



BULLETIN NO: 148

DATE: July 6, 2006

WESTERN PROTECTORS INSURANCE COMPANY

DEPT: Northwest Regional Office

SUBJECT: Underinsured Motorists Bodily Injury and Underinsured Motorists Property Damage Endorsement Revisions

TO: All Washington Agents

Effective July 15, 2006 for new business and August 15, 2006 for renewals we have made revisions to our Western Protectors Special Auto Underinsured Motorists Bodily Injury and Underinsured Motorists Property Damage endorsements. Changes were necessary in order to comply with Washington House Bill 2415.

The following items summarize changes for these endorsements:

Underinsured Motorists Bodily Injury Coverage S0563A (6-06)

1. We have changed "**Auto accident**" or "**accident**" to mean an unexpected and unintended occurrence, from the standpoint of the **covered person**, resulting from the ownership, maintenance, or use of an auto, resulting in **property damage**.
2. We have added a definition for **Phantom vehicle** to follow our preferred OMI endorsement.
3. Under **EXCLUSIONS**, we have added item f.: We do not provide Underinsured Motorists Coverage for **bodily injury** sustained by any **covered person** if we can demonstrate that the **covered person** intended to cause the bodily injury for which underinsured motorists coverage is sought.
4. We have added offset provisions for payments made under Section I-Liability Coverage and Personal Injury Protection.
5. We have added the following under **ADDITIONAL DUTIES**, after an accident or loss: If a **covered person** seeks underinsured motorists coverage under this section, and he or she was an intended victim of the tortfeasor, the incident must be reported to the appropriate law enforcement agency and the **covered person** must cooperate with any related law enforcement investigation.
6. We have revised **OUR RIGHT TO RECOVER PAYMENT** provision to follow our preferred OMI endorsement.

Underinsured Motorists Property Damage Coverage S0011A (6-06)

1. We have changed "**Auto accident**" or "**accident**" to mean an unexpected and unintended occurrence, from the standpoint of the **covered person**, resulting from the ownership, maintenance, or use of an auto, resulting in **bodily injury**.
2. Under **EXCLUSIONS**, we have added item g.: We do not provide Underinsured Motorists Coverage for **property damage** sustained by any **covered person** if we can demonstrate that the **covered person** intended to cause the **property damage** for which underinsured motorist coverage is sought.
3. Under **ADDITIONAL DUTIES** we have added that any **covered person** seeking Underinsured Motorists Property Damage Coverage must cooperate with any related law enforcement investigation.
4. We have revised **OUR RIGHT TO RECOVER PAYMENT** provision to follow our preferred OMI endorsement.

These new coverage forms for Underinsured Motorists Bodily Injury and Property Damage are available in the Forms Library on BizLink®.

If you have any questions regarding these revised auto forms, please contact your Personal Lines Underwriter or Agency Marketing Manager.

Thank you for your continued support of the Oregon Mutual Insurance Group.

Eric Cutler, CPCU, CIC
Northwest Personal Lines
Business Unit Manager

BULLETIN



WESTERN PROTECTORS INSURANCE COMPANY
IMPORTANT NOTICE TO POLICYHOLDERS

S8608AW (6-06)

Dear Policyholder,

If you have purchased Underinsured Motorists Bodily Injury and Underinsured Motorists Property Damage Coverage, we have enclosed revised endorsements with this renewal of your automobile policy which comply with Washington House Bill 2415.

The following items summarize our changes:

Underinsured Motorists Bodily Injury Coverage S0563A (6-06)

1. We have changed "**Auto accident**" or "**accident**" to mean an unexpected and unintended occurrence, from the standpoint of the **covered person**, resulting from the ownership, maintenance, or use of an auto, resulting in **bodily injury**.
2. We have added a definition for **Phantom vehicle** to follow our preferred OMI endorsement.
3. Under **EXCLUSIONS**, we have added item f.: We do not provide Underinsured Motorist Coverage for **bodily injury** sustained by any **covered person** if **we** can demonstrate that the **covered person** intended to cause the bodily injury for which underinsured motorists coverage is sought.
4. We have added offset provisions for payments made under Section I-Liability Coverage and Personal Injury Protection.
5. We have added under **ADDITIONAL DUTIES**, after an accident or loss the following: If a **covered person** seeks underinsured motorists coverage under this section, and he or she was an intended victim of the tort-feasor, the incident must be reported to the appropriate law enforcement agency and the **covered person** must cooperate with any related law enforcement investigation.
6. We have revised **OUR RIGHT TO RECOVER PAYMENT** provision to follow our preferred OMI endorsement.

