

## **QUESTIONS AND ANSWERS ABOUT ILLINOIS AUTOMOBILE INSURANCE AND ACCIDENTS**

### **What types of coverages are available?**

Generally, automobile insurance policies provide Bodily Injury and Property Damage Liability coverage which protects you in the event your negligent operation of a vehicle injures another person or damages another's property. For additional premiums you may also purchase Collision, Comprehensive, and Medical Payments coverages. Collision coverage pays for damage to your vehicle caused by hitting a vehicle or an object or rolling the vehicle over. Comprehensive coverage applies to damage done to your vehicle by other occurrences, for example, damage from hail or falling tree limbs. Medical Payments coverage pays for medical bills incurred by individuals riding in your vehicle who are injured in an accident.

A minimum level of Uninsured Motorist and Underinsured Motorist coverages are required by Illinois law to be provided by your policy, and you may choose to have higher levels of these coverages. Uninsured Motorist coverage applies when an uninsured driver causes damage to your vehicle or injures you or passengers. Underinsured Motorist coverage applies when the driver of another vehicle has insurance but not enough to compensate you for damage to your vehicle or for injuries sustained by you or others in your vehicle.

### **Am I required to have automobile insurance?**

Illinois law provides that no person shall operate, register or maintain registration of, and no owner shall permit another person to operate, register or maintain registration of, a motor vehicle designed to be used on a public highway unless the motor vehicle is covered by a liability insurance policy. The limits required are no less than \$20,000 for bodily injury to or death of one person and not less than \$40,000 because of bodily injury to or death of two or more persons in any one motor vehicle accident. Further, there must be a liability coverage limit of not less than \$15,000 for injury to or destruction of property.

### **How much insurance do I have? How much should I have?**

The Declarations Page of your policy describes the types of coverages you have and the limits for each. You and your insurance agent should discuss your needs to determine the appropriate amount of coverage. You should talk to your agent on at least an annual basis to make sure the coverage you have is adequate. It is generally recommended that your liability limits be sufficient to protect your assets and income against collection. It is also advisable that you consider purchasing an Umbrella policy to protect you in the event you are at fault in a catastrophic collision. Keep in mind that the less liability coverage you have the more likely it will be that your personal assets could be exposed to a judgment for money damages. The company is not obligated to satisfy the amount of any judgment over the liability limits of your policy.

Your limits for Uninsured and Underinsured Motorist coverages should be sufficient to replace or supplement your income in the event you cannot work and to pay you for the damages you would have collected from an at-fault driver.

## **What is an “umbrella” policy?**

An umbrella policy is a type of supplemental insurance that extends normal automobile liability limits to a higher amount. Umbrella policies are typically sold in increments of one million dollars for a relatively small additional premium. Some umbrella policies are also available with extended limits for Uninsured Motorist and Underinsured Motorist coverages.

## **What do I do if I am involved in a motor vehicle collision?**

First, you should call the police. Illinois law requires you to notify the police if there are any injuries or if there is even a small amount of property damage. You should get information from any other drivers involved in the accident, including names, addresses, and insurance company information. You should also get the names and addresses of any witnesses. After the accident, contact your insurance company as soon as possible. Check your insurance policy’s section entitled “Conditions” or “Duties after Loss” for more details. You may also look at the Illinois Department of Insurance web page at <http://www.ins.state.il.us/> for more information.

## **What does my insurance company do?**

The Liability coverage in your policy does two things for you. First, your insurance company will hire and pay for an attorney to defend you in a claim or lawsuit arising out of a vehicle accident. Second, the company will, up to the policy limits, pay for property damage and injuries to others caused by your negligent operation of a vehicle.

As long as the conditions of the policy are complied with, your insurance company will pay for the damage done to your vehicle under either the Comprehensive or Collision coverages and for the medical bills of you or others in your vehicle under the Medical Payments coverage.

