[Forged MetLife “Checks” Show Retained-Asset Account Risks](https://uphelp.org/forged-metlife-checks-show-retained-asset-account-risks/)

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After her mother died, Jasmine Williams was assured by MetLife Inc. that her $101,819 in life insurance benefits were safe and was sent what the company called a guaranteed money market “checkbook” in 2002. The next year, Williams, then 19, told New York-based MetLife that a cousin had taken $48,900 by forging her name on 12 checks. Williams, of Rougemont, North Carolina, sought reimbursement. The insurance company and Pittsburgh-based PNC Bank NA, which processed MetLife checks, refused to cover Williams’s losses — each denying responsibility — federal civil court records show. Had Williams’s money been in a bank, instead of an account managed by an insurer, federal and state law would have required the bank to verify signatures on checks and cover losses. Williams’s predicament spotlights the uncertainties people face by accepting so-called retained-asset account checkbooks from insurers. “It’s high risk for the beneficiary to have money in these insurance accounts,” says Robert Hunter, director of insurance for the Consumer Federation of America in Washington. “I’ve been telling people to get their money out. You have what I consider a little black hole.” Bloomberg Markets magazine reported in its September issue that MetLife and Newark, New Jersey-based Prudential Financial Inc. are among about 130 life insurance companies holding in their own general corporate accounts at least $28 billion they owe survivors. Federal Probes The insurers earn hundreds of millions of dollars a year in investment gains on the death benefits, including those due to families of U.S. military service members killed in combat in Iraq and Afghanistan. After the story was published by Bloomberg News on July 28, New York Attorney General Andrew Cuomo opened a fraud investigation; the Georgia and New York insurance departments began probes of these practices; the U.S. Department of Veterans Affairs said it would review its own insurance program; and the U.S. House Oversight and Reform Committee said it would investigate insurance benefits for 6 million U.S. soldiers. MetLife and Prudential say they’re cooperating with all investigators. Both companies say they guarantee their retained- asset accounts to be safe and secure. They say the accounts are a service to survivors because they allow them time to decide what to do with their money. ‘All the Time’ Jeffrey Stempel, an insurance law professor at the William S. Boyd School of

Law at the University of Nevada, Las Vegas and author of “Stempel on Insurance Contracts” (Aspen Publishers, 2009) says that reasoning makes no sense. “Even a person who doesn’t know much about finance could take all the time in the world and earn interest with better protection in a standard FDIC-insured bank account,” Stempel says. “Insurers use retained-asset accounts so they can increase profits — not to protect families.” Instead of sending survivors a check when a death claim is approved, life insurers now often provide families with interest-bearing “checkbook” accounts that aren’t backed by the Federal Deposit Insurance Corp. The “checks” are actually drafts, or IOUs, citing the name of a bank. Survivors can withdraw some or all of the money by using the drafts, which alert a bank to get cash from an insurer. Leaving money with insurance companies opens survivors to risks they wouldn’t face if their money was in FDIC-insured bank accounts. ‘I’d Never’ People have found that they lacked immediate access to their money and had fewer privacy protections. They have been shunted between insurers and the banks named on drafts, and resorted to filing lawsuits to determine what rights they have when their money is held by carriers. Some have lost money. “I’d never keep money with an insurer, and I’d never recommend a client do it,” says Gerry Beyer, who teaches estate planning at Texas Tech University School of Law in Lubbock. “It isn’t financially protected.” Every state has an insurer guaranty association that’s supposed to protect life insurance policies. These groups request contributions from solvent insurers in the same state if a carrier fails. Unlike the FDIC, guaranty associations have no backing from the U.S. Treasury Department. ‘Red Flag’ Federal and state lawmakers say retained-asset accounts may not be covered by guaranty funds. MetLife tells survivors whose death payouts stay with the firm that they’re creditors and should have no expectation of a “special relationship” with the insurer. “It raises a red flag as