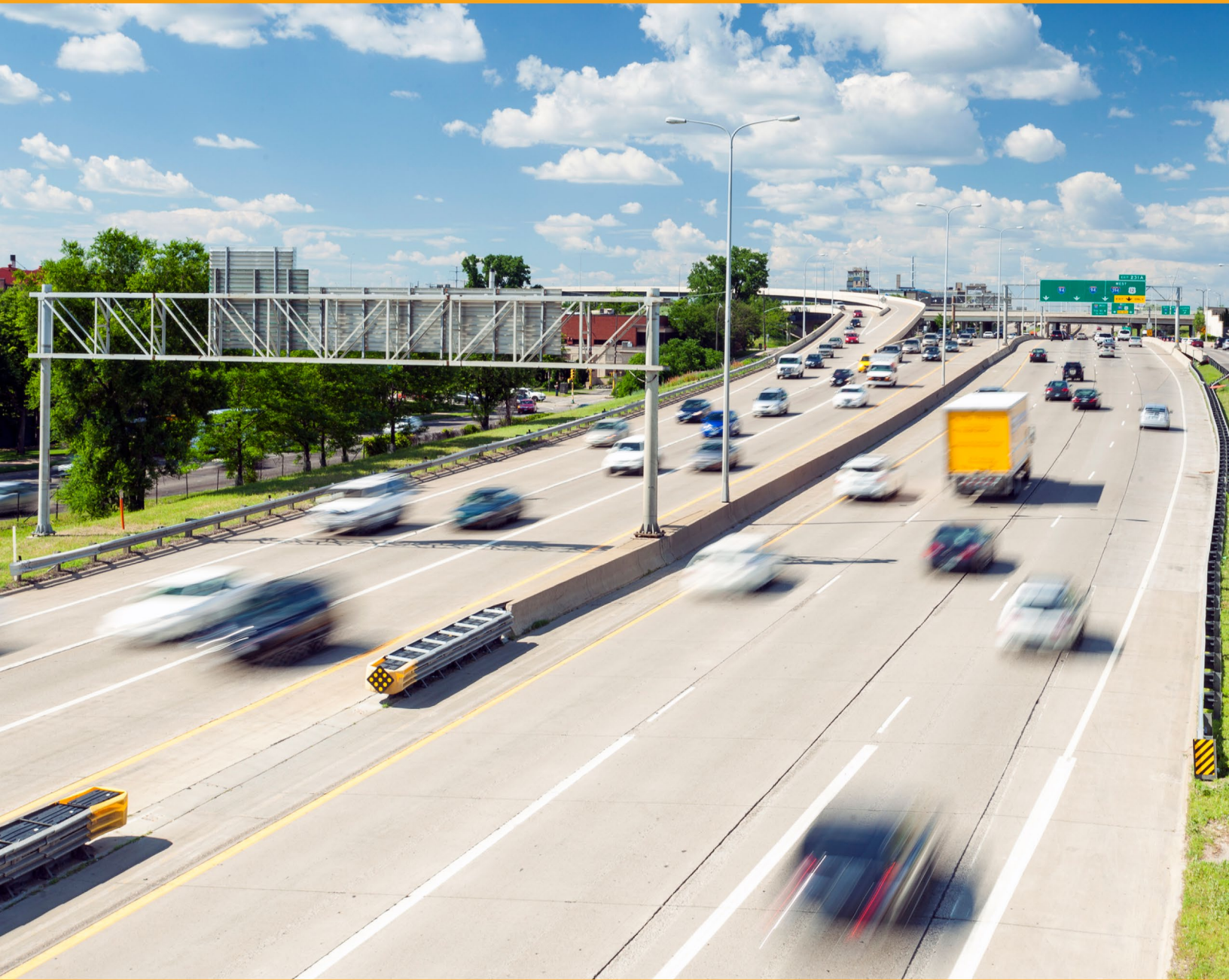




A Berkshire Hathaway Company

Uninsured & Underinsured Motorist Liability Laws



CLIENT PUBLICATION

Report highlighting UM and UIM state laws - new statutes, regulations and cases

Content as of
February 2025

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Introduction

In any report of this nature, it is impossible to capture every detail and nuance of the laws. This publication is intended to inform clients of the basic rules and exceptions, with the expectation that you will consult the full statutes, regulations, and cases relevant to your business.

At times our reading of the law may not match yours, and this happens from time to time in states with more informal rules or where the law has recently changed. Your legal and claim professionals work with these laws every day and understand the environment better than we ever could. If you see information that does not align with your understanding of the law, or if you have any questions on the content, please do let us know.

Using This Report

State Minimum UM Limits

The lowest limit allowed by state law when coverage is written.

Mandatory or Optional; Maximum Offer

The survey distinguishes between “Mandatory” and “Optional” coverage from the insured’s perspective. (It is always “mandatory” for an insurer to “offer” UM/UIM in all U.S. jurisdictions, except for Ohio and Puerto Rico.) Sometimes the law permits the insured to waive coverage to no less than the minimum limits, i.e., “Mandatory” for the insured to have at least some UM/UIM limit. Other times the insured may reject coverage entirely, i.e., “Optional.” Maximum offer is the highest limit an insurer must make available to the insured. The insured may reject coverage or select a lower limit, except in some states the insured must purchase no less than minimum limits.

