



SOCIETY OF ACTUARIES

Article from:

Small Talk

March 2014 – Issue 41



Life Insurance Industry Unclaimed Property Issues and Reasons They Matter to Actuaries

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During the last three years, there has been a great deal of regulator time, company resources and press devoted to the issue of “unclaimed property” in the life insurance industry. The issue has revolved around the existence of unclaimed, but payable, life insurance proceeds where insureds are deceased, but no beneficiaries have filed death benefit claims under the policies. In these cases, life insurers are left with insurance policies recorded on their books as being in force and holding assets as reserves for these apparent unexpired policies. Because there might be a way for the life insurers to check their book of business to try to identify these kinds of policies, there have been a number of regulatory examinations and investigations of life insurance companies that led, in many cases, to settlements between life insurance companies on the one hand, and state revenue and insurance agencies on the other hand. The same facts have also been used as the basis for class action lawsuits against life insurance companies. This article provides a background on the unclaimed property issues, and then briefly discusses some of the impacts these issues will have on the work and responsibilities of life insurance actuaries.

Summary of the Issues

The Social Security Death Master File (the “Death Master File”) is a database maintained by the federal government. The Death Master File documents approximately 95 percent of Americans who have died over the past 75 years. It includes dates of birth and death, Social Security numbers and even ZIP codes. The states claimed that the life insurance companies should have known about insured deaths shortly following the date of death because insurers have access to the Death Master File.

One of the functions of a state controller or treasurer is to receive funds or other property that escheat to the state when the owner does not come forward to claim those funds or property or when the holder of the funds cannot locate the proper owner. Examples of insurance payments potentially subject to the escheatment laws include death benefits, funds payable to policyholders reaching the limiting age,

matured endowments, annuity payments and policyholder dividends. State controllers in a number of jurisdictions became concerned that life insurers were drawing down the cash value of life insurance policies to continue paying premiums, even when the insurers knew or should have known the insured had died. According to the controllers, the companies should have monitored the Death Master File to determine whether their insureds were still alive, and upon determining that the insured had died, should have either paid the beneficiaries or escheated the funds as required by state law. Departments of Insurance also became concerned that failure by life insurance companies to identify deceased insureds violated state insurance laws.

Regulators also discovered that, in some cases, insurers used the Death Master File to identify annuitants who became deceased in order to halt payments on those individuals’ annuities, but did not cross-check whether the deceased also had a life insurance policy with the company that would also be rendered payable upon that same individual’s death. Use of the Death Master File to monitor the insurer’s duty to pay under annuity contracts but not to monitor the insurer’s duty to make life insurance payments is referred to as an “asymmetrical” use of the Death Master File.

As a result of these concerns, both state controllers and Departments of Insurance have investigated a number of life insurers’ practices with respect to identifying deceased insureds and paying beneficiaries or escheating funds to the state as required. The state agencies targeted some of the nation’s largest life insurers in their investigation, and as of the end of 2013, life insurers representing over 50 percent of the total national market have conformed or agreed to reform their business practices to use the Death Master File to search for deceased insureds and to initiate the claims process where the Death Master File identifies that an insured has died.

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Life insurers have also faced civil suits revolving around these issues. These suits are based on the theory that life insurers are obliged to attempt to determine whether their insureds are deceased, and may not rely upon the beneficiaries to notify them of a claim. Even though the suits have met with only partial success, as a result of these suits and the regulatory actions, there have been many changes in life insurance companies' practices around these issues.

In particular, regulators have pushed for companies to search the Death Master File on an annual basis. In addition, the regulators proposed changes to state law to address life companies' perceived shortcomings: For example, Florida now requires insurers to perform due diligence on inactive accounts, which for a life insurer, would include a search of the Death Master File.¹ The states' investigations have also resulted in a number of settlements with life insurance companies, where the companies generally agree to implement policy and procedure changes to search the Death Master File for deceased insureds. If the companies find a match between the Death Master File and their insured, they agreed to initiate claims processes, including identifying beneficiaries and paying proceeds to them or to the states' unclaimed property offices if the beneficiaries could not be located.

What Does This Mean for the Actuarial Function of Life Insurance Companies?

Not all companies are subject to the settlements with the state regulators or are doing business in states where the laws have been changed in response to the unclaimed property issue. Nevertheless, the result of the suits, settlements and extensive press coverage, as well as the changes in law, has been to change the standards that life insurance companies generally follow in the handling and maintenance of their policies. Thus, the issues discussed above will likely impact all life companies. And, because of this new regulatory landscape, life insurance companies will

now need to consider whether their life products are still rated appropriately.

Assuming no bars to coverage, life insurance companies have generally paid claims either when a claim was made or when the policy—if the benefits had not been exhausted through the payment of premiums—reached a sufficient age that the company procedure was to escheat the proceeds. While the number of beneficiaries likely to make a claim may not necessarily change, if companies institute a process for monitoring the Death Master File and follow the discovery of any death of an insured with affirmative efforts to locate the beneficiary or commence the escheatment period, the net result is that more claims will be paid more quickly. Correspondingly, the number of policies whose account values may be used to pay premiums may also fall. Both these facts will affect experience, and depending upon the company's historical practices,

the impact on experience may be greater in some cases than in others. This change in experience will need to be addressed when developing rates.

As stated above, companies may now need to run regular searches of the Death Master File, and may also need to develop programs and systems to cross-check that information against

the database of existing insureds. Companies may implement protocols to contact beneficiaries listed on a policy if it appears that the insured has become deceased. In addition, companies will need to develop processes to identify funds that need to be escheated and to provide those funds, along with the necessary reporting, to any one of the 51 U.S. jurisdictions and five territories. All of this extra process will carry a cost, which should be captured in the setting of rates.

In conclusion, each life insurance company and its actuaries will need to consider the impact on its cost of doing business and its loss experience and whether this impact needs to be accounted for in its rates. ●

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ENDNOTE

¹ See Florida Department of Financial Services Oct. 4, 2013 declaratory statement issued in *In Re Petition for Declaratory Statement of Thrivent Financial for Lutherans*, Case # 137963-13-DS.