to whether this would be covered,” says U.S. Representative John Garamendi, a former California insurance commissioner. If an insurer fails, survivors with money in retained-asset accounts can’t rely on these guaranty associations, he says. “You’ve got the policyholders on one side who want their hands on the assets,” the California Democrat says. “On the other side you have general creditors. You’re going to have a lawsuit.” When Executive Life Insurance Co., then California’s largest insurer, collapsed in 1991, owners of some retained- asset accounts lost money. Those with accounts holding more than $300,000 were unable to recover about 8 percent of their funds above that amount, according to the National Organization of Life and Health Insurance Guaranty Associations in Herndon, Virginia. Customers Compete Garamendi, who as California’s insurance commissioner helped oversee the insurer’s liquidation, says customers competed in court with company debtors and other obligation holders to recover their losses. Some Executive Life accountholders couldn’t get immediate access to their money, records of the Arkansas Department of Insurance show. Lee Douglass, who was Arkansas insurance commissioner from 1990 to 1997, says when a carrier collapses, survivors with money in retained-asset or other accounts with the insurer may be denied instant access to funds. He says he doesn't remember what happened to the Executive Life account holders. "The court may for a period of time freeze accounts — not only these accounts but everything else," Douglass says. Peter Kochenburger, executive director of the Insurance Law Center at the University of Connecticut, says the Executive Life failure was unusual. He says he doubts that major insurance companies will collapse. "Of course, we've seen some of the biggest financial companies in the world disappear, and who would have thought that?" he says. Forged Checks Jasmine Williams's complaint involved a solvent company — the largest life insurer in the U.S. Williams sued after she told MetLife that her cousin, Latshia Sneed, had forged her name on a dozen of her MetLife "Total Control Account" drafts, taking $48,900. "At the time of the forgeries, MetLife had in place a guarantee and/or insurance policy that provided for payment by MetLife to Ms. Williams in the event that the funds were no longer available to Ms. Williams because of fraud or other occurrences unauthorized by Ms. Williams," the lawsuit says. Using Williams's name, Sneed had asked PNC Bank, a unit of PNC Financial Services Group Inc., to change her cousin's address to her own and asked for a new "checkbook," Williams says in the lawsuit. MetLife argued in court that PNC, the bank that processes its drafts, was ultimately responsible for covering the losses. In a court filing, it wrote, "To the extent MetLife is or may be liable, which it expressly denies, it claims a right to full indemnity from PNC." Refused Responsibility The insurer also said in court that Williams had given her "checkbook" to Sneed. Sneed said in court that Williams allowed her to use the account, while also saying she owed Williams money. She didn't say how much. Sneed couldn't be reached for comment. Williams, who didn't return calls seeking comment, denied in court that she had given Sneed permission to use the MetLife drafts. "The fraudulent transactions were done without the knowledge or authorization of Ms. Williams," her lawsuit says. PNC refused in court to accept responsibility. The bank argued that it doesn't have any legal obligation to non- customers. The case didn't go to trial. PNC and MetLife settled after U.S. Magistrate Judge Russell Eliason in Durham, North Carolina, rejected PNC's argument that it didn't have a duty to Williams to safeguard her money, according to court records. Williams's lawyer, Robert Perry, says PNC and MetLife paid Williams a portion of the $48,900. He declined to say how much. 'Vastly Different' "This is vastly different from having a relationship with a bank," Perry says. "The person doesn't have ready access to the funds and doesn't have a relationship with someone in the bank that she can deal with. She doesn't have total control." MetLife spokesman Christopher Breslin says such incidents are rare. "It is important to put this in the appropriate context and note that almost 5 million Total Control Account drafts have been successfully processed since the beginning of 2007," Breslin says. "Feedback from our customers has been overwhelmingly positive." PNC spokesman Fred Solomon declined to comment. Williams wasn't the first survivor with a retained-asset account who got caught between an insurer and a