UM/UIM Stacking

Stacking provides additional compensation to the insured by adding together the limits of UM/UIM from other automobiles, either from other policies known as “Inter-Policy Stacking” or from the same policy known as “Intra-Policy Stacking.” Stacking creates more coverage for the insured and adds volatility for an underwriter, versus those states that prohibit stacking.

UIM Trigger

A trigger is an event or situation that makes coverage applicable. Defining underinsured can be based on a “Limits Trigger,” meaning the insured/claimant’s UIM limit exceeds the BI Liability limit of the at-fault driver. Alternatively, it can be a “Damages Trigger,” meaning the insured/claimant’s damages exceed the BI Liability limit of the at-fault driver. A damages trigger may provide coverage to the insured that would not be available from a limits trigger.

UM/UIM Offsets

UIM coverage is reduced by the at-fault driver's insurance. Similar to the triggers above, the reduction is based on a comparison of

"Limits" or "Damages." Under limits reduction, the amount paid by the at-fault driver reduces the UIM limit available to the insured/claimant.

"With this type of reduction, UIM acts to fill-in coverage in that the insured's total recovery from all sources (i.e., payments by the [at-fault] tortfeasor and his/her insurer, plus any UIM coverage) may equal, but not exceed the maximum limit of liability for UIM under the policy. Under damages reduction, the amount paid by the tortfeasor reduces the amount of actual damages sustained by the insured for which UIM coverage pays. With this type of reduction, UIM acts as an excess coverage, in that the full UIM limit is available in addition to any amounts received from the tortfeasor."

- LEXIS Verdicts - Pennsylvania Jury Verdict Review & Analysis

Another important offset is workers' compensation (WC) insurance. A few states prohibit WC offsets. Therefore, the insured may recover WC benefits and UM/UIM payments.

Umbrella Coverage

Identifies whether UM/UIM coverage is required in the umbrella policy, based on a statute or case law and also notes when the law is unclear. When coverage is required in the umbrella, the insurer must offer the UM/UIM limit equal to the bodily injury liability limit.

Umbrella Comments

Cites the statute or case law applicable to the umbrella requirement of each state.

Miscellaneous

Unique issues worth noting.

State Minimum UM Limits

- 25/50/25

Mandatory or Optional; Maximum Offer

- Optional, insured
- May reject; Must offer minimum limit, §32-7-23.

UM/UIM Stacking

- Yes/Inter-policy stacking; Yes/Intra-policy stacking permitted up to three times; Includes Class 2 insureds. See Code of Ala. §32-7-23.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's BI limits.
- No WC offset per case law. Med pay offset only allowed if UM/UIM limit is greater than minimum, per case law.

Umbrella Coverage

- Not required, per case law.

Umbrella Comments

- Per case law, *Sweat v. Great American*, 574 So. 2d 732 (ALA 1990); Umbrella policy not an auto policy.

Miscellaneous

- Unlicensed driver exclusion found to be valid as to injured passenger who sought UIM coverage in vehicle operated by unlicensed driver. *Safeway Ins. Co. of Ala. v. Thomas*, 2018 Ala. Civ. App. LEXIS 53.
- Per accident (as opposed to per person) UIM limit found to be applicable in any case in which two or more are injured in single accident. *Mid-Century Ins. Co. v. Watts*, 2020 Ala. LEXIS 130.

State Minimum UM Limits

- 50/100/25

Mandatory or Optional; Maximum Offer

- Optional, insured
- May reject; Must offer both BI limits and other specified limits per 21.89.020(c)(1)-(3).

UM/UIM Stacking

- No/No inter- or intra-policy stacking per statute (insured collects highest limit available). Per SB 167 enacted in 2014, law applies to all persons living in household and not just the Named Insured.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Damages; UIM damages reduced by tortfeasor's BI payments; WC & MP offsets vs. damages.

Umbrella Coverage

- Not required, per statute enacted in 2004.

Umbrella Comments

- 2004 legislation (H. 336) overturned State Supreme Court ruling in *Holderness v. State Farm* 24 P.3d 1235 (2001).

Miscellaneous

- UM/UIM must include cover for prejudgment interest and Civil Rule 82; Attorneys' fees in addition to limit.

State Minimum UM Limits

- 25/50/15

Mandatory or Optional; Maximum Offer

- Optional, insured may reject on state approved form.
- Must offer BI liability limit, 20-259.01 A. See Misc.

UM/UIM Stacking

- No/No inter- or intra-policy stacking per statute, 20.259.01 and policy language.
- Can stack UM and BI only if gap with available BI of tortfeasor. Stacking prohibitions only apply to like policies. See Misc.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's available BI limits.
- No WC offset per Ariz. Supreme Court in *Cundiff v. State Farm, 2008 Ariz. LEXIS 14*.
- Offset for med pay allowed for UM but not for UIM, per case law.
- No offset for other liability recoveries. See Misc.

Umbrella Coverage

- Required, but only when attaching to a primary auto policy, per statute.

Umbrella Comments

- Insurer not required to offer UM/UIM for an excess or umbrella liability policy that does not provide primary auto insurance for listed autos, per 20-259-01(L).

Miscellaneous

- New law effective 07/01/2020 states that (a) the UM/UIM offer be made at application, (b) that the policy declaration page constitutes the final expression of what UM/UIM coverage the policyholder selected, (c) that the amounts stated on the declarations page extends to all persons insured under the policy, and (d) that carriers are not required to make a new UM/UIM offer when there is a change in statutory BI limits.
- However, carrier may not issue single policy that covers multiple vehicles and declare that single UM/UIM limit applies to all vehicles. Further, insurer that seeks to prevent insured from stacking UIM coverages under a single, multi-vehicle policy must employ the sole prescribed method for limiting stacking as stated in 20-259-01(H) *Franklin v. CSAA Gen. Ins. Co., 2023 Ariz. LEXIS 160*.