Underinsured Motorists Property Damage Coverage S0011A (6-06)

1. We have changed "**Auto accident**" or "**accident**" to mean an unexpected and unintended occurrence, from the standpoint of the **covered person**, resulting from the ownership, maintenance, or use of an auto, resulting in **property damage**.
2. Under **EXCLUSIONS**, we have added item g.: We do not provide Underinsured Motorists Coverage for **property damage** sustained by any **covered person** if **we** can demonstrate that the **covered person** intended to cause the **property damage** for which underinsured motorists coverage is sought.
3. Under **ADDITIONAL DUTIES** we have added that any **covered person** seeking Underinsured Motorist Property Damage Coverage must cooperate with any related law enforcement investigation.
4. We have revised **OUR RIGHT TO RECOVER PAYMENT** provision to follow our preferred OMI endorsement.

If you have purchased the coverages listed above, please read the endorsement(s) and attach them to your automobile policy.

If you would like to purchase these optional coverage endorsements or have any questions on other insurance related item(s), please contact your agent.

Thank you for insuring with the Oregon Mutual Insurance Group.

Eric Cutler, CPCU, CIC
Northwest Personal Lines
Business Unit Manager



WESTERN PROTECTORS INSURANCE COMPANY
UNDERINSURED MOTORISTS PROPERTY DAMAGE COVERAGE

S0011A (6-06)

You have this coverage for any vehicle described in the Declarations for which a specific premium charge indicates that Underinsured Motorists Property Damage Coverage is afforded.

We agree with **you**, subject to all terms of this endorsement and to all the terms of the policy except as modified herein, as follows:

COVERAGE H - UNDERINSURED MOTORIST PROPERTY DAMAGE COVERAGE

We will pay **damages** for **property damage** which a **covered person** is legally entitled to recover from the owner or operator of an **underinsured motor vehicle**. The **property damage** must be caused by an **auto accident** and arise out of the ownership, maintenance or use of the **underinsured motor vehicle**.

Determination of whether a **covered person** is legally entitled to recover **damages** or the amount of **damages** shall be made by agreement between the **covered person** and **us**. If no agreement is reached, the decision will be made by arbitration.

DEFINITIONS USED IN THIS SECTION ONLY

1. **"Auto Accident"** or **"accident"** means an unexpected and unintended occurrence, from the standpoint of the **covered person**, resulting from the ownership, maintenance, or use of an auto, resulting in **property damage**.
2. **"Covered person"** means **you** or any **family member**.
3. **"Property damage"** means physical injury to or destruction of **your covered auto**.
4. **"Underinsured motor vehicle"** means a land motor vehicle or **trailer** which is:
 - a. not insured by a **property damage** liability policy or bond at the time of the **auto accident**;
 - b. insured by a **property damage** liability policy or bond at the time of the **auto accident** but the amount available or applicable under that bond or policy to a **covered person** is not enough to pay the full amount the **covered person** is legally entitled to recover as **damages**;
 - c. insured by a **property damage** liability bond or policy at the time of the **auto accident** but the Company denies coverage or is or becomes insolvent;
 - d. a hit-and-run vehicle whose operator or owner cannot be identified and which hits or causes an **auto accident** resulting in **property damage** without hitting **your covered auto**.

If there is no physical contact with the vehicle causing the **auto accident**, the facts of the **auto accident** must be proved. **We** will only accept competent evidence other than the testimony of the **covered person** or any other person having an underinsured motorist claim resulting from the **auto accident**.

The term **underinsured motor vehicle** does not include a vehicle:

- a. owned or operated by a self-insurer under any applicable motor vehicle law to the extent that **damages** are payable under a certificate of self-insurance;
- b. operated on rails or tracks;
- c. while located for use as a residence or premises; or
- d. to which the **SECTION I - LIABILITY COVERAGE** of this policy applies. However, this exception to the definition of **underinsured motor vehicle** does not apply to you or any **family member** if **you** or any **family member** sustain **damages** while **occupying**, or when struck by, a vehicle for which coverage under **SECTION I - LIABILITY COVERAGE** of this policy applies.

