

TECHNICAL ADVISORY

INDEPENDENT INSURANCE AGENTS OF LOUISIANA

TA 122

July 8, 1998

SUBJECT: Act 1476 - No Pay No Play
Uninsured Motorists Selection Form Issues

BACKGROUND: Act 1476, the No Pay No Play law, substantially changed legal provisions related to Uninsured and Underinsured Motorists Bodily Injury (UMBI) coverage. The law had no impact on Uninsured Motorist Property Damage coverage and had three primary UM provisions:

1. The Louisiana Department of Insurance (LDI) was required to promulgate a UM selection form which must be used on all automobile insurance policies.
2. Signature of the new LDI UM selection form would establish a rebuttable statutory presumption that the insured made an informed UM selection.
3. Insurance companies would be allowed to offer an economic only UM coverage with a minimum 20 percent reduction from current uninsured and underinsured motorist coverage.

These changes will have a profound impact on independent agents. This Technical Advisory is designed to provide you with information necessary To develop new UM procedures in your agency.

MAIN POINTS:

1. The new LDI "Uninsured/Underinsured Motorist Bodily Injury Coverage Form" is enclosed. This form must be used on all new and renewal policies, effective on or after September 6, 1998. When signed by the named insured, this form shall be conclusively presumed to become part of the policy when issued and delivered. The prescribed UM form is required by law to be used with all automobile insurance policies delivered or issued for delivery in Louisiana. For identification purposes, the company name must be placed in the lower left hand corner and the policy number in the lower right hand corner of the form. Failure to secure a completed UM form will result in the policy providing full Uninsured Motorist Bodily Injury (UMBI) coverage at the same limits as bodily injury liability coverage.
3. The prescribed LDI UM form has five selection options. Only one Option can be selected and initialed by the named insured. Agents should be extremely cautious in providing advice to customers about which selection

should be made. Agents would be well served to use the language in the form as the basis for explanation to minimize any errors and omissions claims against the agent.

(1) Option 1 is traditional full UMBI coverage at limits equal to bodily injury liability coverage. Please note that “Economic Losses” and “Non-Economic Losses” are both defined in the form. In explaining the differences between UMBI and Economic Only UMBI, agents should use these definitions as the basis of the explanation.

(2) Option 2 is traditional UMBI coverage at limits lower than bodily injury liability coverage. Agents must be careful to provide the appropriately chosen reduced limits in the spaces provided under Option 2. The Louisiana Department of Insurance (LDI) has suggested that

Combined Single Limits (CSL) should be indicated on the form by inserting the appropriate CSL limit in both the “each person” and “each accident” spaces provided.

(3) Option 3 is Economic Only UMBI coverage at limits equal to bodily injury liability coverage. Agents must take care to use the definition of Economic Losses provided in the form to highlight the limitations of this option. The definition of Non-Economic Losses should be used to describe coverage which will not be provided by the selection of Option 3. Insurance companies have the option whether or not they want to offer Economic Only UMBI coverage. Companies which do not offer the Economic Only UMBI coverage will most likely indicate on Options 3 and 4 that the coverage is not available.

(4) Option 4 is the Economic Only UMBI coverage with limits lower than bodily injury liability coverage. Agents should once again be very careful to explain the exclusion of Non-Economic Losses under this selection. In addition, agents should be careful to properly identify the appropriately chosen reduced limits in the spaces provided. The Louisiana Department of Insurance (LDI) has suggested that Combined Single Limits (CSL) should be indicated on the form by inserting the appropriate CSL limit in both the “each person” and “each accident” spaces provided. Insurance companies have the option whether or not they want to offer Economic Only UMBI coverage. Companies which do not offer which do not offer the Economic Only UMBI coverage will most likely indicate on Options 3 and 4 that the coverage is not available.

(5) Option 5 is the total rejection of UMBI coverage. Agents should Be extremely careful to explain to the insured that this option rejects all coverage for uninsured and underinsured motorist coverage.

Courts have a long history of invalidating UM selection forms which are not “properly” completed. Agents should guide customers through the process, but the customers should initial, sign and date the UM form themselves.

Agents should make sure that the appropriate policy number and Company name are properly completed on the form if the company has not already done so. The agent must also make sure that the UM form is properly transmitted to the company in a timely fashion.

3. The statement at the bottom of the UM form, just over the signature, states that the UM selection will be valid until the insured makes a written request for a change in UM coverage. The new statute and new UM selection form theoretically eliminates the need to complete a new UM selection form every time a change is made in the policy. The question is, will the Louisiana courts uphold this provision, or will they deem every change to create a new contract of insurance as they have in the past?

4. Securing new UM selection forms on all auto policies, effective on or after September 6, 1998, will create significant challenges to the insurance industry. Agents will play a significant role in the process as insureds question the new UM form. Discussions within the industry indicate that most insurance companies will send a new UM selection form with direct bill renewal premium notices on business effective on or after September 6, 1998. Some companies have indicated that they will do mass mailings to insureds separate from the renewal process. Agents will most likely be responsible to get the new UM selection form completed with new policies, policy changes and agency bill renewals. Agents should begin contacting companies now to determine how new UM selection forms will be handled on all new and renewal business, effective on or after September 6, 1998.

5. There will inevitably be insureds who do not complete and return the new UM selection form by their new or renewal effective date on or after September 6, 1998. Policies without a valid LDI UM selection form will provide full UMBI coverage at bodily injury liability coverage limits. Insurance companies will be forced to charge additional premiums for UMBI coverage, and insureds will be forced to pay the premium, sign the UM selection form or the policy will be canceled for non-payment of the additional premium. Agencies should establish procedures to deal with the UM selection process and the inevitable confusion which will result from this massive conversion of UM selection forms.

**NECESSARY
ACTION:**

Contact your insurance companies to determine how they will handle the UM selection process for new and renewal policies effective on or after September 6, 1998. Develop agency procedures for advising customers and completing the UM selection process. Train agency personnel on the proper UM selection procedures.