

September 26-29, 2024 | Sheraton Boston Hotel



09/28/2024

**Your Questions, Our Answers -
Massachusetts Personal Automobile Coverage**

11:15 AM - 12:15 PM

Irene Morrill

1 CEU

Sponsored by MAPFRE Insurance

Your questions, our answers Massachusetts Personal Auto



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with
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Massachusetts Association of Insurance Agents

This program is designed to provide accurate and authoritative information in regard to the subject matter covered. It is provided with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.

With special thanks to the Automobile Insurers Bureau for advance information, continued support, and permission to use their forms and information.



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UM/UIM and excluded operators

Could an insured's child collect UM/UIM coverage if they are excluded as a driver on the parents' auto policy?



3

UM/UIM and excluded operators

The insured is “required” to identify all customary operators as well as “household members” on the application

Application states:

Furnish information for the applicant and each individual who customarily operates the auto(s) whether or not a household member. Your failure to list a household member or any individual who customarily operates your auto may have very serious consequences.

Renewal application states:

Your failure to list a household member or any individual who customarily operates your auto may have very serious consequences.



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UM/UIM and excluded operators

ALL household members MUST be listed

A household member is then either rated, deferred or Excluded

- D – Deferred**
- O – Occasional Rate**
- P – Principal rate**
- E – Excluded**



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UM/UIM and excluded operators

The 2008 operator exclusion endorsement states the excluded operator drives then company can deny ALL optional coverages and restrict Parts 3 and 4 to what is required to be offered per MA law which means

Part 3 20/40
Part 4 \$5,000

If excluded operator doesn't drive the vehicles from which they are excluded then the exclusion doesn't apply



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MASSACHUSETTS ENDORSEMENT - M-0106-S

Operator Exclusion Form

It is agreed that the person named below will not operate the vehicle(s) described below, or any replacement thereof, under any circumstances whatsoever.

Excluded Operator _____

Vehicle Description _____

Vehicle Description _____

I am aware that under the terms of my Massachusetts Automobile Insurance Policy, if I, or someone on my behalf, provide false, deceptive, misleading or incomplete information in any application or policy change request, and if such false, deceptive, misleading or incomplete information increases the company's risk of loss, the company may refuse to pay claims under any or all of the Optional Insurance Parts of this policy. Such information includes the description and the place of garaging of the vehicles to be insured, the names of all household members and customary operators required to be listed and the answers given for all listed operators. Payments under Parts 3 and 4 may also be limited to those amounts that the company is required to sell.

In addition, I am aware Massachusetts law requires that the company withhold payment of a Collision or Limited Collision loss if the insured auto is being operated by a household member who is not listed as an operator on my policy. Payment is withheld when the household member, if listed, would require the payment of additional premium on my policy because the household member would be classified as an inexperienced operator or would require payment of additional premium on my policy under the Merit Rating Plan.

Date _____ Policyholder's Signature _____

Date _____ Excluded Operator's Signature _____

[Ed. 04-08]

UM/UIM and excluded operators

The 2017 operator exclusion endorsement also states the excluded operator drives then company can deny ALL optional coverages and restrict Parts 3 and 4 to what is required to be offered per MA law which means
Part 3 20/40
Part 4 \$5,000

If excluded operator doesn't drive the vehicles from which they are excluded then the exclusion doesn't apply



MASSACHUSETTS ENDORSEMENT - M-0106-S

Operator Exclusion Form

It is agreed by the insurance company, the policyholder, and the person named below (the Excluded Operator) that the Excluded Operator will not operate the vehicle(s) described below, or any replacement thereof, under any circumstances whatsoever.

Excluded Operator _____

Vehicle Description _____

Vehicle Description _____

The policyholder and the Excluded Operator understand and agree that the insurance company will not pay under the optional insurance parts of the policy for any injury or damage arising out of the operation or use of the described vehicle(s) by the Excluded Operator.

The policyholder and Excluded Operator understand and agree that this Operator Exclusion Form will continue in full and effect in any subsequent renewal or replacement of the policy until the policyholder and the insurance company withdraw this form in writing.

Date _____ Policyholder's Signature _____

Date _____ Excluded Operator's Signature _____

(Ed. 02-17)

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UM/UIM and excluded operators

Part 3. Bodily Injury Caused By An Uninsured Auto. Sometimes an owner or operator of an auto legally responsible for an accident is uninsured. Some accidents involve unidentified hit-and-run autos. Under this Part, we will pay damages for bodily injury to people injured or killed in certain accidents caused by uninsured or hit-and-run autos. We will pay only if the injured person is legally entitled to recover from the owner or operator of the uninsured or hit-and-run auto. We will pay for hit-and-run accidents only if the owner or operator causing the accident cannot be identified. Sometimes the company insuring the auto responsible for an accident will deny coverage or become insolvent. We consider such an auto to be uninsured for purposes of this Part. However, we do not consider an auto owned by a governmental unit which is self-insured, or by someone who is legally self-insured, to be an uninsured auto.

We will pay damages to or for:

1. You, while **occupying your auto**, while **occupying** an auto you do not own, or if injured as a **pedestrian**.
2. Any **household member**, while **occupying your auto**, while **occupying** an auto not owned by you, or if injured as a **pedestrian**. If there are two or more policies which provide coverage at the same limits, we will only pay our proportionate share. We will not pay damages to or for your spouse or any **household member** who has an auto policy of his or her own. We will not pay damages to or for anyone who is covered by an auto policy of another **household member** providing uninsured auto insurance with higher limits.
3. Anyone else while **occupying your auto**. We will not pay damages to or for anyone else who has an auto policy of his or her own. We will not pay damages to or for anyone who is covered by an auto policy of another **household member** providing uninsured auto insurance.

Part 12. Bodily Injury Caused By An Underinsured Auto. Sometimes an owner or operator of an auto legally responsible for an accident is underinsured. Under this Part, we will pay damages for bodily injury to people injured or killed as a result of certain accidents caused by someone who does not have enough insurance.

We will only pay if the injured person is legally entitled to recover from the owners or operators of all underinsured autos. Such injured person has a claim under this Part when the limits for auto bodily injury liability insurance covering the owners and operators of the legally responsible autos are:

1. Less than the limits shown for this Part on your Coverage Selections Page; and
2. Not sufficient to pay for the damages sustained by the injured person.

We will pay damages to or for:

1. You, while **occupying your auto**, while **occupying** an auto you do not own, or if injured as a **pedestrian**.
2. Any **household member**, while **occupying your auto**, while **occupying** an auto not owned by you, or if injured as a **pedestrian**. If there are two or more policies which provide coverage at the same limits, we will only pay our proportionate share. We will not pay damages to or for your spouse or any **household member** who has an auto policy of his or her own. We will not pay damages to or for anyone who is covered by an auto policy of another **household member** providing underinsured auto insurance with higher limits.
3. Anyone else while **occupying your auto**. We will not pay damages to or for anyone else who has a Massachusetts auto policy of his or her own. We will not pay damages for anyone who is covered by an auto policy of another **household member** providing underinsured auto coverage.

Under both UM and UIM a household member can be an insured under parents' policy if they don't have a MAP in their own name
Both coverages can apply at limits on parents' policy if excluded operator not driving a vehicle from which he is excluded



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Renting a car and the Canada card

My insured is renting a car in Seattle to take to Canada, can I issue a Canada Card for him



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Renting a car and the Canada card

The company covering the owner of the car is the one that is supposed to issue it ... showing the year make etc. of car on the Canada card.

