

Center for Insurance Research

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March 26, 2014

Commissioner Julie M. McPeak, Chair
Unclaimed Life Insurance Benefits Working Group
NAIC Central Office
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

RE: Consumer Group Perspective on Unclaimed Life Insurance Benefits

Dear Commissioner McPeak:

I am writing to offer my perspective on Unclaimed Life Insurance issues to the Task Force as part the information gathering process.¹ I am one of the members of the NAIC consumer funded liaison program and the Director of the Center for Insurance Research.² The Center for Insurance Research (CIR) is a nonprofit, public policy and advocacy organization founded in 1991 that represents consumers on insurance matters nationally.

I have been involved with the subject of Unclaimed Life insurance proceeds (which includes more than the face amount of a policy) for several years and have made presentations at the NAIC and NCOIL on the subject. I have also followed closely the results of the recent examinations and settlement agreements conducted by regulators pursuant to their examination authority.

I. First Steps - The Missing Elements: Disclosure and Consumer Education

First, I wish to commend the members of the Task Force and all other regulators who have stepped forward in recent years to investigate and address the issues surrounding Unclaimed Life Insurance Proceeds. The completed and ongoing examinations of life insurers, and the resulting settlements, have returned millions of dollars of overdue life insurance benefits to families across the country. Ensuring that Unclaimed Life Proceeds are paid out as promised is vitally important because it of the assistance it provides to families -- particularly when those families are dealing with funeral and other expenses -- in addition devastating emotional losses. I applaud regulators for taking action to return Unclaimed Proceeds to these families.

However, I believe the intense focus on the market conduct examination process to date has led to other missed opportunities. It is my opinion that consumer education about

¹ I regret that I am unable to attend the meeting scheduled for March 31st in person, as the session was scheduled after I had already made travel arrangements and incurred other obligations, but my fellow Consumer Liaison colleagues will be present to address our thoughts on unclaimed insurance benefits.

² I also serve on the consumer advisory panel of the IIPRC and the NCOIL Task Force on Unclaimed Life Insurance Benefits.

Unclaimed Insurance Proceeds, including why these funds go unclaimed and how consumers can protect their own financial interests, is just as important as ensuring industry compliance. Teaching consumers about the abandoned property system and how it impacts their insurance benefits will help prevent insurance proceeds from going unclaimed in the first place. Teaching someone to fish is a better long term prospect than simply handing them a fish.

Regulatory examinations are a confidential process, with no opportunity for consumer input or public disclosure. Certainly there are many valid reasons for keeping examinations confidential, for the benefit of all parties, but that makes examinations a poor mechanism for consumer education and outreach. Typically a completed examination will result in a complex consent order and a press release announcing the amount of money to be returned to the consumers of each state. But these documents are unlikely to come to the attention, or be readily understood, by most consumers.

I believe the NAIC has fallen behind on the public education and disclosure front. This is a missed opportunity. Investigations and discussion regarding Unclaimed Life Proceeds have been underway for over three years and the NAIC has not initiated a public discussion about reforms, solutions and consumer outreach. NCOIL completed a model act regulating Unclaimed Life Proceeds well over a year ago and is now revisiting the subject a second time as it considers potential amendments to its model act. A similar public discussion by the NAIC is overdue.

A. Considering CIR's Data Disclosure Request - I first addressed the topic of Unclaimed Life Proceeds at the NAIC in a short presentation in 2008, focused on the amount of unclaimed funds that had resulted from the demutualization of large life insurers in the late 90's and early 2000's. I made a second presentation at the end of 2010, following the news reports and regulatory action on Retained Asset Accounts ("RAA").³ Following my presentation, I requested in August 2011 that the NAIC amend the Annual Statement Blanks to require insurers (in all lines of business) to report each year how much in funds they transferred into state abandoned property funds.