State Minimum UM Limits

- 25/50/25

Mandatory or Optional; Maximum Offer

- Optional, insured may reject.
- Must offer BI liability limit, 23-89-403(a)(3); Applies to personal lines only.

UM/UIM Stacking

- Yes/Inter- and intra-policy stacking for each auto/each policy unless policy unambiguously disallows.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's available BI limits.
- No WC offset per case law.

Umbrella Coverage

- Required, but only when attaching to a primary auto policy, per statute, or where underlying personal auto policy includes UM/UIM. See Misc.

Umbrella Comments

- Statute 23-89-403(3), as interpreted by DOI, requires offer on Personal Umbrella if UM/UIM in Auto; offer not required for Commercial Umbrella.

Miscellaneous

- No UIM without UM coverage. UIM insurer's government-owned vehicle exclusion void due to being contrary to public policy, per *Cross v. State Farm Mut. Auto. Ins. Co.*, 2018 Ark. App. 98, 2018 Ark. App. LEXIS 111.

State Minimum UM Limits

- 15/30/5. Note: Effective 1/1/2025 limits increase to 30/60/15.

Mandatory or Optional; Maximum Offer

- Optional, insured may reject.
- Must offer up to BI limit or 30/60, whichever is less, Ins. 11580.2(m).

UM/UIM Stacking

- No/No inter- or intra-policy stacking per Statute 11580.2(d). See Misc.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Limits; UIM limits reduced by BI payment; MP and WC offsets vs. damages.
- Social Security benefits not subject to offset; future med costs payable by state fund can be offset.

Umbrella Coverage

- Required, but only when attaching to a primary auto policy, per statute.

Umbrella Comments

- Statute 11580.2 (a)(1) states that an umbrella policy is excluded from UM statutory provisions if it is excess only, not written as part of a primary auto policy.

Miscellaneous

- Policy language that purported to limit coverage to "previously identified relative" found to be invalid as to \$30,000 statutory minimum" but valid as to the \$250,000 stated UIM limit of the policy resident relative. *IDS Prop. Cas. Ins. Co. v. Chow*, 2020 U.S. App. LEXIS 21919.
- Daughter designated as "additional driver" on parents' policy entitled to UIM cover when injured as pedestrian by underinsured motorist because of being "named in the declarations" per the UM/UIM statute. *Lewis v. Gov't Emples. Ins. Co.*, 2020 U.S. Dist. LEXIS 80793.

State Minimum UM Limits

- 25/50/15

Mandatory or Optional; Maximum Offer

- Optional, insured may reject.
- Must offer up to BI limit per 10-4-609 (1); Applies to personal lines only. Revised in 2007; see 10-4-601.

UM/UIM Stacking

- Yes/Inter-; No/ intra-policy stacking if single policy/ single premium per 2007 revisions to 10-4-609.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limits, per *State Farm v. Progressive, 2006 Colo. LEXIS 744* and 2007 law revisions.

UM/UIM Offsets

- Damages. No offset from other permitted coverage.
- WC offset probably prohibited. See *Ward v. Acuity, 2023 U.S. App. LEXIS 15727*

Umbrella Coverage

- Not required per case law.

Umbrella Comments

- Per case law, state supreme court held that UM/UIM offer laws do not apply to umbrella policies. *Apodaca v. Allstate, 2011 Colo. LEXIS 506*.
- Case involved personal auto but general UM/UIM law applies to personal and commercial, meaning decision should pertain to both.

Miscellaneous

- Recent case affirms that "regular use" exclusion is consistent with 10-4-609. (Classic car carrier required that policyholder maintain a "regular use" vehicle insured by a separate policy and concurrent to the classic car carrier's policy period.) *Essentia Ins. Co. v. Hughes, 2024 CO 17, 545 P.3d 494*.

- UM/UIM waiver must be signed by each Named Insured to be enforceable per statute without specific binding language; only exception is if express authority to reject by agency law is shown, per *State Farm Mut. Auto. Ins. Co. v. Johnson*, 2017 CO 68. UM/UIM rejection by one named insured binding on all insureds under the policy, per *State Farm Mut. Auto. Ins. Co. v. Johnson*, 2017 CO 68, LEXIS 437, 2017 WL 2417764 (Colo. June 5, 2017). Signature not required to acknowledge being informed of option to purchase increased UIM; rather, carrier need only provide detailed written explanation and pricing information. *Campbell v. USAA Cas. Ins. Co.*, 2022 U.S. Dist. LEXIS 123037.

State Minimum UM Limits

- 25/50

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit; Must offer twice the BI liability limit, 38a-336(a)(1).

UM/UIM Stacking

- No/No inter- or intra-policy stacking per 38A-336(d).
- Exception recognized for inter-policy stacking where two different insurers issued policies on same vehicle. *Lane v. Metropolitan P&C, 2010 Conn. App. LEXIS 550.*

UM/UIM Trigger

- Limits if non-conversion coverage (UIM limits must exceed tortfeasor's BI limits); If conversion coverage, then damages trigger.