If you rent from a place on the "border" ...wouldn't they know and have the stuff for you ...



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Renting a car and the Canada card

I wonder if these places "self insure" which would not necessarily meet the requirements of Canada ...

perhaps you should look for a "little guy" rental place ...

that actually buys insurance ...because the BAP covers Canada just as the MAP and PAP.



Renting a car and the Canada card



INTENDING TO DRIVE INTO CANADA?

Obtain and Carry Evidence of Automobile Insurance Coverage Before You Leave

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Too often, U.S. citizens driving into Canada overlook the mandates of Canadian law requiring proof of adequate motor vehicle liability insurance for individuals driving in Canada. Proof that a U.S. driver is covered in Canada is not typically evidenced on the standard "proof of insurance" issued by U.S. insurers.

U.S. travelers planning to drive in Canada must be aware of and comply with Canadian laws requiring drivers to show proof of adequate motor vehicle liability insurance.

Does this mean that an entirely new policy of insurance must be purchased prior to traveling in Canada? Not necessarily.

U.S. automobile insurance companies routinely file with Canadian authorities what is known as a *Canada Non-Resident Inter-Provincial Motor Vehicle Liability Insurance Power of Attorney and Undertaking*, stating that the insurance company protects its insureds that drive their private passenger vehicles in Canada. U.S. companies which have completed this filing can then issue a *Canadian Non-Resident Inter-Provincial Motor Vehicle Liability Card* to their insureds that are driving into Canada for proof of adequate coverage.

Individuals who intend to drive into Canada but do not have a *Canadian Non-Resident Inter-Provincial Motor Vehicle Liability Card* should contact their insurance company to obtain the card and carry it at all times while driving in Canada.

This card serves as evidence of insurance coverage if the traveler is stopped by law enforcement or is involved in an accident while driving in Canada. If a law enforcement official determines that the U.S. driver does not have the requisite non-resident insurance card, the driver is at risk of being fined for driving in Canada without adequate insurance, or even having his or her vehicle impounded until proper coverage is obtained.

Additional specific information may be obtained from the Canadian Council of Insurance Regulators at http://www.cciircera.org/CCIR.com/NEWS%20PAU/index_en.htm.

There may be additional requirements for commercial vehicles and trucks. In particular, the financial responsibility requirements for commercial vehicles vary. If you plan to drive a commercial vehicle in Canada, please contact the individual province or territory for additional information: http://www.cciircera.org/CCIR.com/NEWS%20PAU/commercial_en.htm

This Special Report is not intended to serve as a precise statement of Canadian law pertaining to the non-resident drivers in Canada. The information contained within this article is general in nature and is not intended to serve as specific legal advice. The intent of this article is to make the reader generally aware of certain rules relating to non-resident drivers in Canada.



Renting a car and the Canada card

Canadian Auto ID Cards

Author: Bill Wilson

Q. "I have a customer who is driving into Canada. In the past she's received a Canadian ID card from the insurer, but I recall being told that these are no longer needed as long as you have an ID card with the NAIC code on it. When a U.S. citizen is visiting Canada and driving his or her own vehicle, what proof of insurance must s/he carry? Is the non-resident inter-province card still required?"

A. One of our faculty members posed this question to the Insurance Bureau of Canada in March 2015 and got the following response via email:

A U.S. traveler in Canada is required to carry a motor vehicle liability card, plus vehicle ownership papers. A copy of the automobile policy is recommended to be carried. And a Canadian Non-Resident Inter-provincial Motor Vehicle Liability Card is strongly recommended.

The Canadian Non-Resident Inter-provincial Motor Vehicle Liability Card is proof of that your USA auto policy liability limits meet the minimum requirements for each / all Canadian provinces and territories and that your coverage extends to Canada and its territories.

U.S. travelers who do not carry a Canadian Non-Resident Inter-provincial Motor Vehicle Liability Card and are stopped by Canadian police or are in an accident while driving in Canada risk being fined or having their vehicle impounded until proof of proper coverage is obtained.

We trust this information is of assistance to you.

Sincerely,

Don Mather
Ontario Consumer Information Officer

Insurance Bureau of Canada
T: 416.362.2031
TF: 800.387.2880
dmather@ibc.ca
www.ibc.ca



Renting a car and the Canada card

CANADA NON-RESIDENT INTER-PROVINCE MOTOR VEHICLE LIABILITY INSURANCE CARD CERTIFICAT D'ASSURANCE - AUTOMOBILE RESPONSABILITE			
NAME AND ADDRESS OF INSURED		NOM ET ADRESSE DE L'ASSURE	
INSURED VEHICLE - YEAR, MAKE, SERIAL NO.		VEHICULE ASSURE - ANNEE, MARQUE, SERIE	
EFFECTIVE DATE	DATE D'ENTREE EN VIGUEUR	DATE OF EXPIRY	DATE D'EXPIRATION
POLICY NUMBER / POLICE NUMERO		AGENT	
NAME AND ADDRESS OF INSURANCE COMPANY / NOM ET ADRESSE DE LA COMPAGNIE D'ASSURANCE			

This certifies that the party named herein is insured against liability for bodily injury and property damage by reason of the operation of the motor vehicle described herein in an amount not less than the statutory minimum requirements of every province of Canada.

WARNING- Any person who issues or produces a card to show that there is in force a policy of insurance as indicated herein that is in fact not in force is liable to a heavy fine and/or imprisonment and his licence may be suspended.

This card should be carried in the insured vehicle for production as proof of insurance when demanded by police.

Ce certificat atteste que la personne susnommée est assurée contre la responsabilité pour blessures et dommages aux biens découlant de l'usage du véhicule ci-dessus, conformément aux exigences minimales des lois d'assurance en vigueur dans chacune des provinces canadiennes.

AVERTISSEMENT - Quiconque émet ou présente un tel certificat comme preuve d'une police d'assurance-responsabilité qui effectivement n'est pas en vigueur est coupable d'une infraction passible d'une forte amende et/ou d'emprisonnement et suspension de son permis.

Ce certificat doit être laissé dans le véhicule assuré afin d'être présenté comme preuve d'assurance lorsque la police l'exige.



Renting a car and the Canada card

Canadian Non-Resident Inter-Province Motor Vehicle Liability Insurance Cards (Yellow Card)

An insurer that files a PAU with CCIR protects its insureds who drive their **private passenger vehicles** in Canada. Such an insured, if involved in an accident in Canada or if stopped by a police officer in Canada as a result of a traffic violation, will be considered by Canadian authorities to be driving in Canada with the appropriate amount of liability insurance. Though not required in every province, a U.S. driver can prove to the police that his or her insurer has filed a PAU by presenting a card that is known as the **Canada Non-Resident Inter-Province Motor Vehicle Liability Insurance Card** (the Yellow Card).

Insureds should contact their insurers to obtain the Card.

Insurers:

Card stock may only be ordered by insurers who have filed a PAU with CCIR.