Disclosure of the amount of funds transferred to abandoned property each year is essential for regulators and consumer intermediaries like CIR to investigate and understand the scope of unclaimed insurance proceeds. I have been seeking to do a proper study regarding the amount of unclaimed insurance funds transferred to state abandoned property funds for more than five years. But because that data has not been collected, I have been unable to compare the changes in abandoned property from year to year or identify the insurers and lines of business that account for the most substantial amount of unclaimed property.

A number of years ago, CIR staff members sent a survey to the unclaimed property managers of each state seeking the total amount of unclaimed funds contributed by

³ A copy of the PowerPoint slides for this presentation is attached to this comment letter as Exhibit 1.

insurance companies for the prior year. The results were dismal, to say the least. Only three states responded to the survey, and even those only answered a handful of questions. It was apparent from the answers we received that unclaimed property administrators were not tracking the amount of funds transferred by the insurance industry.

My ability to investigate and measure the amount Unclaimed Insurance Proceeds that are due to policyholders has been hampered by a lack of disclosure and data.⁴ This has also impaired my ability to educate consumers about abandoned property issues. CIR is eager to assist insurance regulators and the NAIC in evaluating and identify fixes to the abandoned property system and believes a good first step would be to begin collecting the relevant information in the Annual Statements of insurers.

My request that the NAIC amend the Annual Statement Blanks to require the reporting of abandoned property transfers made each year has been pending without action for over 2 and a half years now. My first recommendation to the Task Force is that this disclosure be added to the Annual Statement for all lines and blanks.

B. Educating Consumers - As noted above, I believe the NAIC missed an opportunity to educate consumers about Unclaimed Insurance Proceeds early on during the investigation process. Thus, I believe it is imperative the Task Force begin developing resources and guides for use by consumers.

The vast majority of insurance consumers do not know how abandoned property laws may potentially interact with their insurance policies (among other investments). Concepts like the "limiting age" are arcane concepts. A family member who searches an unclaimed property database is not likely to realize that it might be decades before a policy belonging to a deceased loved one might wind up in the abandoned property funds.⁵

⁴ Not long ago, the life insurance Annual Statement blank was amended to require insurers to report certain data regarding the use of Retained Asset Accounts, including the aging of accounts. This disclosure is now required under state law in several jurisdictions (the NCOIL model law on RAAs requires this data disclosure). I believe a similar requirement for all abandoned property transfers is appropriate, and may potentially be required under state law in the future if NCOIL adopts a similar approach.

⁵ Many states use a limiting age to determine when a life insurance policy will escheat to the abandoned property fund. While the use of the Death Master File ("DMF") may certainly reduce the number of policies that reach the limiting age before being identified, the DMF will never account for 100% of policies. The limiting age is typically 100, so absent a DMF hit, a life insurance policy would only escheat to the state a set number of years (3 or 7 being common) after the insured would have reached their 100th birthday. So if an individual passes away at 85, it may be 18-25 years before that policy would escheat to the abandoned property fund. By that point, family members will no doubt long since have ceased looking for unclaimed property accounts. Educating consumers about facts like these is therefore critical.

Nor do consumers realize that it may be possible to locate an unclaimed life insurance policy by searching for unclaimed demutualization proceeds. For example, see the brief consumer guide at <http://www.findmyinsurer.org/advice.htm>.

Not only should regulators be policing the methods and internal practices of insurers, they should also be seeking to communicate directly with consumers. The insurance buying public should be made aware of exactly how much their insurers turn over state abandoned property funds, and how much total money there is out there waiting to be claimed. These are benefits due to families and small business across the country and teaching consumers what to be aware of will reduce the amount of insurance proceeds that go unclaimed.

The Task Force should be considering the development of consumer guides for use by state insurance departments and education materials for distribution on its own website. Videos demonstrating how to locate and collect Unclaimed Insurance Proceeds might be a valuable addition to the websites of insurance departments and the NAIC itself.