UM/UIM Offsets

- Limits (UIM limits reduced by tortfeasor's BI limits unless conversion coverage purchased); WC offset.
- Punitive damages in tort action can be set off, per *Anastasia v. Gen. Cas. Co. of Wisc., 2013 Conn. LEXIS 7.*
- Recoveries from multiple tortfeasors also subject to set off, per case law.
- Per SB 280, offset not allowed for PD, or for amounts paid by/for any tortfeasor for BI to anyone other than the insured under the policy on which claim is being made.

Umbrella Coverage

- Not required, per case law.

Umbrella Comments

- Per case law, *Mass v. USF&G, 222 Conn. 631(1992), 213 Conn. 532, 537, 538*, umbrella policy not an auto policy.

Miscellaneous

- UM/UIM disclosure requirements not applicable to fleets, per lower court case law.
- Punitive and multiple damages not subject to UM/UIM statutory coverage requirements, To be valid, form purporting to reduce UIM limit must show compliance with 38a-336(a)(2), with only limited exception. *Russbach v. Yanez-Ventura, 2022 Conn. App. LEXIS 192.*
- Because federal Graves Amendment prevents rental car companies from being held vicariously liable for underinsured lessee negligence, UIM exclusion for loss that involved vehicle owned by self-insurer as defined by motor vehicle statute is against public policy. See *Tannone v. Amica Mut. Ins. Co., 329 Conn. 665, 2018 Conn. LEXIS 260.*

- UM/UM exclusion for rental car void and against public policy when policy permissibly extends coverage to rental vehicles. *Lollar v. Progressive Direct Ins. Co.*, 2019 Conn. Super. LEXIS 2766.
- Error in web-based coverage application tool insufficient to show commercial fleet operator intended to purchase UM/UM beyond required limit when premium paid reflected minimum limit and policyholder executed a corrected consent form after policy issuance. *Parker v. ACE Am. Ins. Co.*, 2021 U.S. Dist. LEXIS 230662.
- Exhaustion of tortfeasor's limit due to multiple claims does not make that vehicle uninsured when liability coverage limit is identical to that of policyholder's UM. *Bouchard v. Wheeler*, 224 Conn. App. 611.

State Minimum UM Limits

- Minimum combined single limit is \$60,000.
- Public carriers (TNCs and taxis) must provide \$1M in UM/UIM.

Mandatory or Optional; Maximum Offer

- Optional, insured may reject; Must offer up to a.) BI liability limit or b.) 100/300 or 300 CSL, whichever is less, 18-3902 (b).

UM/UIM Stacking

- No/Inter- not allowed if same insurer per statute; allowed if different insurers; No/Intra-insurer's obligation does not exceed highest limit to any vehicle, 18-3902(c).

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limit.
- Damage trigger adopted by 2013 legislation, SB 61, effective to policies issued/renewed on or after 1/1/14.

UM/UIM Offsets

- Damages; Damages reduced by BI, MP. Doubtful if WC offset, per *Deptula*.
- House Bill 308 amends the Workers' Compensation exclusivity provision will allow an employee injured in a car accident during the scope of employment to access an employer's automobile insurance coverage, in addition to Workers' Compensation benefits. Except for UM/UIM and PIP.

Umbrella Coverage

- Not required per case law.

Umbrella Comments

- Per statute 21 Del. C. at 2902 and case law, UM required only on motor vehicle policy issued in compliance with financial responsibility law.

Miscellaneous

- Adding vehicle to policy does not trigger duty to offer UIM, when most recent renewal and multiple prior policy terms contained valid UIM waivers. *Heasley v. Allstate Prop. & Cas. Ins. Co.*, 2022 Del. Super. LEXIS 121.
- For rejection to be legally valid, carrier must specifically state cost of UIM cover. *Campbell v. Permanent Gen. Assur. Corp.*, 2022 Del. Super. LEXIS 291.
- Horse-drawn buggy not a motor vehicle within the plain meaning of the UM policy. *Harper v. State Farm Mut. Auto. Ins. Co.*, 2022 Del. Super. LEXIS 1424. Commercial vehicle owner must fully inform renter of right to purchase UM and not rely upon "boiler plate" provision that made loss or damage to renter's responsibility. *Williamson v. Home Depot, Inc.*, 2023 Del. Super. LEXIS 121.

State Minimum UM Limits

- 25/50/10

Mandatory or Optional; Maximum Offer

- Mandatory UM (not UIM) selection of at least minimum limit; Must offer minimum limit, except up to 100/300/25 at the insured's request, 35-2406 (f)(4).
- UIM offer up to UM limit required.
- Written rejection of UM/UIM is not required.

UM/UIM Stacking

- No/No inter- or intra-policy stacking as long as policy language is clear, per 31-2406.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor's BI limits, but no less than statutory minimum.

Umbrella Coverage

- Undetermined.

Umbrella Comments

- No statute or case law, but doubtful due to 100/300/25 maximum limit.

Miscellaneous

- New 2014 claim law on offers to settle with full policy limits, per DC B365.

State Minimum UM Limits

- 10/20/10

Mandatory or Optional; Maximum Offer

- Optional, insured may reject. Must offer BI liability limit or up to \$1 million whichever is less. 627.727(2).

UM/UIM Stacking

- Yes/Inter- and intra-policy unless written waiver on the state approved form.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages; Damages reduced by BI, WC, MP, PIP, Disability, and Qualified self-insurance.