Once the Power of Attorney & Undertaking form has been completed and you have received a confirmation letter from the CCIR office, you may order the **Canadian Non-Resident Inter-Province Motor Vehicle Liability Insurance Cards** (the Yellow Card) directly from:

Informco

35 Bertrand Avenue

Toronto, ON M1L 2P3

Phone: 416 285-3294

Fax: 416 285-0595

Attn: Kami Singh, Director – Insurance Division

Direct Line: 416 285-3294



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Renting an auto in US Virgin Islands

A client is travelling to the US Virgin Islands (a US territory) and asks if the coverage on his MA auto policy would cover a car rented there.

If it does, are there any concerns about doing this?



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Renting an auto in US Virgin Islands

The MAP follows to US territories. You can look at general provisions #1.

1. Where You Are Covered.

Compulsory Bodily Injury To Others (Part 1) only covers accidents in Massachusetts. All the other Parts provide coverage for accidents and losses which happen in the United States or Canada. We consider United States territories and possessions and Puerto Rico to be part of the United States. We will pay for accidents and losses which happen while **your auto** is being transported between ports of the United States and Canada. **Your auto** is not covered in any other country.



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Renting an auto in US Virgin Islands

2016 MAP

Part 4 Damage to someone else's property

(requires two sentences) the first ... coupled with another:

Under this Part, we will pay for damage or destruction of the tangible property of others caused by an accident and arising from the ownership, maintenance, or use of an auto, including loading and unloading.

We will pay only if you, a **household member**, or someone else using **your auto** with your consent is legally responsible for the accident.

We will not pay for property damage which occurs:

7. When the property damage is caused by anyone using an auto without the consent of the owner.

Part 5 Optional Bodily Injury

Under this Part, we will pay damages to people injured or killed in an accident if you or a **household member** is legally responsible for the accident and such accident arises out of the ownership, maintenance, or use of an auto by you or the **household member**.

...

This Part is similar to Compulsory Bodily Injury To Others (Part 1). It pays for accidents involving **your auto** in Massachusetts and does not pay for the benefit of anyone using an auto without the consent of the owner.

Part 6 Medical Payments

We will also pay for expenses resulting from bodily injuries to you or any **household member** if struck by an auto or if **occupying** someone else's auto at the time of the accident.

We will not pay for expenses resulting from injuries to:

4. Anyone injured while **occupying an auto** without a reasonable belief that he or she had the consent of the owner to do so.

Part 7 Collision

Under this Part, we will pay for any direct and accidental damage to **your auto** caused by a **collision**. We will also pay for **collision** damage to other private passenger autos while being used by you or a **household member** with the consent of the owner.



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Renting an auto in US Virgin Islands

2016 MAP

Part 9 Comprehensive

Under this Part, we will pay for direct and accidental damage to or loss of **your auto** other than damage caused by **collision**. We will also pay for such damage or loss to other private passenger autos while being used by you or a **household member** with the consent of the owner.



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Renting an auto in US Virgin Islands

MAP –2016

Part 5 states you and HHM can use someone else's auto by the statement if you or HHM is "legally responsible"

Part 4 ...hopefully still says that ... if you put the two sentences together and the letter from Dan Johnston, President AIB

Parts 6 just states that you or HHM "occupies" someone else' auto

Parts 7 and 9 restrict you and HHM to another "private passenger auto"



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Renting an auto in US Virgin Islands

Whether renting in MA or St Thomas the policy only pays ACV and does not pay loss of use if rented vehicle is damaged.

I would suggest purchasing the “loss waiver” assuming it “absolves the insured of all damage cost issues”.



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PIP coverage

I have a question about the 2008 auto policy. We typically remove drivers, especially teen drivers when they study abroad because the auto policy will not respond outside the US, Canada and blah blah you know the rest.

One of our carriers that uses the 2008 version is saying the driver needs to remain listed because PIP coverage is worldwide.

There's nothing in the PIP section about a coverage territory and the territory is clearly define as stated below.

Am I missing something?



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PIP coverage

So ... I have NEVER heard this one before ...
and I've been working with MA insurance since 1975.

Part 1 is the ONLY coverage that discusses a "territory" for coverage ...
Massachusetts ...no other coverages mention "territory" as a limitation.

In Part 5 is where we put our "extra-territorial" coverage ...
and that says that Part 4 and 5 will be whatever limits and/or compulsory coverages
that are required in any other state OR province of Canada ...
the ONLY foreign country that the MAP ...



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PIP coverage

MAP "extra territorial language"

If the accident occurs in any other state or in a Canadian province and you have purchased any coverage at all under this Part, your policy will automatically apply to that accident, as follows, if the state or province has:

1. A financial responsibility law or similar law requiring limits of liability for bodily injury or property damage higher than the limits you have purchased, your policy will provide the higher required limits.
2. A compulsory insurance or similar law requiring **your auto** to have insurance whenever it is used in the state or province, your policy will provide at least the required minimum amounts and types of coverage.



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PIP coverage

General Provision #1 states

1. Where You Are Covered Compulsory Bodily Injury To Others (Part 1) only covers accidents in Massachusetts. **All the other Parts provide coverage for accidents and losses which happen in the United States or Canada.** We consider United States territories and possessions and Puerto Rico to be part of the United States. We will pay for accidents and losses which happen while **your auto** is being transported between ports of the United States and Canada. **Your auto** is not covered in any other country.

2008 – 2016 or any other edition since 1975 works in ... USA, USA territories and possessions and Puerto Rico. The only foreign country the MAP travels to is Canada just like the national PAP.

I “assume” this was an underwriter ...not a claims person



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PIP coverage

PIP as discussed under MGL 90 S.34 is a state right even if one doesn't have a MAP ... but ...

I have never heard of it working outside of policy territory. I know it can follow you and “household members” outside of MA but w/in policy territory and it will even apply to MA residents you hit as a pedestrian outside of MA but if I'm run down by a car in London, England ...I don't think so.

I'm sending this to Dan Foley, Esq., MAIA's Legal Consultant ... Dan, does MA PIP follow MA residents – worldwide ...even though the MAP only goes to “Canada”?



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PIP coverage

Dan's response:

Hi Mike,

As Irene mentioned, I am not aware of there being PIP coverage outside of the territory as defined in the policy.

Also, in reading Section 34A of Ch. 90, nowhere in the definition of "PIP" coverage is there any mention of this coverage being worldwide.

So I don't believe that the PIP coverage follows a Mass. resident worldwide.



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Question on deferring

We're having a bit of an internal debate in the office.

Some of our carriers will get a much better rate when we "un defer" or rate mom and dad (assuming their 99's) from a kid's policy.

They're both insured with us on another policy.

Am I missing something here?

Why would we not do this?

Is there a coverage issue?

In the past it hasn't affected the rate either way so we have always just deferred.



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Question on deferring

Kathy Cormier responded:

No, you are not missing anything. This is competition at it's finest.

Adding or removing can affect the tier rating of the policy and every company has their own rules on tiering.

This happened to someone I know...

she was with Company X and removed her son because he got married and moved out of the house and her rate went up...

made no sense...but it was tiering.

She ended up adding him back because he would drive her car on occasion.



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Question on deferring

My response:

Managed competition created such a mess that rating a policy is almost impossible because there are so many facets to the "rate".

One agent told me she was experimenting with a client's policy because they had been quoted by a competitor.

She "deferred" the household members and classified them as "occasional" even though they had their own policies where they were correctly rated as principal operators and found the parents rate went down.

Then she got a call from her underwriter saying this was "misrepresentation". That's when she contacted me. I said ...tell the underwriter to show you how this is "misrepresentation."