The Underinsured Motorist coverage pays for injuries sustained by those in your vehicle in the event the at-fault driver does not have an adequate amount of coverage. Uninsured Motorist coverage applies when the at-fault driver has no insurance at all.

## **What do I tell my insurance company?**

You must cooperate completely with your insurance company. Failure to cooperate may result in your insurance company refusing to pay any money to you or to protect you if others make a claim against you. You should promptly respond to any reasonable request for documents, such as medical and repair bills, a copy of the police report and so forth. You should also furnish a recorded statement if your insurance company requests it.

## **The insurance company for the other driver wants to take my statement. Is that a good idea?**

No law requires you to give a statement to the other party’s insurance company. Because few lawyers would recommend giving a statement to the other insurance company without consulting a lawyer first or having one present during the interview, you may wish to call a lawyer at this juncture. Almost all lawyers will initially discuss your case for free. You may also wish to contact your own insurance company about the other company’s request for a statement.

## **What should I do if the other insurance company wants to settle my claim?**

If you claim that the other driver was at fault and should pay for your injuries and damage, you should carefully consider the value of your claim. If the other insurance company offers you a settlement, are you prepared to exchange all of your rights, including a right to have a jury determine the value of your case, for the amount offered? If you have not retained an attorney for making your claim, you may nevertheless wish to speak with an attorney in making this settlement decision.

In deciding whether to settle your claim, it's important to keep in mind that an at-fault driver must compensate you for the following: medical bills reasonably incurred, pain and suffering, lost wages, disability, disfigurement and emotional damages.

On the other hand, the insurance company does not compensate you for your frustration or inconvenience, telephone calls, fuel costs, the costs of bringing a suit or any attorney's fees you may incur.

## **The other driver's insurance company wants me to sign paperwork before settling my claim. Should I sign what it sent me?**

Before you receive compensation for your claim, the other driver's insurance company will require you to sign a document usually called a "Release." The Release sets forth the terms of the settlement agreement with the at-fault party and their insurance company: in exchange for receiving monetary compensation, you promise not to further press your claim (by filing a lawsuit or otherwise) against the at-fault party. It is very important to read the Release and to understand the terms before signing. If you don't understand what the Release says, don't sign it — and contact a lawyer for help.

The effect of signing a Release is to give up any further claims against the at-fault party and their insurance company arising out of the same occurrence. With rare exception, once you sign a Release, you can never collect any additional monies from the at-fault party or their insurance company for any reason — even if, for example, you continue to incur additional medical bills.

## **What happens if I suffer an injury or damage caused by an uninsured driver?**

First, contact your insurance company and report the accident. Cooperate with it in every way. You will want to confirm that you have Uninsured Motorist (UM) coverage and determine the limits of that coverage. If you have your own liability insurance (and every auto is required by law to have it), then your policy will have a minimum of \$20,000 of UM coverage for bodily injury or death to one person and \$40,000 for bodily or death to two or more persons. If your own liability limits are higher than \$20,000/40,000 then your UM limits will be the same as your liability limits unless you specifically rejected the additional UM coverage or specifically selected lower UM limits. As to property damage, if your own policy does not provide for collision coverage for your auto, it nevertheless will provide UM coverage for your property damage up to \$15,000 or the actual cash value of your auto, whichever is less.

At this juncture, you will assert a claim against your own insurance company under your UM coverage for the damages you suffered at the hands of the uninsured driver. That means you are, to

some extent, at odds with your own insurance company which will investigate the claim and your injuries or damage. You may wish to contact an attorney to learn more about your rights.

### **What if the other driver has some insurance, but not enough to cover my losses?**

If your losses exceed the amount of insurance that covers the at-fault driver, your own insurance may have to pay the difference between the two policies under the terms of your Underinsured Motorist (UIM) coverage. For example, if your claim is worth \$50,000 but the individual who caused the accident has liability insurance for only \$20,000, then your insurance company will be responsible for paying the difference of \$30,000 ( $\$50,000 - \$20,000 = \$30,000$ ) provided, however, that your own UIM limits are \$50,000 or more. If your UIM limits are only \$20,000, then you collect nothing in this situation. By law, the UIM limits in your policy will be equal to your UM limits if your UM limits exceed the minimum \$20,000 for one person and \$40,000 for two or more persons. In other words, your decisions on UM coverage limits will generally also control the amount of your UIM coverage limits.