Umbrella Coverage

- Provision of UM statute requiring UM coverage to be provided in every motor vehicle policy delivered or issued in Florida, do not apply to any policy which does not provide primary liability coverage for liabilities arising out of the maintenance, operation, or use of a specifically insured auto.
- However, an insurer issuing such a policy shall make available as a part of the application, and at the written request of an insured, limits up to the BI liability limits in the policy or \$1M, whichever is less. FL ST 627.727(2); *Nieves v. North River Ins. Co.*, 49 So.3d 810 (Fla. Dist. Ct App. 2010).

Umbrella Comments

- Per statute 627.727, insurer shall make available and upon written request up to \$1 million in BI limits, but if umbrella does not include primary auto policy 627.727 does not apply. See Misc. re: interpretation of "make available" requirement.
- No intra-stacking if one premium paid.

Miscellaneous

- Umbrella carrier complied with "make available" requirement when it made offer as part of renewal of policy transferred from New Jersey to Florida during prior year. Policyholder failed to return "UIM Option" form, then sustained serious injuries by underinsured tortfeasor. Court affirmed denial because offer and rejection occurred before accident. *Lapham v. Gov't Emples. Ins. Co.*, 2022 U.S. App. LEXIS 2602.
- UM/UIM application in which policyholder initialed blanks electing \$1M in UM/UIM CSL and \$50,000 CSL ruled ambiguous with larger limit in effect, even though insured paid premium indicative of \$50,000 limit and acknowledged after the fact that he desired UM/UIM in that

amount. *Amerisure Mut. Ins. Co. v. Commercial Pool Cleaners*, 2019 U.S. Dist. LEXIS 207811. See also *USAA Gen. Indem. Co. v. Snow*, 2020 U.S. Dist. LEXIS 186535.

- Question of fact exists where policyholder incorrectly completed rejection form that reflected intent to select both non-stacked \$100,000 UM and \$10,000/\$20,000 UM, despite six subsequent renewals in which policyholder paid premium that reflected lower amount. *USAA Gen. Indem. Co. v. Snow*, 2020 U.S. Dist. LEXIS 89107.
- By logically selecting stacked benefits under separate UM/UIM policies, insured cannot then seek non-stacked UM/UIM cover in vehicle which he did not own. *Hoffman v. Progressive Express Ins. Co.*, 2020 Fla. App. LEXIS 5576.
- An insured is entitled to a determination of liability and the full extent of his or her damages in the UM action before filing a first-party bad faith action. *State Farm Mut. Auto. Ins. Co. v. Smith*, 2016 Fla. App. LEXIS 8482, 41 Fla. L. Weekly D 1338, 2016 WL 3127513 (Fla. Dist. Ct. App. 2d Dist. June 3, 2016)
- A vehicle insured under an auto insurance policy's liability provision will not simultaneously be deemed uninsured under Fl. Stat 627.727. *Zurich Am. Ins. Co. v. Cernogorsky*, 2017 Fla. App. LEXIS 2360 (Fla. Dist. Ct. App. 3d Dist. Feb. 22, 2017). No need under § 627.727(2), Fla. Stat. (2016), for the employer to execute a written waiver or rejection of UM coverage, due to employer's policy was an excess policy, not a primary liability policy subject to the waiver of UM coverage mandate imposed by § 627.727(1).
- Policy exclusion that provides exception for "any non-owned golf cart" must also afford UM coverage for damages caused by uninsured motorist operating a non-owned golf cart. See *Amica Mut. Ins. Co. v. Willis*, 2018 Fla. App. LEXIS 537, 43 Fla. L. Weekly D 161, 2018 WL 443088.
- "Owned vehicle" exclusion found to be ambiguous because it did not expressly exclude coverage for motorcycles in its definition of "motor vehicle." *Eckols v. 21st Century Centennial Ins. Co.*, 2018 Fla. App. LEXIS 17502, 43 Fla. L. Weekly D 2710, 2018 WL 6422088.

State Minimum UM Limits

- 25/50/25

Mandatory or Optional; Maximum Offer

- Optional, insured may reject. Must offer BI liability limit, 33-7-11(a)(1)(B).
- UM statute includes UIM coverage without using “underinsured” terminology.
- New requirements enacted under S. 276 (2008). Affirmative choice of lower amount required even though need not be signed waiver, see Misc.

UM/UIM Stacking

- Yes/Inter- allowed; Intra-policy not allowed where one policy insures multiple vehicles.

UM/UIM Trigger

- Damages
- UM limits must pay in excess of tortfeasor’s available BI limits, per 2008 law, 33-7-11(a)(4)(D)(ii)(I).

UM/UIM Offsets

- Damages
- Damages reduced by tortfeasor’s available BI limits.
- MP and WC offset per 2008 law, which overruled prior offset case law. Hospital lien paid by tortfeasor’s insurer is an offset, per *State Farm v. Adams*, 2010 Ga. LEXIS 938.

Umbrella Coverage

- Per statute, UM/UIM does not apply to umbrella or excess liability unless affirmatively covered in such policy or an endorsement 33-7-11(a) 3, eff. 01/01/2009.

Umbrella Comments

- Statute corrects the ruling in *Abrohams v. Atlantic Mut. Ins. Co.*, 2006 Ga. App. LEXIS 1118. Court held that statutory change applied to renewals; no offer on renewals required, per *Wilson vs. Auto Ins. Co. of Hartford*, 2013 Ga. LEXIS 537. *Coker v. American Guarantee & Liability Ins. Co.* 15-14070 (11th Cir. June 15, 2016) Section 33-7-11 does not trump the policies’ “vertical exhaustion” requirements.