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Question on deferring

Deferred does NOT mean that the person doesn't operate your vehicle at all ...that is "excluded operator".

Deferred is really the "olden days" way of making sure that classification and SDIP of a driver who IS correctly rated as principal elsewhere does NOT affect your policy.

I reminded the agent that if these "undeferred operators" get a motor vehicle violation or at fault accident then she would need to "defer" them again from parents' policy because if listed as occasional and parents policy came up before their policy ...the points could end up affecting parents.



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Question on deferring

I found it interesting that using MORE drivers was CHEAPER than LESS drivers ...

I would think the opposite ...in that the poor car never stops and the more it is used the more likely a "situation".

But, I've never understood the mind of an actuary

You learn something new every day!



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Business class or BAP

I have a quick question for you. If a childcare provider, with a small in-home childcare facility, who wants to drive a few of her kids to the park some days, will that be insured on the PPV auto policy?

Do I rate this as a class 30? We write hundreds of in-home daycares and I get this question all the time.

They are not going to put livery plates on their cars or change to a commercial auto, and this would not be an everyday occurrence.

I just want to make sure they have coverage, as a business owner, driving a child to the park, or dropping them off at home. They would not be getting paid a separate fee for driving.

Would this be a MA rule? Or an individual company rule?



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Business class or BAP

The MAIP manual ...which is essentially what AIB wrote ... has the same definition of business class as it did when I was an agent:

Business Use. The operator has been licensed at least six years and the **automobile is used in the occupation, profession, or business of the insured**. Going to or from the principal place of the occupation, profession or business of the insured is not considered business use.

Since the business is day care and the vehicle is used to drive to various places ... I would classify vehicle as business use ...

I know it costs a bit more than it did a decade ago, but parents can be pretty particular about their prized little urchins and if there is an accident they will sue. It isn't worth a denial for failure to tell company of vehicle usage.



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Business class or BAP

In the MAP general provisions 18 and 19 tell us to tell the truth or bad things happen

18. False Information.

If you or someone on your behalf gives us false, deceptive, misleading or incomplete information in any application or policy change request and if such false, deceptive, misleading or incomplete information increases our risk of loss, we may refuse to pay claims under any or all of the Optional Insurance Parts of this policy. Such information includes the description and the place of garaging of the vehicles to be insured, the names of all **household members** and customary operators required to be listed and the answers given for all listed operators. We may also limit our payments to those amounts that we are required to sell under the compulsory coverages of this policy.

19. Changes Which Affect Premium.

If the information contained in your application changes before this policy expires, we have the right to adjust your premium to reflect such changes. You must inform us of any changes which may have a material effect on your insurance coverage or premium charges. This includes the description, ownership, type of usage and place of garaging of **your auto**. It also includes the **household members** and individuals who customarily operate **your auto**.



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Business class or BAP

Getting paid to do it might be more “public/livery” ...

but using my vehicle to drive various places for my employment is business use – class 30

NOT a commercial auto policy



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Renting an RV ..which coverages follow

Hi I have an insured, who is renting an RV , would their auto insurance cover that?

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Renting an RV ..which coverages follow

The MAP follows you and HHMs when using an auto for various coverages

4. Auto – means a land motor vehicle or **trailer** but does not include:

- A.** Any vehicle operated on rails or crawler treads.
- B.** Any vehicle or **trailer** while it is located for use as a residence or premises. We consider such a vehicle to be an auto while it is being used on public roads or for recreational use.
- C.** A farm tractor or other equipment designed for use principally off public roads. We will consider a tractor or other equipment to be an auto while it is being used on public roads.
- D.** Any vehicle not subject to motor vehicle registration such as a moped, dirt bike, mini-bike, snowmobile or an all-terrain vehicle.

An RV ...is an “auto” because it is a land motor vehicle and would be subject to motor vehicle registration



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Renting an RV ..which coverages follow

Parts 4,5,6 talk about “auto”

Part 4. Damage To Someone Else's Property. Under this Part, we will pay for damage or destruction of the tangible property of others caused by an accident and arising from the ownership, maintenance, or use of an auto, including loading and unloading. The amount we will pay is the amount the owner of the property is legally entitled to collect through a court judgment or settlement for the damaged property. We will pay only if you, a **household member**, or someone else using **your auto** with your consent is legally responsible for the accident. The amount we will pay includes, if any, applicable sales tax and the loss of use of the damaged property. The amount we will pay does not include compensation for physical damage to, or towing or recovery of, **your auto** or other auto used by you or a **household member** with the consent of the owner, or any decreased value or intangible loss claimed to result from the property damage unless otherwise required by law.



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Renting an RV ..which coverages follow

Parts 4,5,6 talk about “auto”

Part 5. Optional Bodily Injury To Others. Under this Part, we will pay damages to people injured or killed in an accident if you or a **household member** is legally responsible for the accident and such accident arises out of the ownership, maintenance, or use of an auto by you or the **household member**. We will also pay damages if someone else using **your auto** with your consent is legally responsible for the accident. The damages we will pay are the amounts the injured person is entitled to collect for bodily injury through a court judgment or settlement. We will not pay punitive or exemplary damages.

AIB says it MUCH better under Part 5 than Part 4 in the 2016 MAP ... but the issue is that the MAP follows you and HHM when using an “auto” – an RV is an auto



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Renting an RV ..which coverages follow

Parts 4,5,6 talk about “auto”

Part 6. Under this Part, we will pay reasonable expenses for necessary medical and **Medical Payments**. funeral services incurred as a result of an accident.

We will pay for expenses resulting from bodily injuries to anyone **occupying your auto** at the time of the accident. We will also pay for expenses resulting from bodily injuries to you or any household member if struck by an auto or if occupying someone else's auto at the time of the accident.

Part 6 says ...occupying any auto ...which an RV is



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Renting an RV ..which coverages follow

Parts 7,9 only discuss “other private passenger autos”

Part 7. Collision. Under this Part, we will pay for any direct and accidental damage to **your auto** caused by a **collision**. We will also pay for collision damage to other private passenger autos while being used by you or a household member with the consent of the owner. It does not matter who is at fault. We will pay the cost to repair the auto or any of its parts up to the actual cash value of the auto or any of its parts at the time of the **collision**. We will not pay for any decrease in value claimed to result from the loss. The most we will pay will be either the actual cash value of the auto or the cost to repair the auto, whichever is less. The cost to repair the auto is limited to the prevailing competitive price, which is the price we can secure from a licensed repair facility conveniently located to you. Unless you have purchased agreed amount coverage, actual cash value of the auto will be determined at the time of the loss. Actual cash value may include an adjustment for depreciation and betterment and for the physical condition of the auto. We will, at our option, repair the auto, repair or replace any of its parts, or declare the auto a total loss. If the repair of a damaged part will impair the operational safety of the auto we will replace the part.

Part 9. Comprehensive. Under this Part, we will pay for direct and accidental damage to or loss of **your auto** other than damage caused by **collision**. We will also pay for such damage or loss to other private passenger autos while being used by you or a household member with the consent of the owner.