### **The other driver or another person claims I'm at fault. What do I do now?**

Insurance policies require you to notify your agent or company in a prompt manner. Therefore, when you are served with a claim letter or a summons and complaint for a lawsuit, you should immediately contact your insurance agent or insurance company.

### **What happens if the claim against me exceeds the amount of liability coverage I have?**

Unfortunately, if the claim against you proceeds to a court judgment that exceeds the amount of your liability limits, then you would have to pay the excess amount out of your own income or assets. If you do not have sufficient cash on hand to pay the excess judgment, you may in some cases be forced to liquidate assets and perhaps be subject to garnishment of your wages. For this reason you are encouraged to purchase insurance with sufficiently high liability limits to protect your assets and income from collection.

### **Should I hire my own lawyer?**

If your insurance company hires an attorney to defend you against a claim or lawsuit, you will not have to pay for the services of that lawyer. You do, however, have the option of hiring an additional attorney of your own choosing at your expense. Most often it is not necessary for you to hire your own lawyer. However, if you feel the lawyer hired by the insurance company is not adequately representing your interests or is compromising your position in some way, you should at least consult with another lawyer for advice on whether additional legal representation is needed.

### **What do I do when I have a dispute with my own insurance company?**

First, you should contact the Illinois Department of Insurance directly by calling its headquarters in Springfield at (217) 782-4515 or in Chicago at (312) 814-2427. You can also contact the Department through its website: [http://www.ins.state.il.us/Main/Contact\\_us.htm](http://www.ins.state.il.us/Main/Contact_us.htm). The Department of Insurance will ask you to complete a form (available online) stating the nature of your complaint. When the Department receives your form, it will send you a postcard. Then, within four to six weeks, the Department will send you a letter to let you know whether or not it has been successful

in resolving the dispute. Its address is: Illinois Department of Insurance, 320 W. Washington St., Springfield, IL 62767-0001. In Chicago, you can write or visit the Department at 100 W. Randolph St., Suite 5-570, Chicago, IL 60601-3395.

Second, learn your rights by speaking with an attorney. The attorney may assist you in resolving the dispute informally. If the dispute cannot be resolved informally, you may have to file a lawsuit against your own insurance company. Contact an attorney to learn more.

### **ISBA Attorney Referral Service**

If you do not know a lawyer from whom you can seek advice, you may call the Illinois State Bar Association Attorney Referral Service at (217) 525-5297 or visit its website: <http://www.illinoislawyerfinder.com>. The Referral Service will direct you to attorneys in your area who have experience in cases similar to yours.

### **More information**

The Illinois Department of Insurance website provides additional information on the following issues at <http://www.ins.state.il.us/AutoInsurance/AutoInsurance.htm>.

- Auto Insurance Shopping Guide
  - Who needs automobile insurance
  - Helpful tips when shopping for insurance
  - Required auto insurance coverages
  - Other coverages that may be required
  - Optional coverages for additional premium
  - Factors that may affect the premium
  - Discounts that may be available
  - Ways to lower your insurance costs
  - Getting rate quotes
  - If you can't find auto insurance
  - Insurance complaint ratios
- Credit information - how insurers use
- Definitions of insurance terms
- Teen drivers
- If your automobile insurance is canceled
- If your automobile insurance is nonrenewed
- Filing an auto claim with your insurance company
- Total loss auto claims with your insurance company
- Filing an auto claim with another driver's insurance company
- Driving into Mexico
- If you can't find auto insurance (Illinois Automobile Insurance Plan)