Miscellaneous

- Regardless of stacking, recovery is limited to actual damages.
- Per written DOI response to our informal inquiry, UM/UIM requirements do not apply to Hired and Non-Owned on GL.
- “Tiered” rejection form in which auto dealer rejected UIM cover for those not owner, partner, officer, or family member found to be valid and in accord with UIM statute. *Jones v. Federated Mut. Ins. Co.*, 2018 Ga. App. LEXIS 363, 2018 WL 2947880.

- Incorrectly completed UIM rejection form insufficient to invalidate waiver when prior renewals and binder show clear intent to reject UIM cover. *Ace Am. Ins. Co. v. Hernandez-Ortiz*, 2019 U.S. Dist. LEXIS 224250.
- Public entity's emailed request that agent bind coverage in accord with proposal which reflected UM/UIM as "rejected" represented sufficient written evidence of policyholder's intent to reject UM/UIM coverage. *Travelers Indem. Co. v. Pallotta*, 2021 U.S. Dist. LEXIS 234010.
- Commercial Auto endorsement that purported to reduce UM and liability coverages to statutory minimum when vehicle was not being used for company's operations found to be ambiguous, as applied to insured operator who was without fault and sought full UIM benefits under the policy. *Brotherhood Mutual Insurance Co. v. Richardson*, 2022 Ga. App. LEXIS 132.
- Form that reduces UM cover only to state-mandated minimum (as opposed to matching liability limit) requires signature by only one named insured, as the statute allows "an insured" or "any insured" to elect deductibles, reject UM coverage in its entirety, and elect whether to choose excess or reduced-by UM coverage. *Peery v. Loeslein*, 696 F. Supp. 3d 1204 (N.D. Ga. 2023)
- Plain and ordinary meaning of "uninsured motor vehicle" limited to land vehicles and does not include motorized watercraft. *Kelley v. Cincinnati Ins. Co.*, 2022 Ga. App. LEXIS 340.

State Minimum UM Limits

- 20/40/10

Mandatory or Optional; Maximum Offer

- Optional, insured may reject. Must offer BI liability limit, 431:10C-301(d)(2).

UM/UIM Stacking

- No/No stacking unless stacking option purchased, but not greater than policy's BI limit per 431:10c-301(d); insurer must offer stacking option.
- No stacking of fleets.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's available BI limits, PIP; WC offset.

Umbrella Coverage

- Undetermined.

Umbrella Comments

- No statute or case law, but possible due to statutory provision of offer up to BI limits (although umbrella might not be considered auto policy).

Miscellaneous

- UM denied when insured receives WC benefit, *State Farm v. Royston*, 72 Haw. 338, 817 P.2d 118 (Haw. 1991).
- Death of husband policyholder does not represent material change sufficient to require new stacking waiver as to surviving spouse who is also a named insured under the policy, when decedent previously executed a valid stacking waiver. *State Farm Mut. Auto. Ins. Co. v. Santiago*, 2021 U.S. Dist. LEXIS 181882.

State Minimum UM Limits

- 25/50

Mandatory or Optional; Maximum Offer

- Optional, insured may reject; Must offer minimum limit, 41-2502. Offer requirement applies to UM and UIM.

UM/UIM Stacking

- No/No inter- or intra-policy stacking if language is clear.

UM/UIM Trigger

- Damages

UM/UIM Offsets

- Policy language determines/UIM may pay difference between tortfeasor's limit and damages up to UIM limit. WC offset of net WC benefits. *Cherry v. Coregis Ins., 2009 Ida LEXIS 48.*
- Offset provisions permissible, so long as amount of available UIM coverage exceeds the amount of liability coverage required by law. *Pena v. Viking Ins. Co., 2022 Ida. LEXIS 8.*

Umbrella Coverage

- Undetermined.

Umbrella Comments

- No statute or case law, but doubtful due to 25/50 limit on mandatory offer. Other case law suggests no Umbrella application.

Miscellaneous

- Effective 01/01/2019, insurers must provide an updated UM/UIM disclosure statement approved by the Department of Insurance (DOI) that explains both coverage types and the written rejection form.
- Policy exclusion which limited UIM cover to insured vehicle unless operator of vehicle in which insured rode had no other insurance coverage found to be against public policy. *Eastman v. Farmers Ins. Co., 2018 Ida. LEXIS 139.*

State Minimum UM Limits

- 20/40/15. Effective 1/1/15, the limits are 25/50/20.

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit.
- Must offer BI liability limit, 215 ILCS 5/143a-2(1); Some exempt vehicles, See 625 ILCS 5/7-601(b).

UM/UIM Stacking

- No/No inter- or intra-policy stacking per statute.
- No intra-policy stacking if no separate premium charged.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's available BI limits.
- Per 2004 law (S.2238), modified difference in limits applies.

UM/UIM Offsets

- Limits; UIM limits reduced by BI, WC (also if by WC lien), MP but not pensions (*Gillen v. St. Farm*).
- Med pay offset upheld, *Zdeb v. Allstate, 2010 Ill. App. LEXIS 998*.
- No set off for non-responsible third-party payments, *Farmers Auto Ins. Assoc. v. Coulsen, 2010 Ill. App. LEXIS 692*.
- Offsets are applicable to arbitration awards. *Gean v. State Farm Mut. Auto. Ins. Co., 2019 IL App (1st) 180935*.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Per statute 215/CLS 5/143a (5); Policy language in umbrella determines coverage. Permitted but not required per statute and case law. See Misc. re: CGL.