II. The Next Steps

A. Improving Searches by Insurers - I first became familiar with Unclaimed Insurance Proceeds issues while working on demutualization matters in the early 2000's. Many large mutual insurers were converting into stock companies and distributing billions of dollars of surplus to their policyholders in the process. I, along with many state officials, was amazed to learn that many insurers had lost track of hundreds of thousands of policyholders who were owed money.

The root of the problem lay in record-keeping. Many large mutuals had written hundreds of thousands of industrial or small face policies in prior decades (with premiums collected on a weekly basis door to door by agents), and after being in force for many decades these policies became "paid up." This meant no more premiums were owed, and the only future interaction the insurer would have with a policyholder would be the payment of a claim upon death. This did not provide a lot of incentive for insurers to track the whereabouts and well-being of these policyholders and these older policies began falling through the cracks.

In some instances, these older policies had never even been entered into the computer records of a company - existing only in hard copy format. The demutualization process necessitated putting these policies into the computer database for the first time. And along the way hundreds of thousands of policyholders were lost. CIR has estimated this meant as much as \$4 billion of unclaimed demutualization payments were transferred into abandoned property funds.⁶

⁶ See *Lost Life Insurance and Unclaimed Demutualization Funds*, a Center for Insurance Research Report (June 2006) (copy attached hereto as Exhibit 2).

Further investigation by state officials showed that many of these policyholders were not in fact "lost." Instead, the demutualizing insurer had conducted only a cursory search to locate its missing policyholders - sometimes searching only a single database (rather than an aggregated database). Secretaries of state in various jurisdictions have located numerous "lost" policyholders simply by performing a thorough search of state databases (voter registration rolls, tax rolls and Department of Motor Vehicle records):

- During the demutualization of John Hancock, Massachusetts Secretary of State William Galvin began searching the list of Hancock's 400,000 lost policyholders in order to identify the eligible Massachusetts residents on the list. Secretary Galvin, by searching state databases, located nearly 20,000 potential addresses for policyholders who might be eligible for demutualization compensation, and identified another 14,400 who had recently died.⁷
- In Connecticut, Secretary of State Susan Bysiewicz located over 6,000 "lost" policyholders of John Hancock and 3,000 more Metropolitan Life and Prudential policyholders who were eligible for demutualization compensation.⁸ Secretary Bysiewicz identified the missing policyholders by performing name searches under databases maintained by various state agencies, including the voter registration roles, the department of motor vehicles and the department of revenue services.⁹
- Similarly, Vermont Secretary of State Deborah L. Markowitz located over 600 "lost" policyholders of John Hancock and Prudential simply by searching the records of the Vermont Department of Motor Vehicles.¹⁰

Before turning a death benefit or any other contract proceeds over to a state abandoned property fund, insurers should be required to conduct a thorough search for the policyholder. The Task Force should develop standards and best practices for such searches in order to minimize the amount of insurance funds that escheat into state abandoned property funds.

B. Updating Abandoned Property Laws - While amending state laws is the province of legislators, rather than insurance regulators, I believe that regulators can play an important role in the process by developing recommendations for legislative reform.

⁷ *State wants insurers to track policies*, Joe Bartolotta, Boston Herald (March 14, 2000).

⁸ *Secretary of the State Susan Bysiewicz finds thousands more lost policyholders eligible for cash or stock from insurance companies*, Office of the Secretary of the State Susan Bysiewicz (April 6, 2000).

⁹ *Id.*

¹⁰ *Secretary of State Markowitz Finds Lost Policy Holders*, Office of the Vermont Secretary of State Deborah L. Markowitz (June 2, 2000).

Abandoned property laws are archaic in nature, relying on concepts like the "limiting age" that may have become outdated. The modern insurance marketplace has undergone many changes in the last several decades, but the escheatment laws have gone untouched.

The Task Force should consider performing a survey of the abandoned property laws applicable to insurance policies and recommend legislative reforms in light of the unique nature of insurance products.

