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TECHNICAL ADVISORY

TA 270

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SUBJECT: AAA Insurance Company – Personal Auto Policies Limitation of Limits for Permissive Users

BACKGROUND: IIABL recently discovered that the AAA Insurance Company has a limitation of liability limits for permissive users under their private passenger automobile policy. IIABL contacted AAA to see if they would be willing to eliminate this limitation, since they appear to be the only independent agent company in Louisiana with this limitation. AAA indicated that they have this limitation in all of their policies countrywide unless it is prohibited by state law. IIABL also reviewed this limitation with Insurance Commissioner Jim Donelon and his staff. Although Commissioner Donelon expressed concern about the limitation, he did not believe that he had statutory authority to revoke approval of the form. Commissioner Donelon and IIABL agreed to work together to try to clarify the law during the 2009 legislative session to eliminate this type of limitation.

MAIN POINTS: The AAA Insurance Company includes a definition of “Covered person” on page 4 of their personal automobile policy. Under “Part A – Liability Coverage”

“Covered person” as used in this Part means:

- 1. You or any household member for the ownership, maintenance or use of any auto or trailer;**
- 2. Any person other than those identified in paragraph 1 using your covered auto with your express or implied permission. The limits of liability for this person shall be equal to the minimum limits of liability specified by the financial responsibility law of the state in which the accident occurs.**

The underlined part of section 2 reduces any higher limits of liability to the minimum financial responsibility limits for permissive users.

It is important to note that section 1 provides full limits of liability to the named insureds and any household members for any auto. Your policyholders are covered to full limits.

The potential concern is that policyholders and permissive users may not understand that the permissive user is only covered for minimum limits. If the permissive user has their own auto policy, their coverage would be excess over the minimum limits of the AAA policy.

In an effort to provide clear notification to the policyholder, AAA does include a notice in the "Important Messages" section of the declaration page stating: THIS POLICY PROVIDES ONLY THOSE LIMITS REQUIRED BY LAW FOR PERSONS WHO BECOME INSURED SOLELY BECAUSE THEY HAVE PERMISSION OR GENERAL CONSENT TO USE THE DESCRIBED AUTO, AND THOSE LIMITS MAY BE LESS THAN THOSE SHOWN IN THE COVERAGES, LIMITS AND PREMIUM INFORMATION SECTION OF THIS DECLARATION CERTIFICATE.

NECESSARY

ACTION: Please make sure that all agency personnel who handle AAA automobile insurance policies are fully aware of this coverage limitation. Implement procedures to explain this limitation to all customers who receive AAA auto quotes. Consider sending a written notice to all existing AAA auto policyholders advising them of this permissive user limitation with an offer to further explain and replace coverage if necessary.