Miscellaneous

- UM/UIM requirements and permissive driver requirements inapplicable to umbrella policies, per *Pang v. Farmers Ins., 2014 Ill. App. Unpub. LEXIS 669*.
- Policy listing each vehicle and premium separately is ambiguous and subject to stacking, per *Bowers v. General Cas. Ins., 2014 Ill. App. LEXIS 774*.
- Clear anti-stacking language in Other Insurance clause can overcome ambiguity of Limit of Liability provision, per *Nationwide Agri. v. Dugan, 2015 U.S. App. LEXIS 12566*. However, policy in which declarations page listed each insured vehicle and corresponding UIM coverage code found to create sufficient ambiguity to enable insured to aggregate the

individual UIM limits. See *Barlow v. State Farm Mut. Auto. Ins. Co.*, 2018 IL App (5th) 170484, 2018 Ill. App. LEXIS 891.

- Named driver exclusion found unenforceable as to UIM when policyholder was passenger in vehicle operated by excluded driver insured under separate policy and was at fault in accident that injured policyholder. *Thounsavath v. State Farm Mut. Auto. Ins. Co.*, 2018 IL 122558, 2018 Ill. LEXIS 231, 2018 WL 1417157.
- Policy language that sought to limit UIM coverage to an “insured automobile” found unenforceable against UIM statute in case where insured sought UIM coverage for an accident as a passenger. *Direct Auto Ins. Co. v. Merx*, 2020 Ill. App. Unpub. LEXIS 1132. See also *Galarza v. Direct Auto Ins. Co.*, 2023 IL 129031 (Ill. November 30, 2023). (UM coverage for insured’s bicyclist son fatally insured; policy provision that limited UM cover to insured occupying insured vehicle unenforceable against public policy.)
- “Named non-owner” policy that purported to limit UIM cover to the named insured while driving “non owner” cars found ambiguous, because application required insured to list all resident legal drivers. Court therefore found UIM coverage for minor son who sustained injuries in accident caused by uninsured motorist. *Strowmatt v. Sentry Ins.*, 2020 IL App (5th) 190537.

State Minimum UM Limits

- 25/50/25

Mandatory or Optional; Maximum Offer

- Optional, named insured may reject; either UM or UIM or both may be rejected per 1/1/2010 law change.
- Must offer BI liability limit and permitted to offer higher amounts, 27-7-5-2 (a).

UM/UIM Stacking

- Yes/Intra-policy stacking if separate premium charged per statute or if policy language not ambiguous.
- No inter-policy stacking unless policy language ambiguous per statute, 27-7-5-5.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's available BI limits.
- Per *Lakes v. Grange Mut., 2012 Ind. LEXIS 39*, must compare per person UIM limit to remaining liability limit available to insured.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor's BI limits, WC unless policy language ambiguous.
- WC setoff limited where tortfeasor liability limits were below statutory minimum. , see *Justice v. Am. Fam.* case in Misc.

Umbrella Coverage

- Not required on Commercial Umbrella per 2009 statute.
- As of July 1, 2013, offer no longer required for Personal Umbrella, per HB 1190.
- A rejection of UM/UIM in the underlying policy will be considered to also be a rejection for the umbrella policy..
- Effective 07/01/2018, an insurer (a) must provide written notice if it seeks to reduce or remove UM/UIM from a Commercial Umbrella or excess policy; and (b) may make UM/UIM available in a Commercial Umbrella or excess policy in limits it determines, without a requirement to make the coverage available in limits equal to those specified in the commercial umbrella or excess policy.

Umbrella Comments

- If coverage is removed or reduced, written notice required. For case law, see *United National Ins. Co. v. DePrizio, 1999 Ind. LEXIS 52*.

Miscellaneous

- Policy provision that called for offset for Med Pay found to be invalid because they are made without fault and do not represent damages otherwise recoverable from an inadequately insured tortfeasor. *Erie Ins. Exch. v. Craighead, 2022 Ind. App. LEXIS 244*.

- Anti-stacking provision bars aggregating policy limits but not multiple recoveries, in case where decedent's estate collected UIM from estranged husband's policy and that of her parents. *Glover v. Allstate Prop. & Cas. Ins. Co.*, 153 N.E.3d 1114. Same case also found that decedent's residing with parents with no access to their vehicles made her an insured "resident relative" and not an "operator" for whom parents would need to notify carrier.
- WC setoff denied if it would reduce UM/UIM to zero, per public policy ruling in case where liability insurance limit was below statutory minimum, per *Justice v. Amer. Family*, 2014 Ind. LEXIS 196. See also *Kearschner v. Am. Fam. Mut. Ins. Co.*, 2022 Ind. App. LEXIS 246.
- UIM setoff upheld for Liability/W. Comp benefits. See *Miller v. Westfield Ins.*, 2022 U.S. Dist. LEXIS 129512.
- Motorized scooter found to be "motor vehicle" sufficient to trigger "owned vehicle" exclusion, in case where policyholder sustained injuries from underinsured at-fault motorist while using scooter not listed on policy. *Progressive Southeastern Ins. Co. v. Chastain*, 2020 Ind. App. LEXIS 350.

State Minimum UM Limits

- 20/40

Mandatory or Optional; Maximum Offer

- Optional, insured may reject; Must offer minimum limit, 516A.2 1.