C. Review the Aging History of Retained Asset Accounts - As noted above, data regarding the aging of Retained Asset Accounts (including the amounts escheated into state abandoned property funds) is required to be reported on the life insurance Annual Statement. The Task Force should ask NAIC staff to collect the available data for the last several years to determine how much of the funds in RAAs has aged beyond 60 months since inception and the total amounts escheated to abandoned property funds.

This may further demonstrate that Unclaimed Insurance Proceeds extend far beyond the face amounts payable on death of an insured.¹¹

D. Improving Coordination With Unclaimed Property Administrators - The investigation of Unclaimed Insurance Proceeds has resulted in a multitude of market conduct examinations and the return of millions of dollars to consumers. But the expense of conducting these examinations and the delay in the distribution of insurance benefits could have perhaps been avoided had there been better inter-agency communication between insurance regulators and abandoned property administrators.

Based on our ultimately unsuccessful survey of abandoned property officials, and the revelations associated with the ongoing market conduct investigations, I believe that insurance regulators must play a more active role in protecting insurance consumers when it comes to Unclaimed Insurance Proceeds. Regulators should be requesting and reviewing abandoned property reports - including by identifying the total amounts being transferred and the companies responsible for turning over the largest amount of unclaimed funds.

Without the vigilance and assistance of insurance regulators, consumers cannot rely upon unclaimed property administrators to protect their interests. Insurance contracts are simply not within their area of expertise. The current investigations in Unclaimed Insurance Proceeds came to light partially due to coincidence, and insurance regulators should not rely on happenstance to bring important issues to their attention. Instead, regulators should be developing proactive strategies to monitor Unclaimed Insurance Proceeds.

¹¹ As discussed above, CIR believes that in addition to the face amount of life insurance policies, billions of dollars in demutualization payments have gone unclaimed.

These efforts should include working with abandoned property officials to develop annual, insurance industry specific reports that will permit regulators and public to keep better track of abandoned property being held by insurers.

E. Setting Policyholder Communication Standards - The Task Force should establish standards for policyholder communication and tracking. There is no reason, for example, why an insurer should not sent out an annual post-card reminder to its policyholders each year - even for paid up policies.

Regular communications will prevent policyholders, and their families, from losing track of an insurance policy that might be four or five decades old. As the demutualization distributions have shown, the failure to communicate with policyholders on a regular basis can result in millions, or even billions of dollars in going unclaimed.

III. Expanding the Scope of Unclaimed Insurance Proceeds Issue

While addressing the inconsistent use of the Death Master File was an extremely important subject, the Task Force should be careful not to focus solely on the use of that one database at the expense of the larger picture. Unclaimed demutualized distributions and Retained Asset Accounts, among just the life insurance related issues, are other important issues. Another potential topic is assisting consumers in locating a life insurer that has merged, changed its name, or gone out of business since a policy was issued.

While the Task Force is working under the Life Insurance Committee, I believe it would be myopic of the NAIC to examine only one aspect of Unclaimed Insurance Proceeds and not investigate or address potential problems in other lines of business. While unpaid life insurance policy claims may add up to big numbers in the aggregate, that does not mean they are the only important number. Even small amounts, here and there, can be important to families and consumers - particularly when they are benefits for which consumers have already paid for with their premium dollars. In particular, the Task Force should consider:

- Retroactively rated policies - These products, which may impact or benefit small businesses across the country, may also produce abandoned property accounts.
- Health insurance policies - The enactment of the ACA has many implications across the insurance industry. The addition of Minimum Loss Ratio (MLR) standards also requires that health insurers who miss their MLR targets provide rebates to consumers. Since many health insurance policies may end due to changes in employment (moving to a new state for a different job for example), this will certainly result in health insurance rebates going unclaimed in the future. Insurance regulators should prepare for this development.

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- Title insurance - Another line of business that should be monitored given its long-tail nature.

I believe the Task Force has a good deal of work ahead of it and I look forward to working with members of Task Force in the days ahead. Thank you for the consideration of my comments on this important matter.

Sincerely,

/s/

Brendan Bridgeland
Director