

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.20 – CANCELLATION OF, OR REFUSAL TO RENEW AUTOMOBILE INSURANCE POLICIES

DOCKET NO. 18-0120-1701

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho Code Section 41-2502 requires that insurers offer uninsured and underinsured auto coverage to Idaho consumers and also provides that a consumer can reject such coverage in writing when the policy is first purchased. Subsection (3) of this section also provides that the insurer provide a statement approved by the Director of the Department of Insurance explaining both types of coverage and the types of underinsured coverage that might be available in Idaho. The department fulfilled this directive initially by publishing Bulletin 08-08. Recently there has been discussion about whether consumers are adequately protected under the status quo. In 2017, there were three bills (H0163, S1048, and S1078) that considered proposing amendments to Idaho Code Sections 41-2502 or 41-2503 (the latter section containing definitions). Legislators suggested that the Director meet with industry to consider alternatives that might better serve Idahoans. Pursuant to negotiated rulemaking, a public meeting was held and written comments were received resulting in this proposed rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2017, Idaho Administrative Bulletin, [Volume 17-7, p. 62](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom Donovan, tom.donovan@doi.idaho.gov (208) 334-4214.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered either by hard copy or via email to the same email address for questions set forth above on or before September 27, 2017.

DATED this 2nd day of August, 2017.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720, Boise, ID 83702-0043
Phone: (208) 334-4250 / Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0120-1701
(Only Those Sections With Amendments Are Shown.)

IDAPA 18
TITLE 01
CHAPTER 20

18.01.20 - ~~CANCELLATION OF, OR REFUSAL TO RENEW~~ AUTOMOBILE INSURANCE POLICIES

000. LEGAL AUTHORITY.

Title 41, Chapter 25, Idaho Code; Title 67, Chapter 52, Idaho Code.

(7-1-93)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as Idaho Department of Insurance Rules, IDAPA 18.01.20, "Automobile Insurance Policies." ()

~~012.~~ **012. Purpose.** The purpose of this Rule is to provide guidelines that will assist in the implementation and uniform interpretation of the following Sections of the Idaho ~~Insurance Laws that were recently enacted by the Fortieth Session of the Idaho State Legislature and which became effective May 26, 1969, at 8 pm~~ Code. (7-1-93) ()

a. Section 41-2506 - Cancellation of Policies - Definitions. (7-1-93)

b. Section 41-2507 - Cancellation of Policies - Grounds. (7-1-93)

c. Section 41-2508 - Notice of Cancellation or Intention not to Renew. (7-1-93)

d. Section 41-2509 - Cancellations and Non-Renewals - Exceptions. (7-1-93)

e. Section 41-2502 – Uninsured motorist and underinsured motorist coverage for automobile insurance – Exceptions. ()

~~002. 003.~~ (RESERVED)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. ()

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General - General Provisions." ()

004. INCORPORATION BY REFERENCE.

No documents are incorporated in this chapter of rule. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ()

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. ()

04. Web Site Address. The department's website is <http://www.doi.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with this rule are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, as well as applicable exemptions. ()

~~0057.~~ -- ~~0409.~~ (RESERVED)

~~00410.~~ DEFINITIONS.

The Idaho Department of Insurance adopts the definitions set forth in Title 41, Chapter 25, Idaho Code. In addition, the following terms are defined as used in this chapter. ()

01. The Act. For the purpose of this Rule, the term "the Act" shall, unless otherwise noted, refer to Sections 41-2506, 41-2507, 41-2508, 41-2509, 41-2510, 41-2511, 41-2512 of the Idaho Insurance Laws, otherwise known as the Insurance Code. (7-1-93)

~~02. Section 41-2506 Terms.~~ *The terms defined under Section 41-2506 of the Insurance Code shall bear the same meaning when used in this Rule.* (7-1-93)

