

RULES – APPROVED

JUNE 9, 2020

COMMERCIAL AUTOMOBILE

LI-CA-2020-246

PENNSYLVANIA REVISED COMMERCIAL LINES MANUAL DIVISION ONE AUTOMOBILE EXCEPTION PAGES AMENDED AND APPROVED

KEY MESSAGE

The Pennsylvania Insurance Department has approved the amended revisions to the Pennsylvania Commercial Lines Manual Division One Automobile Exception Pages in response to *Barnard v. Travelers Home and Marine Insurance Company*, 216 A.3d 1045 (2019).

BACKGROUND

In ISO circular [LI-CA-2020-195](#), we announced that, in response to *Barnard v. Travelers Home and Marine Insurance Company*, 216 A.3d 1045 (2019) we:

- Revised Rule **97**. Uninsured Motorists Insurance, to provide that the written agreement to reject the stacked option is binding on subsequent renewal policies unless the named insured makes a written request for different limits of coverage, and for policies insuring multiple vehicles, the named insured must be offered the option to waive the Stacked limits of coverage when different limits of coverage are requested.
- Filed these revisions with the Pennsylvania Insurance Department under ISO Filing Designation Number [CA-2020-OUM1](#).

The Pennsylvania Insurance Department subsequently questioned whether requests for different limits need to be in writing.

ISO ACTION

In response to the Department's concerns, we have:

- Amended Rule **97**. to reflect that the written agreement to reject the Stacked option is not binding on subsequent renewals if a request for different limits of coverage regardless of whether or not it is in writing is made.
- Filed these revisions as Amendment No. 1 to pending filing [CA-2020-OUM1](#) with the Pennsylvania Insurance Department.

Refer to the attached explanatory material for complete details about the amendment.

INSURANCE DEPARTMENT ACTION

The Pennsylvania Insurance Department has approved [CA-2020-OUM1](#) as amended.

EFFECTIVE DATE

The ISO revision is subject to the following rule of application:

These changes are applicable to all policies written on or after December 1, 2020.

COMPANY ACTION

If you have authorized us to file on your behalf and decide:

- To use our revision and effective date, you are not required to file anything with the Insurance Department.
- To use our revision with a different effective date, to use our revision with modification, or to not use our revision, you must make an appropriate submission with the Insurance Department.

For guidance on submission requirements, consult the ISO State Filing Handbook.

In all correspondence with the Insurance Department on this revision, you should refer to ISO Filing Designation Number CA-2020-OUM1, not this circular number. Communications with the regulator concerning a filing affecting multiple lines of business (i.e., CL, PL, AL filing designation) should specify the line(s) of business that you are addressing.

RATING SOFTWARE IMPACT

No new attributes are being introduced with this revision.

POLICYHOLDER NOTIFICATION

If you decide to implement this revision, you should check all applicable laws for the state(s) to which this revision applies, to determine whether or not a specific policyholder notice requirement may apply. Please note that circular [LI-CL-2019-057](#) contains the ISO Guide To Renewals With Changed Conditions For Commercial Lines, which is available only as a guide to assist participating companies in complying with various conditional renewal statutes or regulations, for the major commercial lines of insurance serviced by ISO. The information in the Guide does not necessarily reflect all requirements or exceptions that may apply, and it is not intended as a substitute for your review of all applicable statutes and regulations concerning policyholder notification.

REVISION DISTRIBUTION

We will issue a Notice to Manualholders with an edition date of 12-20 (or the earliest possible subsequent date), along with any new and/or revised manual pages.

REFERENCE(S)

- [LI-CA-2020-195](#) (04/20/2020) Pennsylvania Revised Commercial Lines Manual Division One Automobile Exception Pages Filed
- [LI-CA-2020-156](#) (03/23/2020) Pennsylvania Supreme Court Decision Regarding Applicability Of Waiving Stacked Limits Of Uninsured And Underinsured Motorists Coverage Under Review
- [LI-CL-2019-057](#) (12/10/2019) Revised Lead Time Requirements Listing

ATTACHMENT(S)

Amendment No. 1 to Filing CA-2020-OUM1

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Amendment to Pennsylvania Commercial Automobile Rules Revision

About This Amendment

We are amending this filing in response to comments received from the Pennsylvania Insurance Department (the Department).

Amended Rule

We are amending the following rule:

- ◆ Rule **97**. Uninsured Motorists Insurance

The pending revisions to this rule have been incorporated. We have used a format of ~~striking through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes.

Background

In the pending filing and in response to Barnard v. Travelers Home and Marine Insurance Company 216 A.3d 1045 (2019), we revised Rule **97**. in part to state the following:

The written agreement to reject the Stacked option is binding on subsequent renewals unless the named insured makes a written request for different limits of coverage or requests the Stacked option in writing. (Emphasis added.)

Upon review of the filing, the Department questioned whether requests for different limits need to be in writing.

Explanation of Changes

In response to the Department's concerns, we are amending Rule **97**. to reflect that the written agreement to reject the Stacked option is not binding on subsequent renewals if a request for different limits of coverage - regardless of whether or not it is in writing - is made.

