

GUIDANCE ISSUED FOR COMPLIANCE WITH NEW DISCLOSURE REQUIREMENT FOR INSURERS WRITING AUTOMOBILE LIABILITY INSURANCE IN COLORADO

Effective January 1, 2020, insurers writing policies in Colorado that provide commercial automobile or personal automobile coverage are required 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 beginning on the 31st day following the request, 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 helping “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 separate requirements for requests received from an “insured party” versus those received from a “claimant” or claimant’s attorney. The requirements apply to all carriers issuing commercial or personal automobile insurance policies for delivery in Colorado.

Subsection (1) requires an auto insurer to provide a complete copy of the commercial or personal auto policy, including endorsements, 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 of the request. The statute only requires production of the complete policy when requested by the “insured party.”

The required response differs if a request is received from a “claimant or claimant’s attorney,” defined in the statute to mean “a person that has provided notice to an insurer of a potential claim.” Because the requirements differ, it is important for the insurer’s purposes to differentiate between a request issued by an “insured party” and a request issued by a “claimant” or “claimant’s attorney.”

Requests from claimants require 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. However, Regulation 5-2-3 establishes and Bulletins B-1.33 and B-1.34 confirm, that production of the policy should “not include the declarations page or the application even if attached to the policy.” In addition to running afoul of the prohibition in the recent regulation, liability can arise for production of a declarations page or application under a separate regulation (6-4-1) for disclosure of nonpublic personal financial information that may appear on a declarations page.

A claimant’s request must be presented to the insurer’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. Requests must be in writing and if the DOI is the registered agent, the request must be submitted on the Colorado Division of Insurance’s (DOI) form provided with Bulletin B-1.34. The DOI established a website (link below) that contains an official list of each insurance company’s “registered agent” upon which requests must be served. Because of the regulation’s requirement that an insurer maintain records of the written requests and responses thereto for three years, and the Commissioner’s ability to request production of such records at any time, insurers must insist on both its employees’ and the requestor’s compliance with the statute and regulation.

The regulation expressly requires insurers to establish a process for responding to the requests under the now effective C.R.S. § 10-3-1117. The website established by DOI contains helpful resources for insurers as well as claimants in addressing the new requirements and may be reached at the following link: https://www.colorado.gov/pacific/dora/requests-automobile-insurance-liability-limits?utm_medium=email&utm_source=govdelivery.

Should you have additional questions specific to a claim or request received, please contact [Stephanie Montague](#) or [Daniel Furman](#) for further assistance.

**This is an update to a previous [article published June 28, 2019](#), to reflect a new regulation and two bulletins subsequently issued by the Colorado Division of Insurance.*