42

Renting an RV ..which coverages follow

So ...parts 4,5,6 can follow while renting an RV

For Parts 7,8,9 – you need to know how YOUR company defines “private passenger auto”

RULE 27. PRIVATE PASSENGER DEFINITION

- A. A motor vehicle of the private passenger or station wagon type that is owned or leased under contract for a continuous period of at least twelve months by one or more individuals, excluding (1) partnerships, (2) corporations, (3) unincorporated business associations, and (4) other legal business entities with a federal employer identification number, and is not used as a public or livery conveyance nor rented to others. A vehicle which meets the conditions of Rule 31, regarding the transportation of fellow employees, students or others for consideration, is included in this definition, provided such vehicle is not registered for carrying passengers for hire.
- B. A motor vehicle that is a pick-up or van, that is owned or leased under contract for a continuous period of at least 12 months by one or more individuals, excluding (1) partnerships, (2) corporations, (3) unincorporated business associations, and (4) other legal business entities with a federal employer identification number, and
1. has a gross vehicle weight rating of less than 10,000 pounds or has a vehicle rating group assigned to it by the Automobile Insurers Bureau of MA (AIB), and
 2. is not used for the delivery or transportation of goods or materials unless such use is incidental to the insured's business of installing, maintaining or repairing furnishings or equipment.

If they define it as cars, pickups and vans ...you have a problem

If they only define it as cars ...you have a problem

“private passenger auto” is not in dictionary.com



43

Who does MAP follow

Is a listed driver, not a named insured, on an auto policy able to rent a car in their name and have the insurance policy they are listed under carry over to the rental?



44

Who does MAP follow

Not unless that listed driver is a “household member” or a “you” by definition.

Part 9 Comprehensive

Under this Part, we will pay for direct and accidental damage to or loss of your auto other than damage caused by collision. We will also pay for such damage or loss to other private passenger autos while being used by you or a household member with the consent of the owner.



Part 4 Damage to someone else’s property

(requires two sentences) the first ... coupled with another:

Under this Part, we will pay for damage or destruction of the tangible property of others caused by an accident and arising from the ownership, maintenance, or use of an auto, including loading and unloading.

We will pay only if you, a household member, or someone else using your auto with your consent is legally responsible for the accident.

We will not pay for property damage which occurs:

7. When the property damage is caused by anyone using an auto without the consent of the owner.

Part 5 Optional Bodily Injury

Under this Part, we will pay damages to people injured or killed in an accident if you or a household member is legally responsible for the accident and such accident arises out of the ownership, maintenance, or use of an auto by you or the household member.

... This Part is similar to Compulsory Bodily Injury To Others (Part 1). It pays for accidents involving your auto in Massachusetts and does not pay for the benefit of anyone using an auto without the consent of the owner.

Part 6 Medical Payments

We will also pay for expenses resulting from bodily injuries to you or any household member if struck by an auto or if occupying someone else’s auto at the time of the accident.

We will not pay for expenses resulting from injuries to:

4. Anyone injured while occupying an auto without a reasonable belief that he or she had the consent of the owner to do so.

Part 7 Collision

Under this Part, we will pay for any direct and accidental damage to your auto caused by a collision. We will also pay for collision damage to other private passenger autos while being used by you or a household member with the consent of the owner.

45

Who does MAP follow

Listing a customary operator is a requirement to avoid “false information”

18. False Information.

If you or someone on your behalf gives us false, deceptive, misleading or incomplete information in any application or policy change request and if such false, deceptive, misleading or incomplete information increases our risk of loss, we may refuse to pay claims under any or all of the Optional Insurance Parts of this policy. Such information includes the description and the place of garaging of the vehicles to be insured, the names of all household members and customary operators required to be listed and the answers given for all listed operators. We may also limit our payments to those amounts that we are required to sell under the compulsory coverages of this policy.

19. Changes Which Affect Premium.

If the information contained in your application changes before this policy expires, we have the right to adjust your premium to reflect such changes. You must inform us of any changes which may have a material effect on your insurance coverage or premium charges. This includes the description, ownership, type of usage and place of garaging of **your auto**. It also includes the **household members** and individuals who customarily operate **your auto**.

And allow the MAP to pay a claim involving “your auto” – but listing an operator does NOT provide coverage when that listed operator is driving another auto ...unless the listed operator is a “household member” by definition



46

Company won't cancel policy

Our insured owned a 2001 Mercedes registered to a trust.

On 3/18/2024, he transferred that plate onto a 2008 Mercedes he owns and registered/insured it in his personal name with Company X.

I asked our carrier, Company Y, to cancel the 2001 Mercedes' coverage effective 3/18/24 and they declined.

They want to cancel the coverage effective the date on which the new owner of the 2001 Mercedes titled that auto, 4/23/24 "because the coverage follows the vehicle not the registration."

Do you agree with their position?



47

Company won't cancel policy

Kathy Cormier, CPPL, MAIA's RMV expert ...went online and obtained the following

Dear

Why did you receive this correspondence?

Please be advised that the registration for the 2001 MERZ S430 SEDAN was inactivated on 18-Mar-2024. This letter is being issued in place of a registration cancellation receipt.



48

Company won't cancel policy

Should Company Y now agree to cancel the coverage on the date of the PRR, 3/18/2024 ,or does the coverage, indeed, follow the auto not the plate?

If the latter, what if the insured did not sell his 2001 Mercedes, but just left it in his garage instead intending to register it at a later date.

In that case, Company Y would not allow us to cancel the coverage ever.



49

Company won't cancel policy

My response:

With what Kathy sent ... maybe they'll back date ...or maybe not.

The policy kind of does both ... follow plate and vehicle.

The definition of "your auto" starts out with:

5. Your Auto – means:

A. The vehicle(s) described on the Coverage Selections Page.

So if the vehicle is on a Coverage Selections Page then it is covered ...short of an applicable exclusion.



50

Company won't cancel policy

In order to cancel the policy ...the end of the policy discusses automatic termination:

Automatic Termination.



Massachusetts law provides that your policy automatically terminates and a Notice of Cancellation will not be sent to you when:

1. You return the registration plates for **your auto** to the Registry of Motor Vehicles.



2. You purchase a new policy with another company covering **your auto** and a new Certificate of Insurance is filed with the Registry of Motor Vehicles.



3. You transfer title to **your auto**, and you do not register another auto. In this case, the policy will terminate 30 days from the date of transfer of title.

However, if more than one auto is described on the Coverage Selections Page, the termination of coverage applies only to the auto involved in any of the situations described above.



51

Company won't cancel policy

The plate was "inactivated" from the trust name ...but the vehicle wasn't removed from the policy – the vehicle was not sold/re-registered in person's personal name on the date the plate was deactivated from the Trust .

If the vehicle is on the dec page and was driven ...without a plate ...the carrier would have to pay the claim because none of the above had happened.

You could suggest that automatic termination states that coverage terminates 30 days after you sign title over to someone and do not register another vehicle - which would put cancellation somewhere around 4/18 ...which isn't that far off of the 4/23 date when that vehicle was actually registered to another person.



52

Company won't cancel policy

Thank you, Irene & Kathy, for going out of your way to provide such a thorough explanation.

We will let Company Y cancel on April 23rd because attempting to persuade them otherwise will only "burn" more of our time with little chance of changing the underwriter's mind.



53

Binders and the MAP

We provided an insurance binder for a customer who is buying a new car.

We did it for 7 days.

The bank wants the binder to be for 30 days.

We've always done them for 7 days subject to vehicle registration.

I guess other agents are doing it for 30 days.

Can we do an insurance binder for longer than 30 days on a newly purchased vehicle?