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97. UNINSURED MOTORISTS INSURANCE

The following is added to Rule 97.:

A. Application

1. Uninsured Motorists Bodily Injury Coverage

- a. Except with respect to policies insuring five or more vehicles, Uninsured Motorists Bodily Injury Coverage must be offered, on a Stacked basis, as an option to the named insured at limits equal to the bodily injury liability limits. The named insured may request, in writing, limits less than the bodily injury liability limits. Uninsured Motorists Bodily Injury Coverage applies to all owned autos insured under the policy. The named insured also has the option to select Nonstacked Uninsured Motorists Bodily Injury Coverage (See Paragraph **A.1.f.**). For the requirements applicable to policies, insuring five or more vehicles, see Paragraph **A.1.g.**
- b. The named insured may, by signing a written rejection form prescribed by Pennsylvania law, reject this coverage, Stacked or Nonstacked, or select lower limits, but not less than the financial responsibility limits. The written agreement to reject this coverage, Stacked or Nonstacked, or select different limits, is binding on subsequent renewals unless the named insured ~~makes a written requests~~ for different limits of coverage.
- c. Under Pennsylvania law, only the named insured and his or her family members (Class I insureds) are entitled to intrapolicy Stacked Uninsured Motorists Bodily Injury Coverage.
- d. If Stacked Uninsured Motorists Bodily Injury Coverage is purchased, this coverage applies to all owned autos insured under the policy. Use Pennsylvania Uninsured Motorists Coverage – Stacked Endorsement **CA 21 06**. For split limits, also use Pennsylvania Split Uninsured Motorists Coverage Limits – Stacked Endorsement **CA 21 67** when coverage is provided on a split limits basis.
- e. If the named insured owns only one vehicle at policy inception but subsequently purchases an additional vehicle of which the insurer becomes aware, which is registered or principally garaged in Pennsylvania, the named insured shall be offered Stacked Uninsured Motorists Bodily Injury Coverage.
- f. The named insured has the option to select Nonstacked Uninsured Motorists Bodily Injury Coverage. If selected, this coverage applies to all owned autos insured under the policy. To select this coverage, the named insured must waive the Stacked limits of coverage by signing a written waiver form prescribed by Pennsylvania law. The written agreement to reject the Stacked option is binding on subsequent renewals unless the named insured ~~makes a written requests~~ for different limits of coverage or requests the Stacked option in writing. Use Pennsylvania Uninsured Motorists Coverage – Nonstacked Endorsement **CA 21 92**. For split limits, also use Pennsylvania Split Uninsured Motorists Coverage Limits For Fleet Policies – Nonstacked Endorsement **CA 21 95** when coverage is provided on a split limits basis.
If the named insured does not select the Nonstacked option, the Stacked Uninsured Motorists Bodily Injury Coverage applies.
- g. For policies insuring five or more vehicles, Nonstacked Uninsured Motorists Bodily Injury Coverage must be offered at limits equal to the bodily injury liability limits. Use Endorsement **CA 21 92**. For split limits, also use Endorsement **CA 21 95** when coverage is provided on a split limits basis. The named insured may request, in writing, limits less than the bodily injury liability limits. Uninsured Motorists Bodily Injury Coverage applies to all owned autos insured under the policy. The named insured may, by signing a written rejection form, reject this coverage or select lower limits, but not less than the financial responsibility limits. The written agreement to reject this coverage or select different limits, is binding on subsequent renewals unless the named insured ~~makes a written requests~~ for different limits of coverage.
- h. Companies may not require the named insured to purchase the same limits for Uninsured Motorists Bodily Injury Coverage and Underinsured Motorists Bodily Injury Coverage.
- i. Uninsured Motorists Coverage does not provide coverage for property damage.
- j. For policies insuring multiple vehicles, the named insured must be offered the option to waive the Stacked limits of coverage when different limits of coverage are requested.

2. Underinsured Motorists Bodily Injury Coverage

The provisions of Paragraph **A.1.** apply to Underinsured Motorists Bodily Injury Coverage except as follows:

- a. Under Pennsylvania law, only the named insured and his or her family members (Class I insureds) are entitled to intrapolicy Stacked Underinsured Motorists Bodily Injury Coverage.
- b. If Stacked Underinsured Motorists Bodily Injury Coverage is purchased, this coverage applies to all owned autos insured under the policy. Use Pennsylvania Underinsured Motorists Coverage – Stacked Endorsement **CA 21 91**. For split limits, also use Pennsylvania Split Underinsured Motorists Coverage Limits – Stacked Endorsement **CA 21 94** when coverage is provided on a split limits basis.

- c. The named insured has the option to select Nonstacked Underinsured Motorists Bodily Injury Coverage. If selected, this coverage applies to all owned autos insured under the policy. To select this coverage, the named insured must waive the Stacked limits of coverage by signing a written waiver form prescribed by Pennsylvania law. For policies insuring multiple vehicles, the named insured must be offered the option to waive the Stacked limits of coverage when different limits of coverage are requested.

The written agreement to reject the Stacked option is binding on subsequent renewals unless the named insured ~~makes a written request~~ requests for different limits of coverage or requests the Stacked option in writing. Use Pennsylvania Underinsured Motorists Coverage – Nonstacked Endorsement **CA 21 93**. For split limits, also use Pennsylvania Split Underinsured Motorists Coverage Limits For Fleet Policies – Nonstacked Endorsement **CA 21 96** when coverage is provided on a split limits basis.

If the named insured does not select the Nonstacked option, the Stacked Underinsured Motorists Bodily Injury Coverage applies.

- d. For policies insuring five or more vehicles, Nonstacked Underinsured Motorists Bodily Injury Coverage must be offered at limits equal to the bodily injury liability limits. Use Endorsement **CA 21 93**. For split limits, also use Endorsement **CA 21 96** when coverage is provided on a split limits basis.

The remainder of this rule remains unchanged.