EXCLUSIONS

1. **We** do not provide Underinsured Motorist Coverage for **property damage** sustained by any **covered person**:
 - a. while operating, or **occupying**, any motor vehicle owned by or available for the regular use of **you** or any **family member** which is not insured for **SECTION I - LIABILITY COVERAGE** under this policy. This includes a **trailer** of any type used with that vehicle;
 - b. when **your covered auto** is being used to carry persons or property for a fee. This exclusion does not apply to a share-the-expense car pool;
 - c. while operating or **occupying** a motorcycle or motor driven cycle;
 - d. for the first \$300 of **property damage** as a result of an **auto accident** with a hit-and-run vehicle or the first \$100 in all other situations;
 - e. using a vehicle without a reasonable belief that:
 - (1) the person is entitled to do so; and
 - (2) the person is using the vehicle within the scope of the permission granted;

- f. during participation in any organized or agreed upon racing or speed contest or demonstration, or in practice or preparation for any such contest;
 - g. if **we** can demonstrate that the **covered person** intended to cause the **property damage** for which underinsured motorists coverage is sought.
2. This coverage shall not apply to the benefit of any insurer providing property insurance.

LIMITS OF LIABILITY

1. Regardless of the number of **covered persons**, premiums paid, claims made or vehicles involved in the **auto accident**, the most **we** will pay for all **damages** resulting from any one **auto accident** is the Limit of Insurance for Underinsured Motorists Property Damage Coverage shown on the Declaration page.
2. Any amount payable for **damages** under this coverage will be reduced by all sums paid by or for anyone who is legally responsible.
3. **We** will not pay for any **property damage** which is paid under **SECTION IV - DAMAGE TO YOUR AUTO** of this policy.
4. No one will be entitled to duplicate payments for the same elements of **loss**.

OTHER INSURANCE

If there is other applicable similar insurance available under more than one policy or provision of coverage:

1. Any recovery for **damages** for **property damage** sustained by a **covered person** may equal but not exceed the higher of the applicable limit for any one vehicle under this insurance or any other insurance.
2. Any insurance **we** provide with respect to a vehicle **you** do not own shall be excess over any other collectible insurance.
3. **We** will pay only **our** share of the **loss**. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits.

ARBITRATION

If **we** and a **covered person** disagree whether the **covered person** is legally entitled to recover **damages** from the owner or operator of an **underinsured motor vehicle** because of **property damage**, or do not agree as to the amount of **damages**, either party may make a written demand for arbitration. However, disputes concerning coverage under this endorsement may not be arbitrated. Both parties must agree to arbitration. In that event, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree

on the third arbitrator within 30 days, either may request that selection be made by a judge of a court having jurisdiction or a Mediation Service Company.

We will pay all arbitration expenses. Arbitration expenses do not include attorney fees or expenses incurred in the production of evidence or witnesses or the making of transcripts.

Unless both parties agree otherwise, arbitration will take place in the county in which the **covered person** lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding as to whether the **covered person** is legally entitled to recover **damages** and the amount of **damages**.

ADDITIONAL DUTIES

Any **covered person** seeking Underinsured Motorist Property Damage Coverage must also:

1. If there is no physical contact with the vehicle causing the **accident**, a **covered person** must report the **accident** to the appropriate law enforcement agency within 72 hours of the **accident** and cooperate with any related law enforcement investigation.
2. Promptly send **us** copies of legal papers if a suit is brought.
3. Promptly notify **us** of a tentative settlement between the **covered person** and the insurer of the **underinsured motor vehicle**, and allow **us** a reasonable time to advance payment to the **covered person** in an amount equal to the tentative settlement to preserve **our** rights against the insurer, owner or operator of such **underinsured motor vehicle**.

SECTION V – GENERAL PROVISION

The policy provision **OUR RIGHT TO RECOVER PAYMENT**, is amended as follows:

We shall be entitled to a recovery only after the **covered person** has been fully compensated.

Our rights do not apply under paragraph 5a. or b. with respect to Underinsured Motorist Property Damage if **we**:

1. have been given prompt written notice of a tentative settlement between a **covered person** and the insurer of an **underinsured motor vehicle**; and
2. fail to advance payment to the **covered person** in an amount equal to the tentative settlement within a reasonable time after receipt of notification.

If **we** advance payment to the **covered person** in an amount equal to the tentative settlement within a reasonable time after receipt of notification:

1. that payment will be separate from any amount the **covered person** is entitled to recover under the provisions of this endorsement.
2. **We** also have a right to recover the advanced payment.

