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Volunteer drivers and the livery exclusion on personal auto policies

Updated: March 14, 2014

Summary

If a nonprofit organization engages volunteers to transport clients in the volunteers' personal vehicles, and the volunteers are reimbursed for the expense of providing that service, might those volunteers be putting their personal automobile liability insurance in jeopardy? Might their policies be cancelled, premiums increased or claims denied, just because they receive some compensation for using their vehicles to help the nonprofit provide transportation services?

At this point, there seems to be no evidence that an insurer has taken, or plans to take, such adverse action. However, nonprofits operating volunteer-based transportation programs should be aware of the insurance industry's response to the rise of "car-sharing" and "ride-sharing" programs, and take care to maintain a clear separation between their own models for driver compensation and the models used by car-sharing and ride-sharing organizations. They can do so by making sure volunteers are reimbursed only for their expenses, and not to the degree where volunteers would realize a profit from their service.

The information that follows is intended as guidance, and should not be construed as a definitive answer to the questions in the first paragraph.

What does the personal auto policy say?

The Insurance Services Office (ISO) standard form excludes "an insured's liability arising out of the ownership or operation of a vehicle being used as a public or livery conveyance." The intent is to prevent a private vehicle from being operated as a taxi. The standard form goes on to say that "share-the-expense carpools" are not considered public or livery conveyances, but it is silent on the use of vehicles by volunteers who are reimbursed all or part of their expenses.

Insurance companies that write personal auto policies may use the standard ISO form, or they may "manuscript" their own policies, using part or none of the ISO form. Underwriters craft their policies to address foreseeable risk exposures, and yet claims departments for those companies are called upon every day to interpret policies based on the specific facts of a specific claim.

CIMA, which represents most major insurance companies that write personal auto policies through agents, has approached several underwriters with the question of whether or not a customer's coverage might be jeopardized if that person serves as a volunteer, transporting clients for a nonprofit organization, and receives compensation in any form.

Underwriters are reluctant to give a definitive answer because, again, coverage determinations often depend on specific facts in a claim situation. But an underwriter from one major personal auto insurance carrier did venture to say that a claim would be covered unless the compensation the volunteer had been receiving "exceeded normal reimbursement of expenses, including wear and tear on the auto."

We also asked Jim Levendusky, manager of Insurance Solutions Underwriting for Verisk Analytics, the parent company of Insurance Services Office, whether he knows of any insurance companies that are contemplating adverse actions of any kind against volunteer drivers who are reimbursed for their basic expenses, whether that reimbursement is by passengers or by the nonprofit organization for which the volunteer drives. He said he does not.

Car-sharing and ride-sharing are different from volunteer-based transportation programs.

Mr. Levendusky recently wrote an article on the Verisk Website, about the changes in insurance coverage that are resulting from the growing popularity of "car-sharing" programs such as FlightCar, GetAround and RelayRides, and "ride-sharing" programs such as Lyft, Uber, SideCar, eRideShare and Ridester. ISO has issued an "endorsement" (modification) for its personal auto policy, excluding coverage for vehicle-sharing arrangements. Meanwhile, insurance companies and state and local governments are grappling with liability issues that fall between the scope of commercial auto policies and that of personal auto policies. Programbusiness.com has addressed this limbo-type situation in a recent article.

In car-sharing, an individual rents his or her vehicle to another driver for a few hours, days or weeks. The car-sharing company acts as a broker. Ride-sharing companies, by contrast, use Web portals to act as brokers between those who need rides and those who are willing to provide them in their private vehicles.

Mr. Levendusky told CIMA that to the best of his knowledge (and not speaking officially for ISO or Verisk Analytics), insurance companies *do* distinguish between these new transportation options and volunteer-based transportation programs. With car-sharing or ride-sharing, the vehicle owner seeks to make a profit. As long as volunteer drivers' compensation – whether provided by passengers or by the nonprofit organization – is reimbursement of expenses and not profit above those expenses, insurance companies do not put volunteer drivers in the same risk category where they are beginning to put vehicle owners who participate in car-sharing or ride-sharing.

The California Public Utilities Commission, in a 2013 ruling on regulations and insurance requirements for ride-sharing programs (for which it uses the generic term Transportation Network Companies), also recognized the difference between TNC's and volunteer-based programs. The rules exempt nonprofit organizations from the requirements.

Conclusion

There continues to be no evidence that volunteers are putting their personal auto liability insurance in jeopardy by serving as drivers in volunteer-based transportation programs, and receiving compensation that reimburses their expenses. Insurance companies that write personal auto policies distinguish between those customers, and customers who participate in car-sharing or ride-sharing programs. The National Conference of State Legislatures performed an exhaustive study that found no evidence of adverse action by insurance companies against customers who serve as volunteer drivers. CIMA has surveyed underwriters at the insurance companies we represent that write personal auto insurance, and also have found no such evidence – despite the fact that insurance agents sometimes warn their customers not to serve as volunteer drivers, and despite the fact that a few states have enacted laws preventing insurance companies from taking adverse action against volunteer drivers.

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