

Chapter 171

(Senate Bill 77)

AN ACT concerning

Life Insurance and Annuities – Unfair Claim Settlement Practices – Failure to ~~Cross-Check~~ Search Death Master File

FOR the purpose of requiring an insurer that issues ~~or~~, delivers, or renews a policy of life insurance or an annuity contract in the State to perform a ~~cross-check comparison~~ comparison of the insurer's in-force life insurance policies, annuity contracts, and retained asset accounts against a certain death master file to identify any death benefit payments that may be due as a result of the death of an insured, annuitant, or account holder; requiring the insurer to perform the ~~cross-check comparison~~ comparison at certain intervals and in a certain manner; requiring the insurer to take certain actions, within a certain time period, if the ~~cross-check comparison~~ comparison results in a ~~potential~~ certain match with an insured, annuitant, or account holder; providing that an insurer is not required to perform the comparison for a group life insurance policy unless the insurer provides certain services to the policy holder; authorizing an insurer to disclose certain information to certain persons under certain circumstances; prohibiting the insurer from charging certain persons for any fees or costs incurred by the insurer in connection with complying with certain provisions of this Act; authorizing the Maryland Insurance Commissioner to adopt certain regulations; providing that the failure of the insurer to comply with ~~any provision~~ certain provisions of this Act ~~or any regulation adopted under this Act~~ is an unfair claim settlement practice under certain provisions of law; defining ~~a~~ a certain ~~term~~ terms; providing for the application of this Act; providing for a delayed effective date; and generally relating to the payment of death benefits under life insurance policies, annuity contracts, and retained asset accounts.

BY adding to

Article – Insurance
Section 16–118
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Insurance
Section 27–303
Annotated Code of Maryland
(2011 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

16-118.

(A) (1) ~~IN THIS SECTION, “DEATH MASTER FILE” MEANS:~~ IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CREDIT LIFE INSURANCE” HAS THE MEANING STATED IN § 13-101 OF THIS ARTICLE.

(3) “DEATH MASTER FILE” MEANS:

~~(1)~~ (I) THE SOCIAL SECURITY ADMINISTRATION’S DEATH MASTER FILE; OR

~~(2)~~ (II) ANY OTHER DATABASE OR SERVICE THAT IS AT LEAST AS COMPREHENSIVE AS THE SOCIAL SECURITY ADMINISTRATION’S DEATH MASTER FILE FOR DETERMINING THAT AN INDIVIDUAL REPORTEDLY HAS DIED.

(4) “DEATH MASTER FILE MATCH” MEANS A MATCH, RESULTING FROM A SEARCH OF A DEATH MASTER FILE, OF A SOCIAL SECURITY NUMBER OR A NAME AND DATE OF BIRTH OF AN INDIVIDUAL ON THE DEATH MASTER FILE WITH THE SOCIAL SECURITY NUMBER OR THE NAME AND DATE OF BIRTH OF AN INSURED, ANNUITANT, OR RETAINED ASSET ACCOUNT HOLDER.

(5) “PRE-NEED INSURANCE CONTRACT” MEANS A LIFE INSURANCE POLICY OR CERTIFICATE, ANNUITY CONTRACT, OR OTHER INSURANCE CONTRACT THAT, BY ASSIGNMENT OR OTHERWISE, HAS AS A PURPOSE THE FUNDING OF AN AGREEMENT RELATING TO THE PURCHASE OR PROVISION OF SPECIFIC FUNERAL OR CEMETERY MERCHANDISE OR SERVICES TO BE PROVIDED AT THE TIME OF DEATH OF AN INDIVIDUAL.

(6) “RETAINED ASSET ACCOUNT” HAS THE MEANING STATED IN § 16-117(A) OF THIS ARTICLE.

