

960 CMR: OFFICE OF THE STATE TREASURER
AND RECEIVER GENERAL

960 CMR 5.00: UNPAID CHECK FUND

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5.01: Purpose

The purpose of 960 CMR 5.00 is to establish and clarify procedures for the administration of the Unpaid Check Fund supervised by the Cash Management Division of the Office of the State Treasurer and Receiver General, established pursuant to M.G.L. c. 29, § 32.

5.02: Definitions

Administrator/Administratrix: A person appointed by a court to settle the estate of a person who died without leaving a will.

Claimant: A person or legal entity legally entitled to claim property held by the Unpaid Check Fund. A claimant may be an owner or a person acting on behalf of an owner or his or her estate.

Conservator: A person who is court-appointed legally to hold, manage, and safeguard the value of another person's property.

Deputy Treasurer: The Deputy Treasurer for Cash Management of the Office of the State Treasurer and Receiver General.

Division: The Cash Management Division of the Office of the State Treasurer and Receiver General.

Executor/Executrix: A person named in a will to administer and carry out the last will and testament of a deceased person.

Guardian: A person who has legal responsibility for the care and well-being of another person who is either a minor or incompetent to manage his or her own affairs.

Issuing Agency: The state agency that originally issues what later becomes an unpaid check to the owner.

Notarized Signature: Signature of a claimant witnessed by a person who is an official Notary Public and attests to the fact that the signature is that of the person who appears before him/her.

Original Document: The actual written document issued by an authority or government entity legally empowered to issue documents, such as a court, city or town clerk, attorney, or any official keeper of records.

Owner: A person having a legal or equitable claim to property held by the Unpaid Check Fund.

Power of Attorney: A legal document in which a person gives another person authority to act for him/herself.

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True Attested/Certified Copy: Copy of an original document that is issued by a court or other government entity and displays a raised seal and/or original signature of the issuing authority certifying that the copy is a true copy of the original.

Trust: A legal arrangement whereby control of an account or property is transferred to a person or organization (trustee) for the benefit of another person (beneficiary).

Unpaid Check: Any check issued by the State Treasurer, or by any agent of agency of Massachusetts, other than checks issued in payment of obligations of the State Board of Retirement and the Teachers' Retirement Board, which is not presented for payment within one year from its date of issuance, for which the original claim for payment has not been settled through re-issuance of the check.

UPCF: The Unpaid Check Fund of the Cash Management Division of the Office of the State Treasurer and Receiver General.

Vendor: Any person or entity that sells good or services to Massachusetts in the ordinary course of business.

5.03: The Unpaid Check Fund

On a periodic basis, stale-dated checks issued by Massachusetts are transferred to the UPCF. These checks are initially stored in a "suspense file" where they can be reviewed and a report of potential entries can be issued. Division staff will initially review the data for obvious errors, such as coding errors, coding errors, duplicate entries, and the like. At that time, relevant state agencies may be contacted to determine if, in fact, any particular item constitutes an unpaid check. Where possible, discrepancies will be eliminated from the suspense file by a reconciliation analyst.

Thereupon, any unpaid checks that are not obviously invalid will be moved to the active system of the UPCF. While Division staff will attempt to eliminate potentially erroneous data from the unpaid check listing, the Division is unable to make any determination regarding the validity of any particular item in the UPCF until completion of the claims process, including the completion of a claim form, the appropriate agency review, and post-reconciliation procedures described below. In fact, that claims process may result in a determination that the presumed "unpaid check" does not constitute a valid claim.

5.04: Initiation of Claims

Upon receipt of a request regarding a possible unpaid check in the UPCF, an individual in the Division ("the Reviewer"), from a reporting unit other than the Reconciliation Unit, will search the UPCF database to determine if any checks therein may be the property of the party on whose behalf the request is made.

Upon discovery of any such checks in the UPCF, the Reviewer will issue a claim form. Claim forms shall only be issued to persons identified by Division staff as having a valid interest in the unpaid check. A person shall be considered to have an interest in the unpaid check if he or she satisfies any of the following conditions:

- (1) the original owner or an officer of a corporation or business which is an original owner;
- (2) a person with a court appointment, such as an administrator/administratrix or an executor/executrix;
- (3) a person duly appointed as the power of attorney for the original owner;
- (4) a guardian, trustee, conservator, or other court-appointed legal representative; or

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(5) a person who has petitioned a court of proper jurisdiction for appointment as the legal representative of the original owner.

Prior to the issuance of a claim form to a claimant, an employee of the Division must verify the original owner's address and Social Security Number or Taxpayer Identification Number (TIN).

The Division will not issue a claim form prior to the receipt of the Social Security/TIN and current mailing address of the individual or entity claiming the unpaid check.

In the case of a person claiming property on behalf of an estate, that person must provide the Division with the TIN of the estate or his or her own Social Security Number, as well as the Social Security Number of the deceased.

A claim form may be sent to an individual acting as a power of attorney only after the Division has verified from the owner that the claimant is actually acting on behalf of the owner.

5.05: Required Owner Documentation for Claims

A claim for a check from the UPCF is initiated by the filing of a claim form, which must be completed with the following documentation.

(1) If the owner is a person, the claim form must include that individual's notarized signature and his or her Social Security Number, and the owner must complete a W-9 form or an appropriate substitute (or a W-8 form for foreign owners). The claim form must be completed by the owner him/herself, or the conservator, and include a certification that the owner has not received a replacement check or otherwise been reimbursed.

(2) If the owner is deceased and the claim is initiated on behalf of the decedent, the claim form must be signed by an individual entitled to act on behalf of the decedent and must include a stamped certificate of appointment as Executor/Executrix or Administrator/Administratrix, as well as a copy of the decedent's death certificate. For claims amounting to less than \$700.00, however, the Deputy Treasurer may accept appropriate substitute documentation.

