



TheStandard®

## **Things to Consider When Completing A Beneficiary Designation for Life Insurance**

A Member who is insured for Life Insurance with Standard Insurance Company (The Standard) may name whomever he/she wishes as beneficiary. However, in most states, the policyholder cannot be the named beneficiary due to the definition of group term life insurance, which often provides that the insurance be "obtained for the benefit of persons other than the employer." Additionally there are other considerations to be aware of regarding certain beneficiaries. Please keep in mind this information is subject to applicable state and/or federal laws and may change without notice.

### **Minor Beneficiary**

A Member may name a minor as a beneficiary, however the insurance proceeds cannot be paid directly to the minor. Most states have laws allowing nominal amounts (generally \$10,000 or less) to be paid to the parent or other legal guardian of the child (minor facility of payment statute or Uniform Transfer to Minors Act). You will need to research what is currently allowed in the state of residence of the minor. Please remember laws are subject to change and may no longer be available at the time of a claim.

In the absence of such laws or for larger amounts, the court will need to appoint a guardian of the estate of the minor. This is a court process in which a judge appoints an individual to handle a child's financial affairs. Once a person is appointed guardian of a child's estate, they will be issued guardianship papers. If an estate guardian is appointed, payment to the guardian supersedes all other payment options. On occasion, a surviving parent may assume they are the guardian of their child's estate. A court can only appoint a guardian of a child's estate. While a parent may be the natural guardian of the person, they are not automatically the guardian of the estate. Another alternative is Standard's supplementary contract where the funds are held at interest until the minor reaches age 18.

### **Trust or Trustee Beneficiary**

Before paying a death benefit designated for a trust or trustee, The Standard will require a copy of the trust document. Trust provisions can be found either in a living (intervivos) trust or in a will (testamentary). If the trust is testamentary, generally, the will must be probated to activate the trust. If there are no written trust provisions, then the designation may be invalid unless a court approves the terms of the trust.

# **Beneficiary Designation Considerations**

## **Estate or Executor (Personal Representative) Designations**

Generally, an estate must be admitted to probate whether the insured died testate (with a will) or intestate (without a will). When the court admits the estate to probate, the Executor is issued Letters of Appointment, a certified copy of which must be provided to the Life Benefits Department. If the value of the estate assets are nominal, probate may not be necessary and, by statute in most states, the heirs (claiming successors) can collect estate assets (including life insurance) by affidavit.

## **Designating Someone Other Than Spouse in Community Property State**

There are nine community property states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin). Although the life policy provides an insured Member may name whomever he/she wishes as beneficiary, community property laws may allow the spouse to claim 50% of the insurance proceeds as a community asset. Because community property laws vary from state to state, and since certain factors such as the length of marriage and any legal separation may affect the portion that can be claimed as community, The Standard does not attempt to determine entitlement in such situations. If the named beneficiary and spouse cannot agree upon a method of distribution, The Standard may need to request a judicial determination (Interpleader).

"Augmented probate estate" is a concept similar to community property. In recent years, many states have amended their Probate Codes to allow the surviving spouse to "augment" the value of the insured's estate by non-probate assets (including life insurance). The spouse can then claim a portion of the life insurance even though he/she is not the beneficiary named by the insured.

## **Designations in favor of an Ex-spouse**

An employee may choose to name their spouse as the beneficiary of their group life insurance. Following a divorce, employees often fail to change the beneficiary designation on their life insurance through their employer, thus leaving the former spouse as beneficiary. A number of states have enacted laws that disqualify the ex-spouse as beneficiary. These statutes are only applicable to non-ERISA plans (i.e., church or governmental policyholders). It is also possible that the terms of the divorce decree or property settlement agreement may affect the former spouse's entitlement to the proceeds. When the Life Benefits Department administers claims involving a designation in favor of an ex-spouse, they will need to investigate these issues prior to making payment.