

The Newsletter

The Newsletter by the Law Offices of J. Michael Hayes devoted to relevant issues of negligence and insurance law.

J. Michael Hayes, 69 Delaware Avenue, Suite 1111, Buffalo, NY 14202, Telephone: (716) 852-1111

PROTECT YOURSELF AND YOUR FAMILY

FALL 2005

Can I Insure Myself?

Take a moment and look at your family's auto policy. The first listing is liability – coverage you provide for everyone else. Generally, it is 25/50, 100/300 or 300/300. This is the amount your carrier will pay if you injure someone else. You are permitted to insure yourself and your family on your automobile policy up to the amount that you provide for everyone else.

Now, look at the listing for “supplemental uninsured/underinsured coverage (SUM)”. Do you have the same coverage for yourself as you do for everyone else? Compare the costs. It is much cheaper to insure yourself than the general liability costs you are required to carry.

Why Should I Insure Myself?

The answer to that question is obvious. The real question is “Why not”? If you are injured through someone else's negligence, your compensation may be limited to the amount of **their** coverage, regardless the seriousness of your injuries. The **only** way to protect yourself is to obtain SUM coverage.

SUM coverage extends to the named insured, resident spouse and resident relatives as well as other occupants of your vehicle. “Resident relatives” only include family members related by blood, marriage, or adoption. “Residence of the same household” requires both a physical presence and an intent to reside. Resident relatives are also covered if they are injured while a pedestrian or on a bicycle.

How Much SUM Coverage Can I Obtain?

Supplemental Uninsured/Underinsured Motorist (SUM) coverage must be offered to all policyholders up to an amount equaling your primary liability limits. *Insurance Law §3420 (f)(2)*. For example, if you have \$300,000 in liability insurance (for everyone else), you may also obtain up to \$300,000 in SUM coverage for yourself. You are not limited to the minimum \$25,000 SUM coverage generally offered.

Can I Purchase Even More Protection?

It is possible to obtain an underinsurance (SUM) rider on your umbrella policy up to one million dollars. In that instance, you would have the protection of your basic auto SUM of \$300,000 plus \$1,000,000 from your umbrella.

Many insurance companies are refusing to offer SUM riders on their umbrella policies. Ask your agent for the cost of a SUM rider on your umbrella policy. If it is reasonable, request the coverage. If he cannot offer a quote, ask him if the carrier even offers the rider. If your carrier refuses to offer SUM on your umbrella, consider contacting a different insurance company. The issue is not brand loyalty. The carrier will do that which is in its best interests. You should consider doing the same!

Offset or “Reduction of Coverage” Provision

Regulation 35-D provides for an offset to the SUM carrier of the amount paid to the claimant by the at fault driver's insurance company. The “at fault” driver's total payments must be **less** than that recovered by the occupants of your vehicle. For example, if the “at fault” driver has \$25,000 in liability coverage, you have the same amount in SUM and you recover \$25,000 for your injuries, you would not be able to obtain any more from your SUM coverage. All awards are reduced by the amount paid by the negligent driver's carrier.

Spousal Coverage

Prior to 2002, insurance policies would not insure a passenger spouse for injuries suffered in a car accident occasioned by the driving of the other spouse. There is a new law that permits you to obtain insurance covering your injuries caused by the negligence of your spouse in the operation of a vehicle. This law provides coverage where previously there was none. The specific statute is *Insurance law §3420 2(g)(1)*.

As with SUM coverage, you must specifically request this coverage from your agent. The cost of this rider is very small. Some carriers are automatically including it in their existing policies without charge. Some carriers are requiring a formal request before the coverage will be provided. Check your policy and if there is any question, speak to your agent. Note, the spousal rider is not available on your umbrella. Carriers refuse to write it.

This newsletter does not offer specific legal advice. If legal advice or other expert assistance is required, the services of a competent professional person should be sought. If you have any questions or would like a specific topic covered in the newsletter, please contact J. Michael Hayes, Esq. at 69 Delaware Avenue, suite 1111, Buffalo, NY 14202, telephone (716) 852-1111 or e-mail jmh@jmichaelhayes.com.

Newsletter available by e-mail if you so request.