

Oregon Department of Consumer and Business Services Division of Financial Regulation, Bulletin No. DFR 2020-19

TO: All Insurers Issuing Personal Lines Auto Policies

DATE: October 2, 2020

RE: Consumer Disclosure Requirements for Personal Auto Policies with Step-Down Limits

Purpose

The purpose of this bulletin is to provide guidance to auto insurers issuing personal lines auto policies with step-down limits. It outlines disclosures necessary to inform consumers of the nature and extent of coverage.

Authority

ORS 731.988, ORS 742.005; ORS 742.009; ORS 742.450; ORS 742.454; ORS 742.464; ORS 742.530; ORS 746.110; ORS 806.080

Background

The Division of Financial Regulation (DFR) has received auto insurance policy filings that include step-down provisions. These policy filings offer the named insured liability coverage up to a policy limit, but provide only the minimum financial responsibility coverage required by ORS 806.070 in certain circumstances. In typical personal auto policies, family members and permissive users generally have the same coverage as the named insured unless the driver is excluded by name in the policy.

One step-down coverage example is when the insurer will only provide minimum coverage if a vehicle is operated by a non-family member who resides in the same household as the insured and is not reported to the insurer within 30 days. Another example is when the insurer will only provide minimum coverage to the named insured if that individual drives while under the influence of alcohol.

In many instances, the policy filings including these limitations have listed the general coverage limit prominently on the front page of the policy, while only mentioning the step-down limits on an endorsement several pages into the policy. Often times the step-down limit is not stated as a specific dollar amount, but only references “minimum insurance coverage required under state law.”

Discussion

The Insurance Code limits the type of exclusions that may appear in a personal auto liability policy with regards to minimum insurance requirements¹, but it does not restrict what may be excluded from excess coverage.²

¹As it pertains to minimum liability coverage required under ORS chapter 806, policies may only exclude risks specifically listed under ORS 742.454. Personal auto policies must also provide minimum coverage to each family member of the insured residing in the same household. ORS 742.450(8).

² While ORS 742.450(8) provides that “Every motor vehicle liability insurance policy issued for delivery in this state shall contain a provision that provides liability coverage for each family member of the insured residing in the same household as the insured in an amount equal to the amount of liability coverage purchased by the insured,” ORS 742.464 also explicitly excludes excess coverage from this requirement

Policy language and marketing materials are required to clearly and unambiguously communicate the extent and nature of coverage.³ Because insurers have traditionally issued policies with uniform coverage limits for all covered individuals, introducing products containing step-down limits without significant consumer disclosures and education runs a high risk of misleading consumers to believe they have purchased more coverage than the policy actually provides.


Guidance to Insurers

The Insurance Code mandates that DFR disapprove form filings containing provisions that it finds likely to mislead a person to whom the policy is offered, delivered or issued.⁴ In order to avoid misleading consumers and to clearly communicate the nature and extent of coverage, a personal lines auto insurance policy containing step-down limits must:

- Clearly state the conditions under which the step-down limits apply;
- List step-down limits in specific dollar amounts;
- In all instances where coverage limits are listed, state the lower limit next to the higher limit. This includes the listing of coverage limits on the declarations page, in the policy document, and on any marketing materials;
- Obtain a signed acknowledgement from the policyholder at both issuance and renewal, stating the step-down limits and the conditions under which they apply; and
- Submit a rate filing that reflects the reduction in coverage or explain how the filed rating plan contemplates the reduction in coverage

Policy forms that do not adequately disclose the nature and scope of step-down limits will be disapproved. Any policies issued or renewed one year after this bulletin is published must have all consumer disclosures and filings in place. Attempting to implement step-down limits without meeting the disclosure and filing requirements listed in this bulletin may constitute a violation of the Insurance Code⁵ and result in civil penalties of up to \$10,000 per violation.⁶

This bulletin is effective upon issuance.



Andrew R. Stolfi
Insurance Commissioner and Director
Department of Consumer and Business Services

10/2/2020
Date

³ See ORS 742.005; ORS 742.009; ORS 746.110.

⁴ ORS 742.005.

⁵For example, policy forms lacking consumer disclosures could be a violation of ORS 731.260 (false or misleading filings), ORS 746.075 (misrepresentations), or ORS 746.240 (injurious business practices), among other statutes.

⁶ ORS 731.988.