54

Binders and the MAP

There is no MA law regarding length of binder ... what I can say is that the MAP will NOT consider this vehicle a “your auto” unless the insured has taken title to the vehicle:

5. Your Auto – means:

...

C. A private passenger auto, trailer, motorcycle, pick-up truck, van or similar vehicle, **to which you take title or lease as a permanent replacement for a described auto or as an additional auto. We provide coverage for an additional auto only if you ask us to insure it within seven days after you take title or the effective date of the lease.**

If a replacement or additional auto is a pick-up truck, van or similar vehicle, it must not be used for the delivery or transportation of goods or materials unless such use is incidental to your business of installing, maintaining or repairing furnishings or equipment.

If this is an additional auto the insured needs *to request coverage w/in 7 days ...or coverage ends.*



55

Binders and the MAP

If it is a true replacement vehicle ...the insured has lost possession of one on the dec page then the end of the policy states:

Automatic Termination.

Massachusetts law provides that your policy automatically terminates and a Notice of Cancellation will not be sent to you when:

1. You return the registration plates for **your auto** to the Registry of Motor Vehicles.
2. You purchase a new policy with another company covering **your auto** and a new Certificate of Insurance is filed with the Registry of Motor Vehicles.
3. You transfer title to **your auto**, and you do not register another auto. In this case, the policy will terminate 30 days from the date of transfer of title.

However, if more than one auto is described on the Coverage Selections Page, the termination of coverage applies only to the auto involved in any of the situations described above.

The policy discusses 30 days ...but it is from the date lost possession of vehicle on dec page



56

Binders and the MAP

On the binder one should always state that
 “coverage becomes effective upon transfer of title/COI”
 as that IS what the policy states.

Technically the bank should not be asking for something that is not officially in the policy as the MA COI law applies to binders also.

Sometimes when purchasing a used vehicle from a dealership the dealership might not have the title in its “hot little hand” ... which can be problematic if you have guaranteed something to the bank that is not in the policy.



57

Binders and the MAP

Agent responded

This is an additional vehicle (not a replacement). We are waiting to hear back from the company to confirm if we can do 30 days. We’ve always done 7 days and never had any issues with the banks. For some reason, this credit union is making it difficult

My response:

You did the right thing ... ask the company ...you can get one of two answers ... Even the national auto policy doesn’t provide 30 days automatic coverage



58

Binders and the MAP**Agent responded**

Just an FYI, the Company will allow 14 days (kind of an odd number) for the binder. 1st underwriter was unsure and had to check with another underwriter

My response:

14 days is what the national auto policy states ... At least someone read the policy



59

Borrowing a friend's vehicle

I had an insured that was driving a friend's vehicle that does not have Collision coverage and was in an At-Fault accident and vehicle was totaled.

Had a similar situation with a different client back in 2020 and their carrier was able to pay the damage the vehicle thru the driver's PL Auto policy by "Float Coverage"

My insured has a different carrier than the prior mentioned issue that initially has denied the claim.

Is the use of "Float Coverage" if you have Collision on your own MAP standard or is it discretionary to the carrier



60

Borrowing a friend's vehicle

If the carrier uses the AIB MAP ... coverage is coverage

Part 7 "follows" you and household members when using another "private passenger auto" – with the owners consent ...

Part 9 Comprehensive
Under this Part, we will pay for direct and accidental damage to or loss of **your auto** other than damage caused by **collision**. We will also pay for such damage or loss to other private passenger autos while being used by you or a **household member with the consent of the owner**.



Part 4 Damage to someone else's property
(requires two sentences) the first ... coupled with another:

Under this Part, we will pay for damage or destruction of the tangible property of others caused by an accident and arising from the ownership, maintenance, or use of an auto, including loading and unloading.
We will pay only if you, a **household member**, or someone else using **your auto** with your consent is legally responsible for the accident.

We will not pay for property damage which occurs:
7. When the property damage is caused by anyone using an auto without the consent of the owner.

Part 5 Optional Bodily Injury
Under this Part, we will pay damages to people injured or killed in an accident if you or a **household member** is legally responsible for the accident and such accident arises out of the ownership, maintenance, or use of an auto by you or the **household member**.
...
This Part is similar to Compulsory Bodily Injury To Others (Part 1). It pays for accidents involving **your auto** in Massachusetts and does not pay for the benefit of anyone using an auto without the consent of the owner.

Part 6 Medical Payments
We will also pay for expenses resulting from bodily injuries to you or any **household member** if struck by an auto or if **occupying** someone else's auto at the time of the accident.
We will not pay for expenses resulting from injuries to:
4. Anyone injured while occupying an auto without a reasonable belief that he or she had the consent of the owner to do so.

Part 7 Collision
Under this Part, we will pay for any direct and accidental damage to **your auto** caused by a **collision**. We will also pay for **collision** damage to other private passenger autos while being used by you or a **household member with the consent of the owner**.

61

Borrowing a friend's vehicle

however ...there is an exclusion for "regularly used" ... in Parts 4,5,6,7,8,9

Part 7. Collision.
Under this Part, we will pay for any direct and accidental damage to **your auto** caused by a **collision**. We will also pay for **collision** damage to other private passenger autos while being used by you or a **household member** with the consent of the owner. It does not matter who is at fault. We will pay the cost to repair the auto or any of its parts up to the actual cash value of the auto or any of its parts at the time of the **collision**. We will not pay for any decrease in value claimed to result from the loss. The most we will pay will be either the actual cash value of the auto or the cost to repair the auto, whichever is less. The cost to repair the auto is limited to the prevailing competitive price, which is the price we can secure from a licensed repair facility conveniently located to you. Unless you have purchased agreed amount coverage, actual cash value of the auto will be determined at the time of the loss. Actual cash value may include an adjustment for depreciation and betterment and for the physical condition of the auto. We will, at our option, repair the auto, repair or replace any of its parts, or declare the auto a total loss. If the repair of a damaged part will impair the operational safety of the auto we will replace the part.

We will also pay reasonable and necessary expenses for towing, recovery and storage of your auto.

In all cases we will subtract the deductible amount you selected. Unless you selected a different amount, the law sets your deductible at \$500. Your deductible is shown on the Coverage Selections Page.

We will not pay for damage to any auto which is owned or regularly used by you or a **household member** unless a premium for this Part is shown for that auto on the Coverage Selections Page.

We will not pay for any liability assumed under any other contract or agreement.

So the issue is ...how much/often has your insured used his/her friend's vehicle ... there is no "magic" formula ... but I would want to see coverage denial from company ... and the reason they are denying



62

Borrowing a friend's vehicle

After various discussions with company

Company paying claim ... it's a total loss ...agent hopes the friend will be happy with the total loss settlement



63

Getting policy cancelled

I was wondering, we have a client who transferred ownership of a vehicle in his name to his daughter last October 2023.

The daughter took out her own policy with a different carrier.

The parents forgot to cancel the plates that were attached to the vehicle transferred to the daughter so the policy that they had in their name with the daughter listed on it as primary remained in effect.

When the parent's policy came up for renewal this month (may 2024) & the parents received the bill they called.

We explained the plates in their name should've been cancelled back in October when the new plates in their daughter's name were issued.

The insured's didn't realize that so cancelled the plates right away.



64

Getting policy cancelled

We requested that Company Z cancel the policy that was in the parents name with the Jeep that was given to the daughter back to Oct 24th as that was the date she obtained a new registration & insurance policy in her own name.

