WEST VIRGINIA CODE: §33-13D-2

§33-13D-2. Insurer conduct.

(a) An insurer shall perform a comparison of its insureds' in-force policies, annuity contracts and account owners against a Death Master File to identify potential death master file matches of its insureds, annuitants and account owners, on at least an annual basis, by using the full Death Master File once and thereafter using the Death Master File update files for future comparisons to identify potential Death Master File matches. The comparison using the full Death Master File should be completed within two years of the effective date of this article and must be completed on policies in force as of 1986, and all policies issued thereafter: Provided, That the Insurance Commissioner shall promulgate legislative rules requiring that the comparison against a Death Master File be completed on policies issued at earlier times if the commissioner determines that reliable technology and data exist to make such comparison accurate and cost-effective to match to the established Master Death Database.

(b) The insurer comparison of policies, annuity contracts and account owners shall be conducted first to the extent that such records are available electronically and then using the most easily accessible insurer data for records that are not available electronically.

(c) This section shall not apply to policies or annuity contracts for which the insurer is receiving premiums from outside the policy value, by check, bank draft, payroll deduction or any other similar method of active premium payment within the eighteen months immediately preceding the Death Master File comparison.

(d) Nothing in this section shall limit the insurer from requesting a valid death certificate as part of any claims validation process.

(e) For those potential matches identified as a result of a Death Master File match, or if an insurer learns of the possible death of a person otherwise, then the insurer shall, within ninety days of a Death Master File match:

(1) Complete a good faith effort, which shall be documented by the insurer, to confirm the death of the person against other available records and information;

(2) Review its records to determine whether the deceased person has any other products with the insurer;

(3) Determine whether benefits may be due in accordance with any applicable policy, annuity contract or retained asset account.

(f) Every insurer shall implement procedures to account for:

(1) Common nicknames, initials used in lieu of a first or middle name, use of a middle name,

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compound first and middle names, and interchanged first and middle names;

(2) Compound last names, maiden or married names, and hyphens, blank spaces or apostrophes in last names;

(3) Transposition of the “month” and “date” portions of the date of birth; and

(4) Incomplete Social Security number.

(g) If the beneficiary or other authorized representative has not communicated with the insurer within the ninety-day period, the insurer shall take reasonable steps and use good faith efforts, which shall be documented by the insurer, to locate and contact the beneficiary or beneficiaries or other authorized representative on any such policy, annuity contract or retained asset account, including, but not limited to, sending the beneficiary information regarding the insurer’s claims process, including the need to provide an official death certificate if applicable under the policy, annuity contract or retained asset account.

(h) To the extent permitted by law, the insurer may disclose minimum necessary personal information about a person or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(i) An insurer or its service provider shall not charge any beneficiary or other authorized representative for any fees or costs associated with a Death Master File search or verification of Death Master File match conducted pursuant to this section.

(j) The benefits from a policy, annuity contract or a retained asset account, plus any applicable accrued contractual interest shall first be payable to the designated beneficiaries or owners, and in the event said beneficiaries or owners cannot be found, shall be paid to the state as unclaimed property pursuant to article eight, chapter thirty-six of this code.

(k) The West Virginia Office of the Insurance Commissioner has exclusive authority to promulgate such rules and regulations as may be required or reasonably necessary to implement the provisions of this section.

(l) The commissioner may, in his or her reasonable discretion, make an order to:

(1) Limit an insurer’s Death Master File comparisons required under subsection (a) of this section to the insurer’s electronic searchable files or approve a plan and timeline for conversion of the insurer’s files to searchable electronic files upon a demonstration of hardship by the insurer;

(2) Exempt an insurer from the Death Master File comparisons required under subsection (a) of this section or permitting an insurer to perform such comparisons less frequently than annually upon a demonstration of hardship by the insurer; or

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(3) Phase-in compliance with this section according to a plan and timeline approved by the commissioner.

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