.”  
(quoting Joseph M. Belth, Professor Emeritus of Insurance at Indiana University)

*New York Times*, February 25, 2011

# POTENTIAL VIOLATIONS OF CALIFORNIA'S INSURANCE LAWS

## The Department is looking to determine whether certain life insurance industry practices violate California's insurance laws

Pursuant to California insurance law, an insurance company engages in unfair claims settlement practice by:  
“Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies,” and  
“Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.” **Cal. Ins. Code § 790.03(h)(3),(5).**

“Whenever possible payment shall be made within 30 days after the date of death of the insured.”  
**Cal. Ins. Code § 10172.5(b).**

“In any case in which interest on the proceeds of, or payments under, any policy of life insurance, credit life insurance, or accidental death insurance becomes payable pursuant to subdivision (a), the insurer shall notify the named beneficiary or beneficiaries at their last known address that interest will be paid on the proceeds of, or payments under, that policy from the date of death of the named insured.” **Cal. Ins. Code § 10172.5(c).**

“[Any insurer] that fails or refuses to pay the proceeds of, or payments under, any policy of life insurance issued by it within 30 days after the date of death of the insured shall pay interest, at a rate not less than the then current rate of interest on death proceeds left on deposit with the insurer computed from the date of the insured's death...” **Cal. Ins. Code § 10172.5(a).**

# POTENTIAL VIOLATIONS OF CALIFORNIA'S INSURANCE LAWS

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“[T]he commissioner shall consider the qualifications of said applicant in respect to the following subjects... (e) competency, character, and integrity of management; (g) whether claims under policies are promptly and fairly adjusted and are promptly and fully paid in accordance with law and the terms of policies; (h) fairness and honesty of methods of doing business; and (j) hazard to policyholders or creditors.” **Cal. Ins. Code § 717.**

“The commissioner may suspend the certificate of authority of an insurer for not exceeding one year whenever he finds, after proper hearing following notice, that such insurer engages in any of the following practices: \* \* \* (b) Not carrying out its contracts in good faith.” **Cal. Ins. Code § 704 .**

# POTENTIAL VIOLATIONS OF CALIFORNIA'S UNCLAIMED PROPERTY LAWS

**The Controller is looking to determine whether insurance companies are complying with their obligations to escheat unclaimed death benefits, matured annuity contracts, and retained asset accounts as required by California's unclaimed property laws.**

Pursuant to California unclaimed property law:

“[F]unds held or owing by a life insurance corporation under any life or endowment insurance policy or annuity contract which has matured or terminated escheat to this state if unclaimed and unpaid for more than three years after the funds became due and payable as established from the records of the corporation.” **Cal. C.C.P. § 1515(a).**

**Escheat** refers to a process by which the state acquires custody of property that is unclaimed or presumed abandoned by the rightful owner.

As the US Supreme Court has held, if the states do not take possession of unclaimed benefits, “the insurance companies would retain moneys contracted to be paid on condition and which normally they would have been required to pay. [...] The fact that claimants against the companies would under the policies be required to comply with certain policy conditions does not affect our conclusion. The state may more properly be custodian and beneficiary of abandoned property than any person.” ***Connecticut Mut. Life Ins. Co. v. Moore*, 333 U.S. 541, 546 (1948).**

# WHAT THE COMMISSIONER AND CONTROLLER ARE LOOKING TO DETERMINE



## **The Commissioner and Controller are looking to determine whether insurance companies:**

- Have information indicating that customers are deceased with active policies or accounts, but fail to act upon this information, except when it is in their best interest to do so.
- Fail to pay death benefits or escheat unclaimed death benefits in situations where the insurance company has information that individuals have died with in-force policies or accounts, but beneficiaries have not filed claims because they are unaware of the policy.
- Do not have adequate controls to monitor when retained asset accounts have been dormant for years, so they can locate the account owner or escheat the proceeds if the owner cannot be found.
  - A “retained asset account” or “RAA” is an account set up by an insurance company as a settlement option for death benefits instead of paying the beneficiary a lump sum.

