

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UNINSURED MOTORISTS COVERAGE – COLORADO

I. Part C – Uninsured Motorists Coverage

Part C is replaced by the following:

Insuring Agreement

A. We will pay compensatory damages which an "insured" is legally entitled to recover from the owner or operator of an "uninsured motor vehicle" because of "bodily injury":

1. Sustained by an "insured"; and
2. Caused by an accident.

The owner's or operator's liability for these damages must arise out of the ownership, maintenance or use of the "uninsured motor vehicle".

With respect to coverage under Section 2. of the definition of "uninsured motor vehicle", we will pay under this coverage only if 1. or 2. below applies:

1. The limits of liability under any bodily injury liability bonds or policies applicable to the "uninsured motor vehicle" have been exhausted by payment of judgments or settlements; or
2. A tentative settlement has been made between an "insured" and the insurer of the "uninsured motor vehicle" and we:
 - a. Have been given prompt written notice of such tentative settlement; and
 - b. Advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

B. "Insured" as used in this Part means:

1. You or any "family member".
2. Any other person "occupying" or using "your covered auto".
3. Any person for damages that person is entitled to recover because of "bodily injury" to which this coverage applies sustained by a person described in 1. or 2. above.

C. "Uninsured motor vehicle" means a land motor vehicle or trailer of any type:

1. To which no bodily injury liability bond or policy applies at the time of the accident.
2. To which a bodily injury liability bond or policy applies at the time of the accident but the amount paid for "bodily injury" under that bond or policy to an "insured" is not enough to pay the full amount the "insured" is legally entitled to recover as damages.
3. Which is a hit-and-run vehicle whose operator or owner cannot be identified and which hits or which causes an accident resulting in "bodily injury" without hitting:
 - a. You or any "family member";
 - b. A vehicle which you or any "family member" are "occupying"; or
 - c. "Your covered auto".

If there is no physical contact with the hit-and-run vehicle the facts of the accident must be proved. We will only accept competent evidence other than the testimony of a person making a claim under this or any similar coverage.

4. To which a bodily injury liability bond or policy applies at the time of the accident but the bonding or insuring company:
 - a. Denies coverage; or
 - b. Is or becomes insolvent.
5. Whose owner or operator cannot be located after a reasonable attempt for service of process and either:
 - a. Service of process on the insurer as authorized by COLO. REV. STAT. § 42-7-414 is determined by a court to be insufficient or ineffective after reasonable effort has failed; or

- b. The report of a law enforcement agency investigating the accident fails to disclose the insurer covering the vehicle and the insurance coverage of such owner or operator when the accident occurred is not actually known by the person attempting to serve process.

However, "uninsured motor vehicle" does not include any vehicle or equipment:

1. Owned by or furnished or available for the regular use of you or any "family member" unless it is a "your covered auto" to which Part **A** of the policy applies and liability coverage is excluded for damages sustained in the accident.
2. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer which is or becomes insolvent.
3. Owned by any governmental unit or agency.
4. Operated on rails or crawler treads.
5. Designed mainly for use off public roads while not on public roads.
6. While located for use as a residence or premises.

Exclusions

- A. We do not provide Uninsured Motorists Coverage for "bodily injury" sustained by any "insured":
 1. If that "insured" or the legal representative settles the "bodily injury" claim and such settlement prejudices our right to recover payment. However, this Exclusion (**A.1.**) does not apply to a settlement made with the insurer of a vehicle described in Section **2.** of the definition of "uninsured motor vehicle".
 2. While "occupying" "your covered auto" when it is being used as a public or livery conveyance. This Exclusion (**A.2.**) does not apply to a share-the-expense car pool.
 3. Using a vehicle without a reasonable belief that that "insured" is entitled to do so. This Exclusion (**A.3.**) does not apply to a "family member" using "your covered auto" which is owned by you.
- B. This coverage shall not apply directly or indirectly to benefit any insurer or self-insurer under any of the following or similar law:
 1. Workers' compensation law; or
 2. Disability benefits law.

- C. We do not provide Uninsured Motorists Coverage for punitive or exemplary damages.

