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TO: Property and Casualty Insurers Offering Motor Vehicle Liability Insurance Policies in Idaho

FROM: William W. Deal, Director

SUBJECT: Household Exclusions and Step-Down Provisions within Motor Vehicle Liability Insurance Policies – Idaho Code § 49-1212

The Idaho Department of Insurance (Department) has received questions from insurers concerning Idaho Code § 49-1212(12), which became effective July 1, 2007. The new subsection states that "[n]o motor vehicle liability policy providing coverage beyond state mandated minimum limits shall provide a reduced level of coverage to any insured's family or household member or other authorized user except as provided in section 41-2510, Idaho Code." In the course of responding to these questions, questions arose concerning the interaction between Idaho Code §§ 49-1212(12), 49-1229 and the Idaho Supreme Court decision in *Farmers Insurance Group v. Reed*, 109 Idaho 849 (1985) (*Reed*).

Idaho Code § 49-1212(12) requires any motor vehicle liability policy coverage above the statutory minimum (set forth in Idaho Code §§ 49-1229 and 49-117(18)) to maintain the same level of coverage for all insureds and those persons explicitly or implicitly given permission to operate the insured vehicle. The type of policy exclusion targeted by Idaho Code § 49-1212(12) provides generally that the insurer will cover designated individuals at the maximum level provided under the policy, while all others are covered up to the minimum level required by the Motor Vehicle Responsibility Act. In other words, the contract states that, unless otherwise designated in the policy, the insured receives the minimum coverage afforded by law. Idaho Code § 49-1212(12) reverses this by stating that unless otherwise designated in the policy as an exclusion pursuant to Idaho Code § 41-2510, the insured receives maximum coverage stated in the policy.

It is also clear that the exclusion authorized in Idaho Code § 49-1212(12) pursuant to Idaho Code § 41-2510 cannot take the form of a blanket household exclusion. In *Reed*, the Idaho Supreme Court invalidated a household exclusion as a violation of Idaho Code § 49-232 (now codified at Idaho Code § 49-1229). In general, household exclusions remove from liability coverage bodily injury to any person related to the insured and

residing in their household or any person related to the operator and residing in the household of the operator.

Property and casualty insurers selling motor vehicle liability insurance policies should review their contracts to make sure they are in compliance with Idaho law. If a property and casualty insurer identifies any of its policies that are not in compliance with Idaho law, please contact the Department to discuss appropriate compliance efforts.

Persons with questions regarding filings affected by this bulletin should contact the Department of Insurance, Rates & Forms Section at (208) 334-4250.