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Attention Non-Personal Injury Lawyers: Go Look at Your Own Car Insurance Now!

After being an insurance agent for about a decade and then a plaintiffs personal injury attorney for even longer, I am convinced underinsured motorists-bodily injury (UIM as insurance insiders call it) is the most important coverage on your car insurance policy.

By **Joseph Chapman** | November 05, 2021



You need to hear about the most important coverage on your car insurance policy. You have tremendous financial value to your family. Can I convince you of a critical way to protect that value? After being an insurance agent for about a decade and then a plaintiff's personal injury attorney for even longer, I am convinced underinsured motorists-bodily injury (UIM as insurance insiders call it) is the most important coverage on your car insurance policy.

Why would you let someone else choose how much money your family has as a resource if you are seriously injured, or worse, in a car crash? This lesson was driven home for me early in my career. A young husband and father was doing some road work. He had set up cones on the street to indicate traffic flow. He had set the last cone and was headed back to his car. A young woman on her way to a college class was texting while driving and drove right through the cones. She hit him and killed him. He left behind a young wife who was staying home with their two children under 10. He was very healthy. He made a decent living. The damages a jury would be able to see were enormous. But it became an insurance tragedy. The woman had \$15,000 of coverage, and my client's husband had \$100,000 of UIM coverage. Focus in on that last bit with me: \$100,000 of UIM coverage. There was nowhere else to go, and the coverage became the value of the case. Learning about UIM coverage allows you, dear reader, to avoid an insurance tragedy.

What is underinsured motorists-bodily injury coverage? Let's set the table for how this works. Premise: another driver hits and hurts you, and it is his fault.

Attorneys know about damages. Injury damages after a car crash are: medical expenses (either out of pocket or ones you must pay back), lost income, and pain and suffering. The tortfeasor, as we will call him, can legally have as little as \$15,000 to pay for all three of those damages categories. The tortfeasor's insurance company will pay from their bodily injury coverage. The guy who hit and hurt you may have higher limits and everything will be fine, but he may not. Pennsylvania only requires the other driver to have \$15,000 of bodily injury coverage. You have bodily injury coverage on your policy, but it plays no role in this situation. (Or does it? See its importance *infra*.)

Underinsured motorists-bodily injury is the coverage which takes over when the tortfeasors' coverage cannot fully compensate for injuries after a crash. This only has to do with your personal injuries. UIM can pay for medical bills, lost income, and pain and suffering. It does nothing to replace or fix your car.

Medical bills can be a problem after a wreck. When you are hurt in a car crash, regardless of who is at fault, normally your own car insurance company pays for medical expenses before anyone else. If you fall asleep and run off the road into a tree, your own car insurance pays first. If someone else caused the wreck, your own car insurance company pays first. If you have health insurance, your own car insurance company pays first. Your own Pennsylvania auto policy is required to provide at least \$5,000 of coverage for medical bills. If your health insurance company pays for the bills after you exhausted the car insurance medical benefit, it is likely the health insurer will have a right of reimbursement against your claim in the form of a medical lien. Unless your case is resolved at trial, payment for out of pocket medical bills and medical liens gets lumped in with a general settlement. Those damages can generally be paid from the Underinsured Motorists-Bodily Injury coverage, after a tortfeasor's Bodily Injury coverage has been exhausted.

You need to replace your income if you cannot work. There is no requirement that you buy income loss coverage on your own car insurance policy. If purchased, most policies max out at paying \$5,000 per month with a total payout capped at \$100,000. If you cannot work for two years, things could get sticky just replacing your income. If you are killed and your family is bringing a survival action and wrongful death action, they can recover for your past lost income and future loss of earnings. Where is the money going to

come from? First, it can come from your own policy and then there is the \$15,000 of bodily injury from the tortfeasor. The important answer is often, income replacement comes from your own underinsured motorists coverage.

Less tangible harm in the form of pain and suffering is significant. It drives the value of a claim. For someone who is alive and injured, it is easy to understand. It is how you feel. It is the way how you feel affects your work. It is the way you feel when you try to bend down to pick up your child, and the pain in your back stops you. It is the embarrassment of being a young person who has to use a walker while their fractured hip knits back together. It is the loss of privacy while you wear a hospital gown with an open back or use a bedside commode. It is being able to run three and half miles one day, and the next day just to walk is so painful and exhausting you have to rest at the end of your driveway before you go back to the house after getting the mail.

Underinsured motorists coverage also pays for wrongful death claims. It responds to a loved one's loss who would have relied on you for some financial support. UIM can also compensate them for the loss of guidance and instruction you would have offered. This also includes comfort and the time you would have spent together but cannot because of the actions of a tortfeasor. Setting aside the difficulty of assigning a dollar figure to those losses, UIM coverage you buy now is intended to address those claims converted to dollars.

You buy underinsured motorists coverage in a particular way. Pennsylvania tied UIM coverage to a required coverage. The UIM coverage shown on the declaration page can never be in excess of your own bodily injury coverage. Your bodily injury coverage pays when you cause harm to someone else's person. To get a decent amount of UIM coverage, you must buy good bodily injury coverage. You can also "stack" your UIM coverage. To determine the amount of UIM, multiply the stated coverage, such as \$500,000, by the number of vehicles insured on your policy. So, if your declarations show stacked UIM of \$500,000 for two vehicles, your limit is actually \$1 million. In that scenario, you would only need to buy bodily injury coverage of \$500,000, keeping your premium under control yet getting a million dollars of UIM coverage. That is not too much coverage for a lawyer who might have a mortgage, spouse, kids and other financial responsibilities.

There are advantages to bringing the claim to your own insurer. Negotiate your injury claim with your own insurance company from a position of strength. While the tortfeasor's insurance company owes responsibilities to him, your insurance company owes duties to you. When your own insurance company adjusts a UIM claim, it must consider your interests over its own or risk a bad faith claim which is both statutory and contractual in nature.

There are pitfalls to navigate when buying UIM coverage. You can avoid problems which have caused an entire body of law to arise surrounding claims for UIM coverage.

- Do not waive underinsured motorists coverage;
- Do not reduce the stated UIM coverage below your selected bodily injury coverage;
- Do not unstack your UIM coverage, even if you only have one vehicle.

I spend much of my time helping clients work through UIM claims. My experience is that both the general public and my lawyer friends can benefit from appreciating the value and importance of underinsured motorists coverage before something bad happens.

Joseph Chapman, a litigator at *McNees Wallace & Nurick*, spends most of his time working for people who were hurt by others. His practice focuses on personal injury and litigation. Contact him at jchapman@mcneeslaw.com.