# **DIFFERENT WAYS INSURERS BECOME AWARE OF THE DEATH OF THEIR CUSTOMERS**



**Insurance companies may become aware of the death of an insured or annuitant from a variety of sources, even before a claim is filed:**

- Calls or letters from relatives or representatives of the decedent.
- Results of searches performed for new addresses of customers following the receipt of returned mail.
- Claims filed and/or death certificates received in connection with other policies or contracts insuring the same decedent.
- Information contained in or derived from publicly available databases, including the United States Social Security Administration Death Master File (the “Death Master File”).

# WHAT IS THE DEATH MASTER FILE?

One of the most prevalent forms of death information available to insurers is information from the Death Master File.

The screenshot shows the SSDMF (Social Security Death Master File) website. At the top, there are logos for SSDMF, GIM (Global Internet Management), and NTIS (National Technical Information Service). Below the logos is a navigation bar with links: HOME | PRODUCT INFORMATION | SEARCH THE DMF | HELP | LATEST NEWS | ABOUT US | LOGIN. A banner below the navigation bar states: "The ssdmf.com database is updated once a week. Last updated: May 2, 2011".

The main content area is titled "HOME" and features a "Log In" section with fields for "username:" and "password:" and a "Log In" button. Below the login section are links for "New User? Click here.", "Forgot your password?", "Privacy and Security Statement", and "Mandatory Requirements".

The "About DMF" section is highlighted in a callout box. It contains the following text: "The Death Master File (DMF) from the Social Security Administration (SSA) contains over 87 million records created from SSA payment records. This file includes the following information on each decedent, if the data are available to the SSA: social security number, name, date of birth, date of death, state or country of residence (2/88 and prior), ZIP code of last residence, and ZIP code of lump sum payment."

The "Product Information" section contains the following text: "The products advertised on this website contain information from the Social Security Administration (SSA) database extract, as we reported to SSA as being deceased. The Social Security Administration (SSA) provides the following information: Social Security number, Death, State (or country) of last known residence, and ZIP code of lump sum payment. SSA authorizes the use of this information for insurance purposes. SSA does not guarantee the accuracy of the DMF. Therefore, the absence of a particular person on this file is not proof that the individual is alive. Further, in rare instances it is possible for the records of a person who is not deceased to be included erroneously in the DMF."

The "Need Help?" section contains the following text: "Contact your local SSA office if you have questions about a specific death record, if you have found an error in a particular record, or if you cannot find a record that you feel certain should be contained in the database. Please do not contact GIM or NTIS with questions or issues pertaining to individual records as we will not be able to help you; GIM and NTIS have no control over the content of the DMF. If you discover an error, you should contact your local Social Security office to make a correction. You can reach the

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# THE DEATH MASTER FILE IS 99.5% ACCURATE



**Congressional testimony indicates that death listings contained in the Death Master File are extremely reliable and not subject to fraud.**

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Social Security Online: Legislation and Congressional Affairs Home Page | Site Map

### Testimony of the 110th Congress

This is an archival or historical document and may not reflect current policies or procedures

#### Social Security Testimony Before Congress

**Statement of Bill Gray, Deputy Commissioner of Systems Social Security Administration**

Testimony before the Permanent Subcommittee on Investigations of the Senate Committee on Homeland Security and Governmental Affairs on Medicare Payments for Claims with Identification Numbers of Dead Doctors

July 8, 2008

Chairman Levin and Members of the Subcommittee:

Thank you for inviting me to appear before you today to discuss the Social Security Administration's (SSA) collection, maintenance, and distribution of death information. You have asked us to address two questions: 1) How can we provide death records information regarding medical providers on a timely and regular basis to the Centers for Medicare and Medicaid Services (CMS); and, 2) What, if anything, do we need to facilitate the sharing of death records information with CMS?

However, before I explain what, how, and when we provide death information to CMS, I would like to briefly describe who we are and what we do.

