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**LEGAL UPDATE 4/2010**  
**PAYMENT OF DEATH BENEFITS - NOMINATION OF BENEFICIARY FORMS**

Recently we have had a few requests to explain what Momentum's position is with regard to payment of death benefits under a group self standing (unapproved) policy. The most frequent question is whether the employer has any discretion over the benefit if the member does not complete and sign a nomination of beneficiary form.

The payment of death benefits under a self standing group policy is governed by the policy conditions. In terms of Momentum's standard group policy it is specified that payment of the death benefit will be made to the employer or such other party as the employer instructs.

In cases where the employer wants Momentum to pay the benefits directly to beneficiaries, it will be the responsibility of the employer to ensure that the benefit reaches the rightful beneficiaries and Momentum will only act in accordance with the employer's instructions. Momentum has in the past insisted on the completion of the nomination of beneficiary form by the member under the self standing group policy. This, however has caused delays in settling claims efficiently if we were not in possession of the nomination form at date of death. In future, unless otherwise stipulated in the policy, Momentum will only pay death claim benefits to the employer or such other party as the employer instructs Momentum to pay. Momentum will not pay benefits to funeral parlours or other third parties that are not the member's beneficiaries. Such third party payments must be dealt with by the employer.

It will be in the interests of best practice for the employer to ensure that each member nominates their beneficiary/ies under the policy and that they maintain the records. This will avoid delays in settling claims.

To complete our position on the subject of nomination forms, we set out the practice based on the process required for retirement funds. The trustees have jurisdiction under a retirement fund. In terms of section 37C of the Pension Funds Act, No. 24 of 1956 (the Act), death benefits do not form part of the estate of the deceased. If there is a nominated beneficiary, such a person will be considered by the trustees in the distribution of the benefit. The Act requires the trustees to identify dependants (which are broadly defined in the Act) and ensure an equitable distribution among the beneficiaries.

The employer can use the beneficiary nomination form used by the members of the retirement funds. A copy of the form can be obtained via the MDSONline website or the FundsAtWork website or by calling the client contact centre on 0860 65 75 85.

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