Limit Of Liability

- A. The Limit Of Liability shown in the Declarations for each person for Uninsured Motorists Coverage is our maximum limit of liability for all damages, including damages for care, loss of services or death, arising out of "bodily injury" sustained by any one person in any one accident. Subject to this limit for each person, the Limit Of Liability shown in the Declarations for each accident for Uninsured Motorists Coverage is our maximum limit of liability for all damages for "bodily injury" resulting from any one accident.

This is the most we will pay regardless of the number of:

1. "Insureds";
2. Claims made;
3. Vehicles shown in the Declarations; or
4. Vehicles involved in the accident.

- B. No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and Part **A** or Part **B** of this policy.
- C. We will not make a duplicate payment under this coverage for any element of loss for which payment has been made by or on behalf of persons or organizations who may be legally responsible.
- D. We will not pay for any element of loss if a person is entitled to receive payment for the same element of loss under any of the following or similar law:
 1. Workers' compensation law; or
 2. Disability benefits law.

Other Insurance

If there is other applicable insurance available under one or more policies or provisions of coverage that is similar to the insurance provided under this Part of the policy:

1. Any insurance we provide with respect to a vehicle:
 - a. You do not own, including any vehicle while used as a temporary substitute for "your covered auto"; or
 - b. Owned by you or any "family member" which is not insured for this coverage under this policy;

shall be excess over any collectible insurance providing such coverage on a primary basis.

2. Subject to Paragraph 1. above, the loss will be paid in accordance with the following procedure:
 - a. All applicable policies will pay on an equal basis with all other policies providing coverage on the same level of priority, either primary or excess, until the policy with the lowest limit of liability is exhausted.
 - b. If any loss remains and there:
 - (1) Are two or more remaining policies whose applicable limits of liability have not been exhausted, then such policies will continue to pay in accordance with Paragraph a.
 - (2) Is one policy remaining, then such policy will continue to pay until its limit of liability has been exhausted.

Arbitration

- A. If we and an "insured" do not agree:
 1. Whether that "insured" is legally entitled to recover damages; or
 2. As to the amount of damages which are recoverable by that "insured";

from the owner or operator of an "uninsured motor vehicle", then the matter may be arbitrated. However, disputes concerning coverage under this Part 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 within 30 days, either may request that selection be made by a judge of a court having jurisdiction.
- B. Each party will:
 1. Pay the expenses it incurs; and
 2. Bear the expenses of the third arbitrator equally.
- C. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by at least two of the arbitrators will be binding as to:
 1. Whether the "insured" is legally entitled to recover damages; and
 2. The amount of damages.

II. Part E – Duties After An Accident Or Loss

The following is added to Part E:

A person seeking Uninsured Motorists Coverage under Section 2. of the definition of "uninsured motor vehicle" must also promptly notify us in writing of a tentative settlement between the "insured" and the insurer of the "uninsured motor vehicle" and allow us 30 days to advance payment to that "insured" in an amount equal to the tentative settlement to preserve our rights against the insurer, owner or operator of such "uninsured motor vehicle".

III. Part F – General Provisions

Part F is amended as follows:

- A. The following is added to the **Our Right To Recover Payment** Provision:

Our Right To Recover Payment

1. We shall be entitled to a recovery under Paragraph A. or B. for Uninsured Motorists Coverage only after the person has been fully compensated for damages. However, any reimbursement due to us under Paragraph B. shall be reduced by our proportionate share of attorney fees and expenses incurred in bringing the claim.
2. Our rights do not apply under Paragraph A. with respect to coverage under Section 2. of the definition of "uninsured motor vehicle" for Uninsured Motorists Coverage if we:
 - a. Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of an "uninsured motor vehicle"; and
 - b. Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification:

- a. That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Uninsured Motorists Coverage; and
- b. We also have a right to recover the advanced payment.

B. The following is added to the **Two Or More Auto Policies** Provision:

Two Or More Auto Policies

1. This provision does not apply to Uninsured Motorists Coverage.

2. No one will be entitled to receive duplicate payments for the same elements of loss under Uninsured Motorists Coverage.