Mission and Work of SSA

We administer the Nation's social insurance program and one of the Nation's largest means-tested income maintenance programs. Each year we send benefits totaling about \$650 billion to almost 60 million individuals.

Through the Old-Age, Survivors, and Disability Insurance program, we provide benefits to workers and their dependents and survivors at critical junctures in their lives: when they retire, when they become disabled, and when the family's wage-earner dies.

We also administer the Supplemental Security Income (SSI)

[http://www.ssa.gov/legislation/testimony\\_070908.htm](http://www.ssa.gov/legislation/testimony_070908.htm) 7/10/2010

**Statement of Bill Gray, Deputy Commissioner of Systems Social Security Administration**

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The date of death is an issue, to corroborate the reported date of death.

We do not verify death reports of persons not receiving Social Security or SSI. However, we do attempt the death information on our SUBSIDENT. It would be difficult for us to verify these records since we do not have address or other identifying information for these individuals in our records.

The death data that we maintain is 99.5 percent accurate overall. As with any process, there are occasional errors, but to the best of our knowledge, no case of fraud or abuse has occurred as a result of errors in the Death Master File.

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In addition to establishing an individual's death on our records, we also require a national file of death information, known as the Death Master File or DMF. This file is an extract of the death information from our SUBSIDENT.

We create different versions of the DMF because the States have the authority to limit SSA's retrospective of their death records. Twenty-seven States, the District of Columbia, and the City of New York report retroactively their death data. However, some use death reports received from the States; the State data then becomes our data, and we can include it regardless of the

<http://www.ssa.gov/pqa/4/40000/40000.htm> 7/10/2010

# HOW IS THE DEATH MASTER FILE ACCESSED?

Insurers may access the Death Master File in a variety of ways.

**NTIS**  
U.S. Department of Commerce  
**National Technical Information Service**  
One Source. One Search. One Solution.

### Death Master File Download

The SSA Death Master File is used by leading financial and credit firms and agencies to match records and prevent identity fraud. To assist in this effort, the SSA and these agencies are working together to offer the SSA Death Master File more frequently. By methodically running financial, credit, and other applications against the Death Master File, the financial community, insurance companies, security agencies, and governments are better able to identify and prevent identity fraud. Monthly updates are now offered electronically via https, reducing the time. Visit <http://www.ntis.gov/products/ssa-dmf.aspx> for further information.

The Death Master File (DMF) from the Social Security Administration contains over 87 million records of deaths that have been reported to SSA. This file includes information on each decedent, if the data are available to the SSA: name, date of birth, date of death, state or country of residence (2-digit code), last residence, and ZIP code of lump sum payment. The SSA does not include all persons; therefore, SSA does not guarantee the veracity of the information.

Pension Benefit Information Participant Research Services

### Death Audit Service

PBI has provided timely and accurate death audit information to thousands of corporations, government agencies, unions, as well as financial and insurance companies for the past 30 years. Performing a death audit goes beyond identifying fraud. It also allows you to maintain accurate plan records, meet ERISA requirements, and identify pension liabilities to ensure that the plan acts in the best interest of plan participants and beneficiaries.

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SEARCH MILLIONS OF ORIGINAL SOURCE DOCUMENTS

First Name  
Last Name

### Social Security Death Index (SSDI)

87,186,822 Records  
last updated on 7-15-2010

Search the Social Security Death Index by entering one or more fields in the form and clicking on the "submit" button. Keep in mind that the more fields you fill in the more restricted your results will be (and you may even eliminate the record you are seeking).

Last Name  Exact   
First Name   
Middle Name or Initial   
Social Security Number  -  -

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# POTENTIAL SELECTIVE USE OF THE DEATH MASTER FILE

**Insurers may use the Death Master File for a variety of purposes.**

**Insurance companies may use the Death Master File to:**

- Perform anti-fraud procedures.
- Verify dates of death prior to paying out on a policy.
- Perform “death sweeps” of large corporate owned accounts.
- Perform regular comparisons against their records to identify deceased annuitants in the “payout” phase and to stop making payments under their contracts.

