

Bulletin No. 96-02

In the matter of auto insurance: named non-owner endorsement or extended non-owned endorsement

Issued and entered June 25, 1996 by D. Joseph Olson, Commissioner of Insurance

INFORMATIONAL STATEMENT ISSUED PURSUANT TO ACT 306 OF THE PUBLIC ACTS OF 1969 AS AMENDED

A named non-owner coverage endorsement to a Michigan no-fault auto insurance policy provides auto liability coverage for someone who does not own an automobile but has an automobile(s) owned by someone else available for his or her use. An extended non-owned coverage endorsement to a no-fault auto insurance policy provides auto liability coverage to a driver of a non-owned vehicle(s) used for business purposes.

When attached to a no-fault policy, these endorsements provide only residual liability coverage and provide such coverage only to the person named in the endorsement and his or her spouse. The other mandatory no fault coverages, personal protection insurance (PIP) and property protection insurance (PPI), as well as physical damage coverage are not provided by these endorsements. The endorsements also exclude coverage for resident relatives other than the insured's spouse.

Section 500.3101(1) of Michigan's no-fault auto insurance law requires owners and registrants of motor vehicles required to be registered in this state to maintain security for payment of benefits under personal protection insurance, property protection insurance and residual liability insurance. Section 500.3101(2) defines an "owner" as any of the following:

- - (i) A person renting a motor vehicle or having the use thereof, under a lease or otherwise, for a period that is greater than 30 days.
 - (ii) A person who holds the legal title to a vehicle, other than a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle pursuant to a lease providing for the use of the motor vehicle by the lessees for a period that is greater than 30 days.
 - (iii) A person who has the immediate right of possession of a motor vehicle under an installment sale contract.

Chapter 21 of the Code defines an "eligible person" for automobile insurance as "a person who is an owner or registrant of an automobile registered or to be registered in this state or who holds a valid Michigan license to operate a motor vehicle..." [emphasis added] and defines "auto insurance" as "insurance for private passenger non-fleet automobiles which provides any of the following:

- - (a) Security required pursuant to Section [500.]3101.
 - (b) Personal protection, property protection, and residual liability insurance for amounts in excess of the amounts required under Chapter 31.
 - (c) Insurance coverages customarily known as comprehensive and collision.
 - (d) Other insurance coverages for a private passenger non-fleet automobile as prescribed by rule promulgated by the commissioner pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws..."

Also in Chapter 21, Section 500.2118(1) states, "... an insurer shall not refuse to insure, refuse to continue to insure or limit coverage available to an eligible person for automobile insurance except in accordance with underwriting rules established pursuant to this section and Sections 2119 and 2120." [emphasis added]

The named non-owner and extended non-owned endorsements, when issued to an individual who is not an "owner" as defined, are not auto insurance under Chapter 21. Therefore, insurers may issue named non-owner or extended non-owned endorsements to applicants with coverage limited to residual liability as required by Section 500.3009(1) which states:

- - "An automobile liability or motor vehicle liability policy insuring against loss resulting from liability imposed by law for property damage, bodily injury, or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall not be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless the liability coverage is subject to a limit exclusive of interest and costs, of not less than \$20,000.00 because of bodily injury or death of 1 person in any 1 accident, and subject to that limit for 1 person, to a limit of not less than \$40,000.00 because of bodily injury to or death of 2 or more persons in any 1 accident, and to a limit of not less than \$10,000.00 because of injury to or destruction of property of others in any accident.

Insurers should keep in mind that a person with a valid Michigan license "renting a motor vehicle or having the use thereof, under a lease or otherwise for a period that is greater than 30 days" is, by the above definitions in Chapters 31 and 21 of the Code, both an "owner" and an "eligible person." Such persons, therefore, are required to have and should not be denied a no-fault policy which includes personal protection insurance (PIP) and property protection insurance (PPI) as well as any other auto insurance policy or product that the insurer makes available to any eligible person who owns a motor vehicle.

Insurers should also note that Section 3101(3) of the Code states:

- - "Security may be provided under a policy issued by an insurer duly authorized to transact business in this state which affords insurance for the payment of benefits described in subsection (1). A policy of insurance represented or sold as providing security shall be deemed to provide insurance for the payment of the benefits."

Therefore, insurers would be well advised to clearly indicate to the policyholder when issuing a policy containing a named non-owner or extended non-owned endorsement or any policy providing a similar type of coverage which does not contain the PIP and PPI coverage, that the policy or endorsement does not meet the requirements for no-fault coverage. This may help to avoid circumstances in which the insurer may be liable to pay PIP and PPI benefits when a premium for such coverage was not received.

Any questions regarding this bulletin should be directed to:

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