PAYMENT OF LOSS

Any amount due hereunder is payable:

1. To the **covered person**, or
2. if the **covered person** is a minor, to his parent or guardian, or
3. if the **covered person** is deceased, to his surviving spouse, otherwise
4. at **our** option, to the person authorized by law to receive such payment.



WESTERN PROTECTORS INSURANCE COMPANY
UNDERINSURED MOTORISTS BODILY INJURY COVERAGE

S0563A (6-06)

You have this coverage for any vehicle described in the Declarations for which a specific premium charge indicates that Underinsured Motorists Bodily Injury Coverage is afforded.

We agree with **you**, subject to all the terms of this endorsement and to all the terms of the policy except as modified herein, as follows:

COVERAGE H - UNDERINSURED MOTORIST BODILY INJURY COVERAGE

We will pay **damages** for **bodily injury** which a **covered person** is legally entitled to recover from the owner or operator of an **underinsured motor vehicle**. The **bodily injury** must be caused by an **auto accident** and arise out of the ownership, maintenance or use of the **underinsured motor vehicle**.

Determination of whether a **covered person** is legally entitled to recover **damages** or the amount of **damages** shall be made by agreement between the **covered person** and **us**. If no agreement is reached, the decision will be made by arbitration.

DEFINITIONS USED IN THIS SECTION ONLY

1. "**Auto Accident**" or "**accident**" means an unexpected and unintended occurrence, from the standpoint of the **covered person**, resulting from the ownership, maintenance, or use of an auto, resulting in **bodily injury**.
2. "**Covered person**" means:
 - a. **you** and **your family members**;
 - b. any other person **occupying your covered auto**;
 - c. any other person for **damages** that person is entitled to recover because of **bodily injury** to **you**, a **family member**, or another person **occupying your covered auto**.
3. "**Underinsured motor vehicle**" means a land motor vehicle or **trailer** which is:
 - a. not insured by a **bodily injury** liability policy or bond at the time of the **auto accident**;
 - b. insured by a **bodily injury** liability policy or bond at the time of the **auto accident** but the amount available or applicable under that bond or policy to a **covered person** is not enough to pay the full amount the **covered person** is legally entitled to recover as **damages**;

- c. insured by a **bodily injury** liability bond or policy at the time of the **auto accident** but the company denies coverage or is or becomes insolvent;
- d. a hit-and-run vehicle whose operator or owner cannot be identified and which hits or causes an **auto accident** resulting in **bodily injury** without hitting:
 - (1) **you** or any **family member**;
 - (2) a vehicle which **you** or any **family member** are **occupying**;
 - (3) **your covered auto**.

The term **underinsured motor vehicle** does not include a vehicle:

- a. operated on rails or tracks;
 - b. while located for use as a residence or premises; or
 - c. to which the **SECTION I - LIABILITY COVERAGE** of this policy applies. However, this exception to the definition of **underinsured motor vehicle** does not apply to **you** or any **family member** if **you** or any **family member** sustain **damages** while **occupying**, or when struck by, a vehicle for which coverage under **SECTION I - LIABILITY COVERAGE** of this policy applies.
4. "**Phantom vehicle**" means a motor vehicle, which causes **bodily injury**, death, or **property damage** to a **covered person** and has no physical contact with the **covered person** or the vehicle, which the **covered person** is occupying at the time of the **accident**.
 - a. If there is no physical contact with the **phantom vehicle** causing the **auto accident**, the facts of the **auto accident** must be proved. **We** will only accept competent evidence other than the testimony of the **covered person** or any other person having an underinsured motorist claim resulting from the **auto accident**.
 - b. **Phantom vehicle** accidents must be reported to the appropriate law enforcement agency within seventy-two hours of the accident.

EXCLUSIONS

1. **We** do not provide Underinsured Motorist Coverage for **bodily injury** sustained by any **covered person**:
 - a. while operating, or **occupying**, any motor vehicle owned by or available for the regular use of **you** or any **family member** which is not insured for **SECTION I - LIABILITY COVERAGE** under this policy. This includes a **trailer** of any type used with that vehicle;
 - b. when **your covered auto** is being used to carry persons or property for a fee. This exclusion does not apply to a share-the-expense car pool;
 - c. while operating or **occupying** a motorcycle or motor driven cycle;
 - d. using a vehicle without a reasonable belief that:
 - (1) the person is entitled to do so; and
 - (2) the person is using the vehicle within the scope of the permission granted;
 - e. during participation in any organized or agreed upon racing or speed contest or demonstration, or in practice or preparation for any such contest;
 - f. if **we** can demonstrate that the **covered person** intended to cause the **bodily injury** for which underinsured motorists coverage is sought.
2. This coverage shall not apply to the benefit of any insurer or self-insurer under any workers compensation or similar law.
3. **We** do not provide Underinsured Motorist Coverage for punitive or exemplary damages.