032. Non-Payment of Premium. The provisions of Section 41-2506(1)(d), Definitions - Non-Payment of Premium, shall be interpreted as follows: Non-Payment of Premium shall mean the failure of the named insured, or his legal representative, to discharge when due any of his obligations in connection with the payment of any premiums or installment premiums on a policy as defined in the Act, or any membership fees due an association or organization, other than an insurance association or organization, which by its by-laws requires the payment of such membership fees by the member prior to his obtaining or continuing insurance in force through such an association or organization. The term "non-payment of premium" as referred to in the Act shall also apply when the named insured or his legal representative is obligated to pay such premium or membership fee directly to the insurer, its agent or representative, or indirectly under any premium finance plan or extensions of credit. However, if the agent or other representative of the insurer extends credit to the insured, orally or otherwise, and said agent or representative terminates such credit arrangement with the insured because of non-payment, said agent or representative, with the knowledge and consent of the insurer, shall then mail or deliver, or cause to be mailed or delivered, to the named insured or his legal representative written notice of cancellation which states, in effect, that the insurance provided by the policy upon which such credit was granted shall cease on a given time and date. This time and date shall be no earlier than ten (10) days after the date such notice was mailed or delivered, the date of mailing considered to be the first day and the tenth day being considered to be ended at midnight, standard time, at the last known address of the named insured. Nothing in this rule shall be construed to permit any agent or other representative of the insurer to cancel any policy without the concurrence of the insurer or for any private debt between the agent and the insured. Also, nothing in the section shall be construed to prohibit a policy from being canceled effective as of any date that is mutually acceptable to the insured, the insurer and the lienholder, if any. Furthermore, a prior existing policy shall terminate on the effective date of any other policy procured by the insured with respect to any automobile designated in both policies and containing duplicate insurance coverage. (7-1-93)

043. Sixty Day Period. The sixty (60) day period referred to in Subsection (2) of Section 41-2506, CANCELLATION OF POLICIES - DEFINITIONS, is intended to provide to insurers a reasonable period of time, if desired, to thoroughly investigate a particular risk while extending coverage during the period of investigation. Should an insurer, after such investigation, conclude that it does not wish to remain on the risk, it may decline to

continue such policy in force provided that its action conforms with the provisions of Section 41-2506(2) of the Act. Therefore, the provisions of this section shall be interpreted to mean that an insurer may deliver notice of cancellation or mail notice of cancellation concerning any new automobile policy on or before the sixtieth (60th) day after inception date of the policy, the inception date being considered to be the first day and the sixtieth (60th) day being considered to be ended at midnight, standard time, at the last known address of the named insured. The policy shall thus remain in force from the date the notice of cancellation is mailed to the usual date the cancellation is effective as required by the terms and conditions of the policy, without the policy being considered to be subject to the provisions of the Act. For the purpose of this rule, the term "inception date" shall mean that date and time that the policy goes into effect and the protection furnished by the policy commences. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

016. STANDARD STATEMENT REGARDING UNINSURED AND UNDERINSURED MOTORIST COVERAGE.

The form set forth below is the standard statement approved by the director of the department of insurance pursuant to Section 41-2502, Idaho Code, and carriers must begin using the new form no later than January 1, 2019. Carriers may make non-substantive changes to this form, for example, including inserting company letterhead, and carriers must file their standard statement forms with the director prior to use. ()

0167. SEVERABILITY.

If any provision of this rule shall be held invalid, the remainder of the rule shall not be affected thereby. (7-1-93)

0178. -- 999. (RESERVED)

APPENDIX A
(UNINSURED/UNDERINSURED MOTORIST DISCLOSURE)

IDAHO UNINSURED MOTORIST AND UNDERINSURED MOTORIST DISCLOSURE -- Do not sign until you read

Idaho law requires that every auto liability insurance policy include **Uninsured Motorist (UM)** bodily injury coverage and **Underinsured Motorist (UIM)** bodily injury coverage, unless a named insured (you) has rejected these coverages in writing, which may be in electronic format.