We provided proof of the new registration in the daughters name for that vehicle, new title information & a copy of the policy in her name as well showing coverage was in place Oct 24th for the same vehicle.

Company Z said they will not cancel the policy in the parents name for that vehicle back to last October because “had the plate been put on another vehicle they would’ve honored the claim”.

Do you know if it is ok for Company Z to decline to cancel the policy back to 10/24 where there was double coverage?



65

Getting policy cancelled

So ... does the carrier have to backdate to the date they sold the vehicle to their daughter ... who did register and insure elsewhere ...

no ... if the insured (parents) had gotten a policy in their name elsewhere then the answer would be yes.

Was the carrier correct in saying “since the plate was open we’d have to pay a claim” ...well ...not exactly.

If Company Z uses the AIB MAP then the following is part of the policy – at the end of the policy after the cancellation provision comes the Automatic Termination provision



66

Getting policy cancelled

If Company Z uses the AIB MAP, then the following is part of the policy – at the end of the policy after the cancellation provision comes the Automatic Termination provision

Automatic Termination.

Massachusetts law provides that your policy automatically terminates and a Notice of Cancellation will not be sent to you when:

1. You return the registration plates for **your auto** to the Registry of Motor Vehicles.
2. You purchase a new policy with another company covering **your auto** and a new Certificate of Insurance is filed with the Registry of Motor Vehicles.
3. You transfer title to **your auto**, and you do not register another auto. In this case, the policy will terminate 30 days from the date of transfer of title.

However, if more than one auto is described on the Coverage Selections Page, the termination of coverage applies only to the auto involved in any of the situations described above.



So ... technically if the insured had purchased another vehicle w/in 30 days of selling vehicle on dec page to their daughter then the MAP should apply.

But ... it states that coverage for that vehicle and any “replacement” should terminate 30 days after sale.

Why don't you try that argument with the insurance carrier?



67

Getting policy cancelled

Agents response

We looked & Company Z DOES write this auto policy on the AIB MAP...

The parents of the insured have their own policy with another company so the only vehicle on the Company Z policy was the one car that was transferred into their daughter's name with another insurance policy.

We pointed this area of the policy contract out stating that if it is the only vehicle, the policy should be terminated 30 days after & the underwriter still states had something happened they would've responded to the claim despite the fact the insured had a primary policy in her name with another auto carrier.

He said he feels “the Division of Insurance would agree with him” & allow them not to cancel the policy back to when the ownership was transferred to the daughter & a new policy was taken out.



68

Getting policy cancelled

Agents response

There was no accident & the daughter's policy would've been primary had a fictitious accident that didn't happen happened.

I don't understand how he can not read the facts in the policy language & not do the right thing.

Do you have any advice on how to move forward? Is there a contact at the Division of Insurance who could interpret this as well that we could tell the underwriter we checked with?

I'd hate to have the insured file a complaint with them, I would just like Company Z do the right thing. I know in the past many other carriers would back date the cancellation, I don't know why this underwriter is being so stubborn.



69

Getting policy cancelled

The problem with an insurance policy is that it is a "contract" ... interpretation is key.

I wonder if the claims department has the same "interpretation" of the policy as this underwriter ...who is very "lenient" ...

I'm not sure I agree with the underwriter's interpretation of what the MA DOI would say ... but ... there is one way to find out.

The following is how the insured can make a consumer complaint:

<https://www.mass.gov/how-to/filing-an-insurance-complaint>



70

Getting policy cancelled

They can ask for a hearing ...assuming they want to go in ... perhaps if the company receives the complaint they will just back cancel as the policy says is allowed and actually ...says that the company would have a right to say “no coverage”.

If they do get a hearing ...I don't know if they are still zoom or if they have to go in ...you could give them the policy information and then they could see.



71

misrepresentation

This has never come up in the 35 years I've been an agent, until now.

I have a MAIP customer whose auto policy is being cancelled for misrepresentation.

Will she have a problem getting insurance, if I putting her through MAIP, again?

Do you know if a cancellation like this has any bearing on one's credit?



72

misrepresentation

Misrepresentation can be the “kiss of death” ... to insurance companies ... at least voluntarily ... depending on what the exact misrepresentation was ...

but if the vehicle owner has a valid license then the MAIP would have to take ... don't misrep on THIS application or MAIP can cancel since the policy language allows it.

Though ...if coll/comp is desired ...the cancellation discussion does allow the MAIP carrier to cancel/not allow collision/comp if misrepresentation was done in a claimnot policy application:

We can cancel Collision (Part 7), Limited Collision (Part 8), and Comprehensive (Part 9) on a vehicle:

1. Customarily driven by or owned by persons who have within the last five years been convicted of vehicular homicide, auto related fraud, or auto theft, or
2. Customarily driven by or owned by persons who have within the last five years made an intentional and material misrepresentation in making claim under those coverages, or



73

What does PD pay

I was just talking to a third-party adjuster, and she commented that as a third-party PD claim my insured would only get ACV?

My insured is a gas station, the other party lost control of the car and smashed into the gas pump.

The adjuster suggested that my insured would only be entitled to ACV, that seemed odd to me.

His damages are the pump, some emergency repairs so he could reopen, and lost income as the pump that was hit is his only diesel pump.



74

What does PD pay

Whether it is the MAP/BAP/CGL/HO ... liability pays what the insured is legally responsible for ... or what the damaged party is entitled to collect.

Loss of use IS very much covered ... for a business ...it would be lost business ...if I damage your car ...it would be cost of rental of comparable vehicle.

I think years ago ...R/C was paid in property claims ...but then adjusters realized ...hey ... If my client hits your car ...I don't buy you a new one. Book value is essentially ACV payment ...

The actual physical damage paid is "like kind and quality" ...putting you back to where you were the second before the loss ...which is ACV ...



75

What does PD pay

Should everything be depreciated by the same amount ...no ... newer parts of building are depreciated less.

But replacement cost is "new for old" and that is not what the at fault party is responsible for.

In MA ...all property damage claims can go to small claims court ...which means one doesn't need a lawyer. Taking out the small claims paperwork against the guilty party who then sends to his/her insurance company ...can get a few more dollars out of the insurance company – or maybe threatening it ... but R/C probably won't be paid ...that is an option that I can buy in my first party property coverage.

If I make a first party claim ...my insurance company can subrogate ...but they will only get ACV

<https://www.mass.gov/info-details/small-claims-court>



76

OEM or after market part?

We've been receiving quite a bit of OEM requests for glass claims.

Typically, the shops are requesting these directly, but if they have difficulty the insured's are reaching back out to us.

With Safelite running the majority of the carrier's glass departments, it's nearly impossible to reach someone to inquire about anything.

I find it's more difficult with clients who are using shops other than Safelite.

Have you had any inquiries about this? Or Have any best practices regarding this?



77

OEM or after market part?

Repair of the vehicle in MA is governed by MGL 211 133

133.04: Determination of Damage and Cost of Repair

(1) Appraisers shall specify that damaged parts be repaired rather than replaced unless:

the part is damaged beyond repair, or the cost of repair exceeds the cost of replacement with a part of like kind and quality, or the operational safety of the vehicle might otherwise be impaired.