bank. When Ella Kelley's in-home care aide stole drafts for her MetLife retained-asset account, Kelley lost $9,308 of the $10,000 she received after her husband's death, according to a lawsuit she filed in the Montgomery County Court of Common Pleas in Ohio. State Street MetLife told Kelley to recover her losses from a unit of Boston-based State Street Corp., which processed the MetLife drafts, according to the lawsuit against State Street. State Street refused to pay Kelley anything and, in court, it accused the woman of negligence. Kelley, then 75, filed her lawsuit in June 1994 and died three months later, leaving the executor of her estate to pursue the case. The bank argued in court that the lawsuit should be dismissed because State Street didn't do business in Ohio. In 1996, the Ohio Court of Appeals denied State Street's request. "We find it incredulous that State Street did not foresee being haled into court in Ohio as a result of its obligations to Ohio residents," the court wrote. Four Years Later More than four years after the theft of Kelley's checks — and after the court ruling — State Street paid the Kelley estate the full amount of the stolen money, the estate's lawyer, Paul Roderer, says. "That's exactly the situation where a beneficiary holding these would be stuck in the middle of arguments by an insurer and a bank," says Lawrence Baxter, a professor at Duke University School of Law in Durham, North Carolina. "It highlights the disarray of this whole practice." State Street spokeswoman Arlene Roberts declined to comment. The American Council of Life Insurers says banks are obligated to scrutinize signatures on drafts. At least one retained-asset holder has also concluded that the accounts aren't shielded by the same privacy protections afforded to those with bank accounts. After Bloomberg Markets reported that families of fallen soldiers with retained-asset accounts usually don't receive immediate cash payouts, Prudential gave information about the transactions of Cindy Lohman, the mother of a serviceman who died in Afghanistan, to New Jersey insurance regulators, which the state had asked for, Prudential spokesman Bob DeFillippo says. Felt Betrayed Lohman, who had said in the Bloomberg Markets story that she felt betrayed by the insurance industry because it was profiting from the death of U.S. soldiers, says no one ever asked her whether Prudential or anyone else could release her records. She hadn't complained to regulators or asked them to scrutinize her account, she says. On Aug. 10, Thomas Considine, New Jersey's banking and insurance commissioner, said publicly that his department had reviewed Prudential's report about 25 checks Lohman wrote on her account and found that the Newark-based insurer had acted properly. Ed Rogan, a spokesman for Considine, said the commissioner spoke about Lohman's account only after being asked in public whether Prudential had acted properly. Right to Privacy Had Lohman's account been in a bank, the Federal Right to Financial Privacy Act would have barred banking regulators from publicly discussing or disclosing her account information, even to other government agencies, says Dean DeBuck, a spokesman for the U.S. Office of Comptroller of the Currency. "The release of nonpublic privacy information showed a significant lack of dignity and respect," Lohman says. "Acts like this border on intimidation." MetLife first established retained-asset accounts in 1984, and judges are still trying to figure out what rights survivors have. Courts in Massachusetts, Nevada, New Jersey and New York have been asked to resolve what responsibilities insurance companies have to the holders of retained-asset accounts. "There are inconsistencies in the courts," says Eric Pan, a professor of corporate governance and financial regulation at the Benjamin N. Cardozo School of Law in New York. "We lawyers would say the body of law is developing. There's uncertainty." Bank customers may open multiple accounts that each carry $250,000 in FDIC protection, compared with the single $300,000 guarantee that most state insurance funds provide, according to Larry Ginsburg, a certified financial planner in Oakland, California. There's "absolutely no reason" to leave funds in retained-asset accounts, Ginsburg said. Hunter, who was Federal Insurance Administrator from 1974 to 1978, says that with the multiple risks of insurers holding death benefits, survivors should stay away. All they have to do, he says, is put their money into FDIC-insured bank accounts. MetLife fell 22 cents to $36.92 at 11:46 a.m. in New York Stock Exchange composite trading. The shares had gained 5.1 percent this year before today.