**But do they run the Death Master File on a regular basis against their life insurance policies?**

# WHAT HAPPENS AFTER A DEATH FILE MATCH?

**If the death of an insured is identified on the Death Master File, are insurers allowing death benefits to go unpaid and unreported?**

- Do insurers allow death benefits to go unreported as unclaimed property even when they know through the Death Master File that an insured has died?
- Do insurers use policy cash values to pay themselves premium after the death of the insured (even when death has been confirmed on the Death Master File)?

# OTHER DEATH INFORMATION IN POLICY FILES



**Do insurers act on other death information in their policy files if a claim remains unperfected?**

**What do insurers do in the following situations?**

**Example 1**

A phone call or letter is received from a relative reporting the death of an insured, but a claim is never filed or is not perfected.

**Example 2**

A death certificate and claim form are received from one of several beneficiaries, but not all beneficiaries file a claim or they fail to perfect their claims.

**Example 3**

A search for a new address following receipt of returned mail indicates the insured is deceased, but a claim is never filed or is not perfected.

# POLICIES KEPT IN-FORCE AFTER DEATH



**Do insurers allow the built-up cash value of life policies to be used to keep policies in-force after the insureds have died and/or allow policies to terminate or lapse after the cash value has been drained?**

## **Example**

- An insured dies in 1995 with her policy in force, but no claim is ever filed.
- Six months later, the policy is set to expire due to failure to pay premiums.
- Although the insured is listed in the Death Master File as deceased, the insurer begins to withdraw premium from the cash value of the policy to keep the policy in force.
- Five years later, the cash value of the policy has been used up, and the policy is allowed to expire without any value.

# DORMANCY PERIOD CALCULATIONS FOR ESCHEATMENT



**Do insurers calculate the “dormancy period” for escheatment (e.g., the number of years a claim must remain unpaid before it is considered escheatable) based on something other than the actual date of death?**

## **Example**

- An insured dies in 1989 with his policy in force, but no claim is ever filed.
- A Death Master File comparison performed in 2009 identifies the death of the insured 20 years earlier.
- The insurer verifies that the insured died while his policy was in force and no benefits have ever been paid.
- When will the insurer consider the proceeds due to be escheated?

**Improper calculation of the “dormancy period” allows insurers to unlawfully retain millions of dollars in proceeds for years, if not decades, after they are due to be escheated.**

# DEMUTUALIZED INSURANCE COMPANIES



**Beginning in the late 1990s, many large insurance companies “demutualized,” which required attempts to contact all of their in-force policyholders.**

- Large demutualized insurance companies publicly acknowledged that they had lost contact with up to one million or more of their policyholders.
- What searches, including comparisons against the Death Master File, did these insurers perform that allowed them to identify which of these “lost” policyholders were deceased?
- What did these insurers do if they determined that an insured was deceased?
- Over a decade later, are these insurers holding onto unclaimed death benefits due to any of these “lost” and dead policyholders?

# INDUSTRIAL POLICIES



**Industrial Life Insurance:** Small face value policies often sold door-to-door with premiums collected weekly or monthly. These policies were marketed to lower income consumers and sometimes ended up costing more in premiums than the policies were worth.

- Millions of industrial policies remain in force industry-wide.
- What is the quality of the record keeping for these policies, many of which were issued 50 years ago or more?
- What did these insurers do if they determined that an insured was deceased?
- What have insurance companies done to determine which of the insureds under these policies are deceased and benefits are due?

# ADEQUACY OF PROCEDURES RELATED TO RETAINED ASSET ACCOUNTS



- \$28 billion is held in RAAs by life insurance companies industry-wide.
- Many insurers use RAAs as the default settlement option unless the beneficiary affirmatively requests a different method of payment.
- Insurers often describe the purpose of RAAs as being a short-term option that allows beneficiaries time to decide what to do with the money following the death of the insured.
- Many insurers hold the funds in their general corporate accounts and RAAs are not guaranteed by the FDIC.

# **PUBLIC COMMENTS**



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