

NEW DISCLOSURE REQUIREMENT FOR INSURERS WRITING AUTOMOBILE LIABILITY INSURANCE IN COLORADO

Insurers writing policies in Colorado that provide commercial automobile or personal automobile coverage need to be aware of a new requirement that will go into effect January 1, 2020, to disclose insurance policies to insureds and liability coverage available to third-party claimants. Failure to comply with the statutory disclosure requirements will result in a fine of one hundred dollars per day as well as attorney fees and costs incurred by a claimant in enforcing the penalty.

The Colorado legislature enacted new statute C.R.S. § 10-3-1117, with the stated purpose of assisting “Colorado residents evaluate whether their uninsured or underinsured motorist coverage will be triggered,” and allowing insurers providing uninsured and underinsured coverage “more time to evaluate and place reserves on claims.” The new provision imposes requirements related to first party and third party requests for coverage information upon all carriers issuing commercial or personal automobile insurance policies for delivery in Colorado. Subsection (1) requires an auto insurer to provide a copy of the commercial or personal auto policy to an insured within 30 days after receiving a written request for the policy from the insured. Other than the requirement that the request be made in writing, the statute contains no specific constraint on the manner of submission.

If the request is received from a third-party claimant or his attorney, subsection (2)(a) requires the insurer to provide within 30 days a statement that includes:

- 1) The name of the insurer;
- 2) The name of each insured party, as it appears on the declarations page;
- 3) The limits of the liability coverage; and
- 4) A complete copy of the insurance policy, including endorsements.

The statement required of the insurer must include the information above for each known policy of the named insured, including excess or umbrella insurance, that is or may be relevant to the claim. The request must be presented to the carrier’s registered agent, which necessitates the insurer confirm it timely receives and reviews information from its registered agent. Requests presented to an insurer’s employees or sales agents will not trigger the duty to disclose liability coverage under the statute.

Penalties for an insurer’s failure to comply with subsections (1) or 2(a) begin to accrue on the thirty-first day following receipt of a written request from the claimant. If an insured party receives a written request for policy information, the insured must disclose “the name and coverage of each known insurer of the insured party,” however, no penalty or enforcement mechanism exists for this provision. C.R.S. § 10-3-1117(2)(b).

Insurers should prepare to comply with the new disclosure requirements for any automobile coverage issued with any type of commercial or personal lines policy, regardless of whether the coverage is provided as a standalone policy, by endorsement, or part of a package. Consideration should also be given to advising insureds of the obligation to disclose their liability insurer upon receipt of such a request.

The language of the statute invites questions that may arise under various circumstances, including how to comply with the statute and avoid entrapment by claimant’s counsel resulting in penalties for technical mistakes. The Colorado Division of Insurance is expected to issue guidance before the statute goes into effect and we will keep you apprised of such developments when they happen. Please reach out to Stephanie Montague, montagues@hallevans.com, or Daniel Furman, furmand@hallevans.com, if you have questions about the requirements of this statute or want to participate in the rulemaking process.