



STATE OF NEW YORK  
INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004

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**Circular Letter No. 17 (1997)**  
**December 15, 1997**

**TO: ALL INSURERS LICENSED TO WRITE MOTOR  
VEHICLE LIABILITY INSURANCE; ALL RATE SERVICE  
ORGANIZATIONS AND PRODUCER ORGANIZATIONS**

**RE: SUPPLEMENTARY UNINSURED/UNDERINSURED  
MOTORISTS (SUM) INSURANCE COVERAGE**

The purpose of this Circular Letter is to bring to insurers' attention several changes to Sections 2601 and 3420 of the Insurance Law which were recently enacted by the Legislature.

Chapter 547 of the Laws of 1997 amended Sections 2601 and 3420 of the Insurance Law to provide that insurers must disclose the bodily injury limits of liability of their insureds to an individual or that individual's duly authorized representative who has filed a claim for damages against the insured and has made a written request for such information. This information must be provided within 45 days of the written request for such information. Failure to do so will constitute an unfair claim settlement practice and would also toll the period of time for a claimant to make a SUM claim. The amendment to this statute will take effect on January 8, 1998.

Chapter 568 of the Laws of 1997 amended Section 3420 (f)(2) of the Insurance Law to provide that SUM coverage, which was previously referred to only as supplementary uninsured motorists coverage, now be referred to as supplementary uninsured/underinsured motorists coverage. All disclosure statements and policy endorsements which refer to this coverage should be amended accordingly.

In addition, there has been an increase in the maximum limits of liability for SUM coverage that must be offered. Currently, an insurer must offer SUM coverage up to the bodily injury liability insurance limits of coverage provided in the policy subject to a maximum of \$100,000 per person/\$300,000 per accident limit of liability. On or after March 9, 1998, the maximum limit of liability that must be offered is either:

- 1. a \$250,000 per person/\$500,000 per accident limit; or
- 2. a combined single limit of \$500,000; or

3. SUM coverage up to the bodily injury liability insurance limits, subject to a maximum of \$100,000 per person/\$300,000 per accident or a combined single limit of \$300,000, if a personal umbrella policy with liability and SUM coverage limits up to at least \$500,000 is made available.

The amendment to the statute also states that a notice of availability, which may be simplified pursuant to a regulation, must include a concise statement of the availability of SUM coverage, an explanation of the coverage and the amounts in which it can be purchased, and must be provided to insureds at least once a year. Additional details about the information that must be included in this notice will be published in a forthcoming amendment of Regulation 35-D. The existing requirement to provide a notice containing SUM information upon policy issuance has not been changed.

Accordingly, insurers should review policy forms, notices and rate manuals currently in effect for SUM coverage. If an insurer does not have the applicable rates on file for the new limits of SUM coverage, rate filings must be made in accordance with Article 23.

Disclosure notices and SUM option forms which must be provided to insureds will have to be revised. Since the only change to the SUM endorsement prescribed by Regulation 35-D (11 NYCRR 60-2), is the revision to the name of the coverage, a statement affirming that the form will be revised to amend the reference from supplementary uninsured motorist coverage to supplementary uninsured/underinsured motorist coverage will be acceptable in lieu of filing the revised form for approval. Such affirmation should be submitted to:

Lawrence Wertel, Associate Insurance Examiner  
New York State Insurance Department  
Property/Casualty Bureau  
25 Beaver Street  
New York, New York 10004

by March 9, 1998, and should state that the revised SUM endorsement will be attached to all policies electing SUM coverage issued or renewed no later than November 1, 1998.

Changes to other policy forms necessitated by this statute must be filed in accordance with Section 2307 of the Insurance Law.

Very truly yours,

Mark Presser  
Deputy Bureau Chief  
Property/Casualty Bureau