LIMITS OF LIABILITY

Split Limit

The limit of liability shown in the Declarations for each person for Underinsured Motorists Coverage is **our** maximum limit of liability for all **damages** for **bodily injury** sustained by any one person in any one **auto accident**. Subject to this limit for each person, the limit of liability shown in the Declarations for each occurrence for Underinsured Motorists Coverage is **our** maximum limit of liability for all **damages** for **bodily injury** resulting from any one **auto accident**.

This is the most **we** will pay regardless of the number of **covered persons**, claims made, vehicles or premiums shown in the Declarations, vehicles involved in the **auto accident** or policies issued to **you** by **us**.

Any amounts otherwise payable for **damages** under this coverage, which the **covered person** is legally entitled to recover from the owner or operator of an **underinsured motor vehicle** because of **bodily injury** caused by an **auto accident** shall be reduced by:

1. All sums paid because of **bodily injury** by or on behalf of persons or organizations who may be legally responsible. This includes all sums paid under the **SECTION I - LIABILITY COVERAGE** of this policy.
2. Any amount payable for **damages** under this insurance will be reduced by any amount a **covered person** may be paid under **PERSONAL INJURY PROTECTION** Insurance, provided the **covered person** is fully compensated for all **damages**.

Any payment under this section to or for a **covered person** will reduce any amount that person is entitled to recover under **SECTION I - LIABILITY COVERAGE** of this policy.

OTHER INSURANCE

If there is other applicable similar insurance available under more than one policy or provision of coverage:

1. Any recovery for **damages** for **bodily injury** sustained by a **covered person** may equal but not exceed the higher of the applicable limit for any one vehicle under this insurance or any other insurance.
2. Any insurance **we** provide with respect to a vehicle **you** do not own shall be excess over any other collectible insurance.
3. **We** will pay only **our** share of the **loss**. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits.

ARBITRATION

If **we** and a **covered person** disagree whether the **covered person** is legally entitled to recover **damages** from the owner or operator of an **underinsured motor vehicle** because of **bodily injury**, or do not agree as to the amount of **damages**, then the matter may be arbitrated. However, disputes concerning coverage under this endorsement may not be arbitrated. Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree on the third arbitrator within 30 days, either may request that selection be made by a judge of a court having jurisdiction or a Mediation Service Company.

We will pay all arbitration expenses. Arbitration expenses do not include attorney fees or expenses incurred in the production of evidence or witnesses or the making of transcripts.

Unless both parties agree otherwise, arbitration will take place in the county in which the **covered person** lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding as to whether the **covered person** is legally entitled to recover **damages** and the amount of **damages**.

ADDITIONAL DUTIES

If a **covered person** seeks underinsured motorists coverage under this section, and he or she was an intended victim of the tort-feasor, the incident must be reported to the appropriate law enforcement agency and the **covered person** must cooperate with any related law enforcement investigation.

SECTION V – GENERAL PROVISIONS

The policy provision **OUR RIGHT TO RECOVER PAYMENT**, is amended as follows:

We shall be entitled to a recovery only after the **covered person** has been fully compensated. **Our** rights do not apply under Paragraph 5a. or b. with respect to Underinsured Motorist Bodily Injury Coverage if **we**:

1. have been given prompt written notice of a tentative settlement between a **covered person** and the insurer of an **underinsured motor vehicle**; and

2. fail to advance payment to the **covered person** in an amount equal to the tentative settlement within a reasonable time after receipt of notification.

If **we** advance payment to the **covered person** in an amount equal to the tentative settlement within a reasonable time after receipt of notification:

1. that payment will be separate from any amount the **covered person** is entitled to recover under the provisions of Underinsured Motorist Coverage.
2. **We** also have a right to recover the advanced payment.

PAYMENT OF LOSS

Any amount due hereunder is payable:

1. to the **covered person**, or
2. if the **covered person** is a minor, to his parent or guardian, or
3. if the **covered person** is deceased, to his surviving spouse, otherwise
4. at **our** option, to the person authorized by law to receive such payment.