

R-1: “Ask a Regulator”

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Current/Recent Issues

- Increased Minimum Auto Liability Limits Bill
- Court Decisions
- Med Mal Capacity Study
- Usage-Based Insurance
- Non-Traditional Rating Approaches

Increased Minimum Auto Liability Limits Bill

- Senate Bill 1339 introduced
- Tabled 11/15/2011 but further investigation pending
- 15/30/5 to 30/60/10
- Insurance Department testified against bill
- Insurance Department was requested to promulgate data call to assess impact
- Data call sent to top 20 auto insurers and select other insurers who write high volume of minimum limits policies. Due date 03/09/2012.

Court Decisions

- Corbin v. Khosla

The PA Supreme Court held that, under the Motor Vehicle Financial Responsibility Law, an uninsured driver that is hit by an at-fault third party may recover economic damages (i.e. medical bills/wage loss) from the at-fault party by virtue of being deemed to have elected “limited tort” under the law.

Court Decisions

- Heller v. PA League of Cities and Municipalities

Invalidated an exclusion from UIM coverage for persons eligible to receive WC benefits. The PA Supreme Court found that the clause violated public policy and was unenforceable. In addition, the Court held that the clause violated the priority of recovery between UM/UIM and WC under applicable law and frustrated the WC carrier's right to subrogate against the UM/UIM coverage.

Court Decisions

- American and Foreign Insurance Co. v. Jerry's Sport Center, Inc.

Some states permit an insurer to recoup defense costs when it is ultimately determined that there is no covered claim implicated in the case, provided that the insurer issued a reservation of rights letter. The PA Supreme Court held that, regardless of any reservation of rights letter, an insurer can't recoup defense costs unless there is language in the policy providing a right of reimbursement.

Med Mal Capacity Study

- Current Basic Coverage Limits:
 - Physicians generally \$500K/\$1,500K
 - Hospitals \$500K/\$2,500K
- Per Act 13 of 2002, there's been a capacity study every two years since 2005. Industry data call.
- Result: Limits unchanged since 2003.
- Next study: Spring, 2013.

Usage-Based Insurance

- Approved for one group so far
- Full disclosure of rating values
- Underwriting criteria (new business time) not filed but can't lose discount. No surcharges.
- Approved: After initial discount, re-evaluate at renewal, receive greater of 2 discounts.

Non-Traditional Rating Approaches

- Increased Number of Rating Territories
- By-Peril Rating
- Increased Number of Tiers
- Complex Rating Variables