(B) THIS SECTION DOES NOT APPLY TO:

(1) AN ANNUITY CONTRACT THAT:

(I) IS USED TO FUND AN EMPLOYMENT-BASED RETIREMENT PLAN OR PROGRAM; AND

(II) DOES NOT REQUIRE THE INSURER UNDER THE ANNUITY CONTRACT TO PAY DEATH BENEFITS TO THE BENEFICIARIES OF SPECIFIC PLAN OR PROGRAM PARTICIPANTS;

(2) A POLICY OR CERTIFICATE OF LIFE INSURANCE THAT PROVIDES A DEATH BENEFIT UNDER:

(I) AN EMPLOYEE BENEFIT PLAN SUBJECT TO THE FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974; OR

(II) ANY FEDERAL EMPLOYEE BENEFIT PROGRAM;

(3) A PRE-NEED INSURANCE CONTRACT;

(4) A POLICY OR CERTIFICATE OF CREDIT LIFE INSURANCE; OR

(5) A POLICY OR CERTIFICATE OF ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE.

~~(B)~~ (C) (1) AN INSURER THAT ISSUES ~~OR~~, DELIVERS, OR RENEWS A POLICY OF LIFE INSURANCE OR AN ANNUITY CONTRACT IN THE STATE SHALL PERFORM A ~~CROSS-CHECK~~ COMPARISON OF THE INSURER'S IN-FORCE LIFE INSURANCE POLICIES, ANNUITY CONTRACTS, AND RETAINED ASSET ACCOUNTS AGAINST THE LATEST VERSION OF A DEATH MASTER FILE TO IDENTIFY ANY DEATH BENEFIT PAYMENTS THAT MAY BE DUE UNDER THE POLICIES, CONTRACTS, OR RETAINED ASSET ACCOUNTS AS A RESULT OF THE DEATH OF AN INSURED, ANNUITANT, OR RETAINED ASSET ACCOUNT HOLDER.

(2) AN INSURER SHALL PERFORM THE ~~CROSS-CHECK~~ COMPARISON REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) AT REGULAR INTERVALS, ON AT LEAST A ~~QUARTERLY~~ SEMIANNUAL BASIS; AND

(II) IN GOOD FAITH, USING CRITERIA REASONABLY DESIGNED TO IDENTIFY INDIVIDUALS WHOSE DEATH WOULD REQUIRE THE PAYMENT OF BENEFITS BY THE INSURER UNDER A LIFE INSURANCE POLICY, ANNUITY CONTRACT, OR RETAINED ASSET ACCOUNT.

(3) FOR A GROUP LIFE INSURANCE POLICY, AN INSURER IS NOT REQUIRED TO PERFORM THE COMPARISON REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE INSURER PROVIDES FULL RECORD-KEEPING SERVICES TO THE GROUP LIFE INSURANCE POLICY HOLDER.

~~(c)~~ **(D)** (1) IF A ~~CROSS-CHECK~~ COMPARISON PERFORMED BY AN INSURER UNDER SUBSECTION ~~(B)~~ **(C)** OF THIS SECTION RESULTS IN A ~~POTENTIAL~~ DEATH MASTER FILE MATCH WITH AN INSURED, ANNUITANT, OR RETAINED ASSET ACCOUNT HOLDER, THE INSURER, WITHIN 90 DAYS AFTER THE ~~CROSS-CHECK~~ COMPARISON WAS PERFORMED, SHALL:

(I) CONDUCT A GOOD FAITH EFFORT TO CONFIRM THE DEATH OF THE INSURED, ANNUITANT, OR RETAINED ASSET ACCOUNT HOLDER USING OTHER AVAILABLE RECORDS AND INFORMATION;

(II) DETERMINE WHETHER BENEFITS ARE DUE UNDER THE APPLICABLE LIFE INSURANCE POLICY, ANNUITY CONTRACT, OR RETAINED ASSET ACCOUNT; AND

(III) IF BENEFITS ARE DUE UNDER THE POLICY, CONTRACT, OR RETAINED ASSET ACCOUNT:

1. USE GOOD FAITH EFFORTS TO LOCATE THE BENEFICIARY; AND

2. PROVIDE TO THE BENEFICIARY THE APPROPRIATE CLAIMS FORMS AND INSTRUCTIONS NECESSARY TO MAKE A CLAIM.

(2) AN INSURER SHALL DOCUMENT THE GOOD FAITH EFFORTS MADE TO:

(I) CONFIRM THE DEATH OF AN INSURED, ANNUITANT, OR RETAINED ASSET ACCOUNT HOLDER UNDER PARAGRAPH **(1)(I)** OF THIS SUBSECTION; AND

(II) LOCATE A BENEFICIARY UNDER PARAGRAPH **(1)(III)1** OF THIS SUBSECTION.