These coverages can protect you and your passengers by paying damages, up to the UM/UIM policy limits you have chosen, when an at-fault person does not have any or enough liability coverage.

- **UM** coverage may pay damages for bodily injuries caused by an at-fault motorist who has no insurance, or from a hit-and-run vehicle where the at-fault party is unknown.
- **UIM** coverage may pay damages for bodily injuries if the at-fault motorist does not have enough liability insurance to cover your costs. UIM coverage is offered in different types by different insurers, and insurers are not required to offer more than one type of UIM coverage. The most common available type of UIM coverage is "Difference in Limits" (or "Offset") Coverage. Some insurers may offer "Excess" Coverage. **Please refer to the attached examples to see how the different types of UIM coverage may impact your level of protection.**

You have the option to purchase both UIM and UM coverage in varying amounts at or above the minimum liability requirements in Idaho, which are \$25,000 per person, \$50,000 for two or more persons in any one accident. By signing below, you acknowledge that the insurance company has explained the following UM/UIM coverages that are available as part of your policy:

Insurer: _____ **UIM Type:** Difference in Limits (Offset) Excess

I have read the above explanation of Uninsured Motorist and Underinsured Motorist coverages. I understand that I have the option to reject either or both coverages.

Named Insured (print name) **Signature of Named Insured** **Date**

UNINSURED AND UNDERINSURED MOTORIST COVERAGE – OPTION TO REJECT

I understand that, by signing below, I am informing my insurer that I choose to reject the UM/UIM coverage(s) under my automobile liability policy, or under any renewal or replacement of my policy.

I **reject** and **do not** wish to purchase *Uninsured* Motorist Coverage (UM).

Signature of Named Insured (only if rejecting) **Date**

I **reject** and **do not** wish to purchase *Underinsured* Motorist Coverage (UIM).

Signature of Named Insured (only if rejecting) **Date**

This general explanation is NOT an insurance agreement. All auto insurance policies have terms and conditions that control your rights and obligations as a policyholder. For a more detailed explanation of these coverages, refer to your policy, agent or the insurer. The Idaho Department of Insurance can also provide assistance with insurance related questions. Call 800-721-3272 (Idaho only) or 208-334-4250 or visit the Department's website at www.doi.idaho.gov.

	"Difference in Limits" (or "Offset") UIM	"Excess" UIM
Definition of the type of UIM coverage	Your UIM coverage limits are reduced or eliminated by any amounts recovered from another party's insurance.	Your UIM coverage limits are above and beyond what is paid by another party's insurance.

Example 1		
At-fault motorist and you have the same bodily injury/UIM coverage limits		
	"Difference in Limits" (or "Offset") UIM	"Excess" UIM
Bodily Injury liability limit of at-fault motorist	\$25,000	\$25,000
Your Underinsured Motorist (UIM) Coverage limit	\$25,000	\$25,000
Maximum available for your bodily injury	\$25,000	\$50,000
Example 1 explanation	Your UIM coverage doesn't provide additional coverage above the at-fault motorist's coverage because they have the same limit	Your UIM coverage increases the available Bodily Injury coverage above the at-fault motorist's coverage limit

Example 2		
At-fault motorist has lower bodily injury coverage limits than your UIM		
	"Difference in Limits" (or "Offset") UIM	"Excess" UIM
Bodily Injury Liability limit of at-fault motorist	\$25,000	\$25,000
Your Underinsured Motorist (UIM) Coverage limit	\$100,000	\$100,000
Maximum available for your bodily injury	\$100,000	\$125,000
Example 2 explanation	Your UIM coverage covers any deficiency in the at-fault motorist's Bodily Injury coverage, as if the at-fault motorist had Bodily Injury coverage at your UIM limit	Your UIM coverage increases the available Bodily Injury coverage above the at-fault motorist's coverage limit