

State of Idaho
DEPARTMENT OF INSURANCE

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BULLETIN NO. 08-08

DATE: July 24, 2008

TO: Insurers offering Motor Vehicle Liability Insurance Policies in Idaho.

FROM: William W. Deal, Director

SUBJECT: New Requirements for Underinsured Motorist Coverage for Motor Vehicle Liability Policies – Idaho Code § 41-2502

The 2008 Legislature enacted House Bill 429, which makes important changes to Idaho law relating to the offer of underinsured and uninsured motorist coverage. The purpose of this bulletin is to inform insurers of the new requirements and to set forth wording that has been approved by the Director as meeting the new law's requirement for a standard statement that must be provided to insureds explaining uninsured and underinsured motorist coverage. This bulletin provides only a limited overview of the requirements of the new law. Affected carriers are responsible for meeting all requirements of the new law and should carefully review the entire bill, which can be accessed at the following internet link: <http://www3.state.id.us/oasis/H0429.html>.

House Bill 429 amends Idaho Code § 41-2502 to require that motor vehicle liability policies sold or renewed on and after January 1, 2009 include underinsured motorist (UIM) bodily injury coverage in addition to uninsured motorist (UM) coverage unless the coverage has been expressly rejected in writing by a named insured. A named insured has the right to reject either or both UM or UIM coverage. The rejection must be in writing or in an electronic form that complies with Idaho's Uniform Electronic Transactions Act (Chapter 50 of Title 28, Idaho Code). Once a coverage rejection is obtained, the rejection applies to any renewal or replacement policy. **UM and UIM coverage must be included in a policy unless and until the insurer receives the named insured's written rejection.**

The uninsured motorist and underinsured motorist coverages must be at no less than the minimum limits required by Idaho Code § 49-117. The new law does not prohibit an insurer from requiring that the UM and UIM coverage limits be equal.

House Bill 429 also requires that insurers provide a named insured a "standard statement" approved by the Director of the Department of Insurance "explaining in summary form, both uninsured and underinsured motorist coverage, and the different forms of underinsured motorist coverage that might be available from insurers in Idaho." Accompanying this bulletin is the standard statement language that has been approved by the Director as meeting the requirements of House Bill 429. Any insurer that wishes to use a statement that contains substantive differences from the standard statement

accompanying this bulletin must submit the proposed wording to the Department of Insurance for approval prior to use in this state. For new policies with an effective date on or after January 1, 2009, the named insured must be provided with the standard statement prior to the issuance of a new policy.

The new law also requires that the standard statement be provided to an insurer's existing policyholders upon their first renewal on or after January 1, 2009. Therefore, even if an existing policyholder has previously waived either or both UM and UIM coverage, a named insured must still be provided the standard statement upon the first renewal in 2009. Once an insured has received the standard statement and made a decision regarding UM and UIM coverage, no further notices are required.

Each insurance carrier must establish a procedure that is in compliance with the new statute for existing policies in the case where the named insured has already signed a rejection form for UM and/or UIM coverage. For example, a carrier may elect to have existing insureds complete a new written statement rejecting coverage, or it would be acceptable for the carrier to replace the rejection statement portion of the standard statement form set forth below with a statement similar to the following: "According to our records you have previously provided us with a written rejection of uninsured motorist and underinsured motorist coverage and these coverages are therefore not included in your policy." If an existing insured previously provided a written rejection of UM coverage, but not UIM coverage, the policy must include UIM coverage until the insured has been provided the standard statement and the insurer has received a written rejection of the coverage from a named insured.

Casualty insurers selling motor vehicle liability policies in the state of Idaho should update their forms as well as new business and renewal processes to assure they are in compliance with the changes to Idaho Insurance Code § 41-2502. Insureds who have not previously rejected UM or UIM coverage must be provided the standard summary statement prior to deciding whether to reject coverage, and each insurer must be able to demonstrate that the insured was provided the summary statement at the time of or prior to being provided the opportunity to reject coverage. For this reason, the Department recommends, but does not require, that the rejection form be included as a part of the standard summary in a manner similar to that shown below.

Persons with questions about compliance with the new law or questions regarding filings affected by this bulletin should contact the Department of Insurance, Rates & Forms Section at (208)334-4250.

SAMPLE DISCLOSURE STATEMENT AND REJECTION FORM

**IDAHO UNINSURED MOTORIST AND UNDERINSURED MOTORIST
DISCLOSURE STATEMENT**

Idaho law requires that every auto liability insurance policy include **Uninsured Motorist (UM)** coverage and **Underinsured Motorist (UIM) bodily injury** coverage, unless a named insured has rejected these coverages in writing. If the insured is not provided a copy of the written rejection at the time it is made, the insured may receive a copy from the insurer upon request.

UM coverage may pay damages for bodily injury to an insured person who is legally entitled to collect damages from the owner or operator of a vehicle that has no insurance, or from a hit-and-run vehicle where the owner or operator is unknown.

UIM coverage may pay damages for bodily injury to an insured person who is legally entitled to collect damages from the owner or operator of a vehicle with inadequate limits of liability insurance coverage.

UIM coverage is offered in different forms by different insurers, and insurers are not required to offer more than one type of UIM coverage. The two most commonly available forms of UIM coverage - "Difference in Limits" (or "Offset") Coverage and "Excess" Coverage – are briefly explained as follows:

- **"Difference in Limits" (or "Offset") Coverage** – The policy's UIM coverage limits are reduced or eliminated by the amount of any damages recovered by any insured, from or on behalf of any underinsured owner(s) or operator(s).
- **"Excess" Coverage** – The policy's UIM coverage limits are **not** reduced by the amount of damages recovered from any underinsured owner(s) or operator(s). UIM coverage limits are available to pay damages when the insured's damages exceed what can be recovered from the owner(s) or operator(s) of an underinsured vehicle.

This general explanation is NOT an insurance agreement. All auto liability insurance policies that include UM and/or UIM coverage have other terms and conditions that may affect or limit the availability of either coverage. For a more detailed explanation of these coverages, refer to your policy. The Idaho Department of Insurance can also provide assistance with insurance related questions. Call 800-721-3272 or visit the Department's website at www.doi.idaho.gov.

UNINSURED AND UNDERINSURED MOTORIST COVERAGE WAIVER

I have read the above explanation of uninsured motorist and underinsured motorist coverages. I understand that I have the right to reject either or both coverages. I also understand that by signing the rejection below I am informing my insurer that I do not want the rejected coverage(s) to be included under my automobile liability policy, or under any renewal or replacement of my policy. I choose to reject the coverage(s) identified below:

INSURER: _____ **POLICY NUMBER:** _____

- ☐ I hereby reject Uninsured Motorist Bodily Injury Coverage
- ☐ I hereby reject Underinsured Motorist Bodily Injury Coverage

Named Insured

Date