When it is determined that a part must be replaced, a rebuilt, aftermarket or used part of like kind and quality shall be used in the appraisal unless:

(a) the operational safety of the vehicle might otherwise be impaired;

(b) reasonable and diligent efforts to locate the appropriate rebuilt, aftermarket or used part have been unsuccessful;

(c) a new original equipment part of like kind and quality is available and will result in the lowest overall repair cost;

(d) for vehicles insured under policies written on or before December 31, 2003, the vehicle has been used no more than 15,000 miles unless the pre-accident condition warrants otherwise; or.

(e) for vehicles insured under policies written or renewed on or after January 1, 2004, the vehicle has been used no more than 20,000 miles unless the pre-accident condition warrants otherwise



78

OEM or after market part?

Unless the vehicle has less than 20,000 miles, I don't see the possibility of OEM glass
Per 211 CMR 133 and also the adjuster law regarding ascertaining damage.

An insured can always pay the difference between OEM and aftermarket parts.



79

50-50

I have a question...when a claim is set to 50/50...I thought that everyone pays their deductible and uses their policy to pay for their own damages.

(I understand stuff happens behind the scenes for subro etc. and that if our insured didn't have rental the other party insurance would pay half the rental...yadda yadda)

However, I heard an adjuster tell a client that she would not have a deductible because in 50/50 claims the ded is waived because they are not found "at-fault"

OMG is this true? I would be embarrassed with 20 years of insurance experience (1.5 years of that in this claims role) to not know that. Thanks!



80

50-50

Well...good to know the adjuster knows what to do – as often they disregard the WOD 4th reason.

In the MA comparative auto law one is not considered at fault unless one is 51% at fault ... so as long as I am 50% or less at fault, I have the right to sue you in a MA court for PD claims that would be small claims court since there is no overall limit restriction for property damage claims.

And ... if I'm happy with 1st party coverage my WOD would pay ...by virtue of the 4th reason

The deductible amount shown on the Coverage Selections Page for Collision (Part 7) does not apply to any auto to which this endorsement applies as shown on the Coverage Selections Page if:

4. You are entitled to recover in court against an identified person for some reason other than those listed above.



81

50-50

It irritates me when carriers disregard this reason ...

So the company would pay the loss in full ...and then subrogate against other carrier and get 50% of what paid out ...and other carrier would do the same.

Insurance is constant learning. When I started my career in the agency doing claims, I had some SUPERB adjusters that would talk to me and teach me. Kemper claims in Andover was awesome.

We'd get together every couple of months for "drinks" and discussion ...purely for the good of my clients 😊



82

C/C/C or not

Insurance never ceases to amaze me and I'm hoping you can weigh in on this very strange scenario we've come across.

My Insured backed into his girlfriend's vehicle back in September of 2023.

They reside together, are listed on each other's policies but have two different insurance carriers.

We do not insure his girlfriend, only him. His company is declining to pay property damage. This makes no sense to me.

According to the claim adjuster she was ready to pay it and was told by her supervisor not to. Property damage should pay for the damage to his girlfriend's vehicle.

I can't see why or how they can decline. Can you weigh in on this very unusual situation?



83

C/C/C or not

A claim was reported to [redacted] on 9/11/23. It was reported that you backed your 2019 Chevy Silverado into your girlfriend's 2019 Jeep Grand Cherokee in your home driveway.

It was confirmed that Kelly Lourenco resides with you and that you are listed on her auto policy as a driver to the 2019 Jeep Grand Cherokee.

Regrettable your policy does not provide property damage coverage for the 2019 Jeep Grand Cherokee:

Part 4.
Damage To
Someone Else's
Property.

We will not pay for property damage which occurs:

4. While a **household member** is using an auto which you or any **household member** owns or uses regularly unless a premium for this Part is shown for that auto on the Coverage Selections Page.

As a result we will be unable to address damages to the 2019 Jeep Grand Cherokee.

This is a regular use exclusion applicable to a "household member which doesn't apply

This reason to deny claim needs more explanation



84

C/C/C or not

Company interpretations never cease to amaze me. The AIB MAP has the following exclusion under Part 4

6, To an auto or other property **owned by you** or the legally responsible person. Similarly, we will not pay for damage to an auto or other property, except for a private residence or garage, which you or the legally responsible person rents or **has in his or her car**

If they are both named insureds on each other's policy then the "you" portion would apply. If I back into my significant other's auto ...and my policy is ONLY in my name ... I don't see that I damaged my property ... and is his/her car REALLY in my c/c/c????

Is the home in BOTH names - even still ... I think the claims adjuster was more right than the supervisor. If there is collision on the girlfriend's vehicle with WOD ...that company should pay in full and subrogate ...and I think they'll win.



85

C/C/C or not

The reason the company gave to deny the claim makes NO SENSE since a "girlfriend" is NOT a "household member" by definition

9. Household Member – means anyone living in your household who is related to you by blood, marriage, or adoption. This includes wards, step-children or foster children.

If no collision or limited collision then she has the right to make a small claims court complaint

<https://www.mass.gov/info-details/small-claims-court>

She files paperwork against boyfriend ...boyfriend gets paperwork and then sends to the company...see what they do



86

C/C/C or not

Agents response

The home is only in his name and they do not own the vehicles jointly so they both have individual auto policies, not listed as joint named insured but both listed as drivers on each other's policies as required by MA law.

I don't see how the exclusion can apply in this case.

I would want the company to prove that they each regularly use the other's vehicle

I don't see how allowing my SO to park in MY driveway puts HER car in my C/C/C ...but ... what do I know.....

And a girlfriend is not a "household member" and their reason to deny makes no sense

You can argue ... or her company can argue ...or small claims court



87

Insurance still in force?

My lovely daughter moved to NYC last August and left her car behind and apparently we take care of everything for ever (inspections, insurance, registration...)

Well, someone did not renew the registration from last Spring. I've driven the car maybe 5 time since then? My wife too.

If insurance and registration go "hand to hand" then there was no coverage this whole time?

If correct, why can't I get my insurance premium back?



88

Insurance still in force?

The AIB MAP has a definition of “your auto”.

The first part of that definition is “vehicle shown on coverage selections page”. So if policy is still in force then there is coverage.

5. Your Auto – means:

A. The vehicle(s) described on the Coverage Selections Page.

**When company discovers lack of valid registration can they cancel or non-renew policy?
YES.**

**But until policy is canceled there is insurance coverage. Get your butt to the RMV and
renew plate**



89

Renting a car from someone on TURO

**Do you have any info on how it works if our insured rented a vehicle off Turo and caused
damage to the Turo vehicle?**

How does claim/coverage work? Thanks!



90

Renting a car from someone on TURO

If the insured rents or borrows a vehicle for a short period of time (so no regular use exclusion issues) then the MAP would apply just as it would if one borrows a car or rents from hertz

Parts 4,5,6,7,9 state that the owners insurance MUST pay before we pay ...

We know that it must be a “private passenger auto” for parts 7 and 9 to apply

If the person who put their car up on TURO has a Map or a PAP ...
then there would be NO coverage for “car sharing” ...

MAP 2016 builds in the exclusion and the national PAP has an endorsement that I would bet most companies use.



91

Renting a car from someone on TURO

It could be a bit “time consuming” ...
 but eventually the 2016 MAP of the person renting the vehicle should apply.

Of course, Parts 7 and 9 only pay ACV ... and no diminished value.



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Thank you for attending...

**Your questions,
our answers
Massachusetts
Personal Auto**

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