(3) If the claim is submitted on behalf of an active business, the individual signing the claim form must provide documentation verifying that he or she has the authority to submit the claim on behalf of the business, for example, an affidavit signed by an appropriate officer of the corporation stating that the individual signing the claim form has the authority to submit the claim on behalf of the corporation.

(4) If the claim is submitted on behalf of a corporation whose dissolution has been completed, the individual signing the claim form must provide a copy of a Corporate Revival Certificate issued by the Secretary of State, as well as a copy of the articles of incorporation and most recent amendment, if any, resulting in a change of corporate officers, or, where appropriate, documentation certifying that the individual signing the claim form has been appointed as the receiver or the assignor for the benefit of creditors.

(5) If the claim is submitted on behalf of any other type of inactive business, the individual signing the claim form must provide verification that he or she is or was the principal owner of the business, or other documentation evidencing his or her right to take the property on behalf of the business, for example, a certified copy of a court order stating that the individual signing the claim form is the trustee of a dissolved or inactive business or documentation verifying the merger or acquisition of the business into or by another business, as well as the documentation required in 960 CMR 5.05(3).

(6) If the claim form is signed by a trustee on behalf of a trust, a guardian, conservator, or other individual with legal authority to do so, he or she must submit the original document conferring legal authority to assert the claim, or a true attested/certified copy thereof.

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5.06: Signature Requirements

All signatures by or on behalf of owners must be notarized on all claims in excess of \$500.00. If any property is held jointly, then the signatures of all original owners, unless one is deceased, must appear on the claim form before it can be approved at any level within the Division. If one of the original owners of property held jointly is deceased, the lawful representative of the decedent's estate must sign the claim form along with the other original owner before it can be approved at any level within the Division.

5.07: Address Changes

If available, the claim form provided to the claimant will provide information indicating the address associated with the check, which was initially issued by the issuing agency. In all cases in which an owner's present address is different from the address on the initially-issued check, the owner must provide proof of former address, as well as proof of the change in address, or verification why the initial address was incorrect. For example, if the corporation has had a change of address, notification of the change of address on the company letterhead would suffice.

Where appropriate and necessary, Division staff will initiate a change of address process through a vendor update form before the processing of payment for any particular claim.

5.08: Required Agency Documentation for Claims

Each claim form will provide directions to the claimant to mail the completed form to the state agency that originated the payment, if known. In most cases, this is determined based on data submitted with the purging of the check file to the UPCF. The claimant may need to work with the Division staff to identify the agency if data is not available.

The agency will review the claim based on established protocols of evidence including, but not limited to: matching social security number to agency records; copy of original-dated check; payment history indicating no re-issuance of check by the agency; and matching address to agency vendor file. A claim form cannot be processed for payment without verification of the validity of the claim by the issuing agency.

5.09: Approval and Disapproval of Claims

Once the agency review is complete, the agency will forward the claim form to the Division. Upon the receipt of the UPCF claim form completed by the appropriate state agency, a second reconciliation analyst will conduct an independent review. This review will include a re-verification of check stop payment and re-issuance data at the Division and may include confirmation or review of agency evidence of a claim. If the claim is deemed valid and the form complete and accurate, it will be approved and sent to the Payments Coordinator for approval.

The Deputy Treasurer must approve claims in excess of \$10,000.

Following approval, the Reviewer will initiate the procedure for the issuance of a payment voucher that will be forwarded to the Administration and Finance Division of the Treasury (A&F).

In the event that the Division does not approve a claim for payment, the Division shall issue to the claimant a written explanation of the specific grounds for disapproval, and such notice shall be forwarded to the claimant by first-class mail within three business days of such disapproval.

The claimant shall have a right to request reconsideration of a disapproval of a claim. The claimant shall state the reasons for such a request in writing, and include therewith any documentation that addresses the grounds for disapproval. Any such request for reconsideration shall be submitted in writing to the Division within 30 calendar days of the claimant's receipt of the notice of disapproval.

5.10: Payment of Claims

Upon receipt of the voucher, A&F will initiate the payment process through MMARS, through the electronic transfer of the claim approval data to the Office of the State Comptroller, whereupon a check will be issued to the owner either directly or through a person whom the Division has verified is legally authorized to receive the check for the owner.

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For all such MMARS checks issued through a voucher, a vendor number and address must be recorded on MMARS. This will be verified to the original address associated with the check and any documented changes in address.

Where the claimant has an existing obligation to Massachusetts, the payment may be intercepted by the Office of the State Comptroller for satisfaction of that obligation.

5.11: Division Due Diligence

While property, for which a claim has not yet been asserted, is held by the UPCF, and the Division's investigation, whether independently or in conjunction with state agencies, determines that a claim would likely be valid, Division staff will attempt to contact the owner to initiate the claims procedure.

Under M.G.L. c. 29, § 32, on June 30th of each year, the Comptroller is to transfer to the Abandoned Property Fund all funds that have remained in the UPCF for at least one year. Accordingly, the Division, as custodian of the UPCF, is, in essence, a holder subject to the requirements of the abandoned property statute, M.G.L. c. 200A. As such, the Division is specifically subject to M.G.L. c. 200A, § 7A, which requires holders to send a notice to the owner of the property at least 60 days prior to the turn over of the property to the Abandoned Property Fund.

Consequently, a least 60 days prior to the transfer of property to the Abandoned Property Fund, the Division will send a notice to the record owner of the property at that person's last-known address.

REGULATORY AUTHORITY

960 CMR 5.00: M.G.L. c. 29, § 32.