(3) TO THE EXTENT PERMITTED BY LAW, AN INSURER MAY DISCLOSE THE MINIMUM NECESSARY PERSONAL INFORMATION ABOUT AN INSURED, AN ANNUITANT, A RETAINED ASSET ACCOUNT HOLDER, OR A BENEFICIARY TO A PERSON THAT THE INSURER REASONABLY BELIEVES MAY BE ABLE TO ASSIST THE INSURER IN LOCATING A BENEFICIARY AS REQUIRED UNDER PARAGRAPH **(1)(III)1** OF THIS SUBSECTION.

~~(D)~~ (E) AN INSURER MAY NOT CHARGE AN INSURED, AN ANNUITANT, ~~AN A RETAINED ASSET~~ ACCOUNT HOLDER, A BENEFICIARY, OR ANY OTHER PERSON FOR ANY FEES OR COSTS INCURRED BY THE INSURER IN CONNECTION WITH COMPLYING WITH SUBSECTIONS ~~(B) AND (C)~~ (C) AND (D) OF THIS SECTION.

~~(E)~~ (F) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION, ~~INCLUDING REGULATIONS THAT:~~

~~(1) SPECIFY THE CRITERIA AN INSURER MUST USE TO PERFORM THE CROSS-CHECK OF A DEATH MASTER FILE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION;~~

~~(2) SPECIFY WHAT CONSTITUTES GOOD FAITH EFFORTS FOR PURPOSES OF SUBSECTIONS (B)(2)(II) AND (C)(1)(I) AND (II)1 OF THIS SECTION AND THE MANNER IN WHICH THOSE EFFORTS MUST BE DOCUMENTED BY AN INSURER;~~

~~(3) SPECIFY THE INFORMATION ABOUT BENEFICIARIES UNDER LIFE INSURANCE POLICIES, ANNUITY CONTRACTS, AND RETAINED ASSET ACCOUNTS THAT AN INSURER MUST OBTAIN AND MAINTAIN IN ITS RECORDS TO FACILITATE THE IDENTIFICATION OF AND PAYMENT OF BENEFITS TO THE BENEFICIARIES; AND~~

~~(4) ESTABLISH RECORD KEEPING AND REPORTING REQUIREMENTS TO DETERMINE COMPLIANCE OF INSURERS WITH THIS SECTION.~~

~~(F) THE FAILURE OF AN INSURER TO COMPLY WITH ANY PROVISION OF THIS SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION IS AN UNFAIR CLAIM SETTLEMENT PRACTICE UNDER TITLE 27, SUBTITLE 3 OF THIS ARTICLE.~~

27-303.

It is an unfair claim settlement practice and a violation of this subtitle for an insurer or nonprofit health service plan to:

(1) misrepresent pertinent facts or policy provisions that relate to the claim or coverage at issue;

(2) refuse to pay a claim for an arbitrary or capricious reason based on all available information;

(3) attempt to settle a claim based on an application that is altered without notice to, or the knowledge or consent of, the insured;

(4) fail to include with each claim paid to an insured or beneficiary a statement of the coverage under which payment is being made;

(5) fail to settle a claim promptly whenever liability is reasonably clear under one part of a policy, in order to influence settlements under other parts of the policy;

(6) fail to provide promptly on request a reasonable explanation of the basis for a denial of a claim;

(7) fail to meet the requirements of Title 15, Subtitle 10B of this article for preauthorization for a health care service;

(8) fail to comply with the provisions of Title 15, Subtitle 10A of this article; [or]

(9) fail to act in good faith, as defined under § 27-1001 of this title, in settling a first-party claim under a policy of property and casualty insurance; OR

(10) FAIL TO COMPLY WITH THE PROVISIONS OF § 16-118 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, ~~2012~~ 2013.

Approved by the Governor, May 2, 2012.