UM/UIM Stacking

- No/No inter- or intra-policy stacking if policy language is clear per statute 516A.2; otherwise Yes/Yes.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limits per case law.

UM/UIM Offsets

- Damages; Damages reduced by BI, WC.
- If WC only, not legally entitled to recover so no UM/UIM triggered, per *Otterberg v. Farm Bureau Mut.*, 2005 Iowa LEXIS 61.

Umbrella Coverage

- Not required, per case law.

Umbrella Comments

- Per case law, *Jalas v. State Farm*, 505 N.W. 2d 811, umbrella policy not a basic policy of the type addressed in UM/UIM statute 516.

Miscellaneous

- Uninjured insured can collect UM/UIM under own policy for wrongful death of family member not covered by policy. *Jones v. State Farm*, 2008 Iowa LEXIS 154.
- No UM/UIM under injured party policy if other driver is adjudicated not negligent, as must be "legally entitled to recover," per *Hagenow v. Am Family*, 2014 Io. Sup. LEXIS 46.

State Minimum UM Limits

- 25/50

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit; Must offer BI liability limit, 40-284 (a).

UM/UIM Stacking

- No/Can exclude inter- and intra- policy stacking.
- Under UM, total limits available cannot exceed highest limits of any single applicable policy.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages; UIM limits above tortfeasor's BI payments or limit up to damages.
- WC, PIP offset against damages to extent they duplicate recovery.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Per statute K.S.A. Chap 40-284(A), umbrella policy not required to provide UM/UIM.

Miscellaneous

- Recent case suggests that rejection form must be specific to both UM and UIM coverages to be effective. Further, rejection forms approved by the Department of Insurance will not be given legal deference. *McLean v. Nat'l Union Fire Ins. Co.*, 2021 Kan. App. LEXIS 30.

State Minimum UM Limits

- 25/50 or 60 CSL

Mandatory or Optional; Maximum Offer

- Optional, insured may reject.
- Must offer UM at minimum limit, 304.20-020 (1); must make UIM available, per statute. Waiver valid for all insureds under policy if rejection made in writing by named insured.

UM/UIM Stacking

- Yes/Inter-policy stacking allowed and exclusions void; intra-policy anti-stacking clause upheld if single premium paid.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Damages; Damages reduced by BI, WC, and PIP as long as not deemed double recovery.
- Reparation benefits also subject to offset, per *Progressive Max Ins. v. Humble*, 2013 Ky. App. LEXIS 106.

Umbrella Coverage

- Undetermined, but case law suggests that offer required.

Umbrella Comments

- No statutory or case law on point, although court decisions indicate that umbrella is auto liability insurance for purposes of UM/UIM; Statute 304.39-110(2) silent on excess coverage.
- Full coverage refers to state-mandated minimum limits. See *State Farm v. Marley*, 2004 Ky. LEXIS 326.

Miscellaneous

- Stacking across multiple policies allowed if paid separate premiums, per *Tryon v. Encompass Indem.*, 2014 Ky LEXIS 90.
- No affirmative duty for carrier to notify or counsel insured on UIM availability if clearly excluded by policy per *Allstate Ins. Co. v. Smith*, 2016 Ky. LEXIS 168 (Ky. May 5, 2016).
- Undefined owned but not scheduled provisions in a motor vehicle insurance policy enforceable as a matter of public policy to deny UIM benefits, so long as the plain meaning of the policy clearly and unambiguously exclude that type of coverage, per *Phila. Indem. Ins. Co. v. Tryon*, 2016 Ky. LEXIS 498.

State Minimum UM Limits

- 15/30/25 or ACV of vehicle, whichever is less.

Mandatory or Optional; Maximum Offer

- Optional, insured may reject or select economic-only damages.
- Must offer BI liability limit, 22:1406 D 1. (a)(i).

UM/UIM Stacking

- No/No inter- or intra-policy stacking per statute.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's BI limits.
- Economic damages must exceed tortfeasor's BI limits if this option chosen.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's BI limits; WC offset, affirmed in *Cutsinger v. Redfern*, 2009 La. LEXIS 1647.

Umbrella Coverage

- Required, per case law.

Umbrella Comments

- Per case law, *Southern American v. Dobson*, 441 So. 2d 1185 (1983) states offer up to BI limits includes umbrella unless written rejection.
- Separate rejection required for both primary commercial auto and umbrella policies, even if both coverages were "part and parcel of the same insurance policy." *Barras v. Cardinal Servs., LLC*, 297 So. 3d 877 (2020).

Miscellaneous

- Waiver to be valid must be executed by person acting in his or legal capacity and not by subordinate using stamped signature on that person's behalf. *Havard v. Jeanlouis*, 2022 La. LEXIS 1293. Waiver must also include insurer's name, group name, or logo. See *Biagas v. Portaway*, 2022 La. App. LEXIS 446 and *Berkley Assur. Co. v. Willis*, 2022 La. LEXIS 2107. Electronic rejection form and signature enforceable as reasonable. *Lagarde v. GEICO Indem. Co.*, 2021 La. App. LEXIS 844.
- Waiver presumptively valid in commercial auto policy even though the representative capacity of the signatory was not placed on the form. See *Stall v. Mercury Ins. Co.*, 2017 La. App. LEXIS 2473, 17-439 (La.App. 3 Cir. 12/28/17).
- Trucking company's UM rejection form that contained "N/A" as to UM and UIM cover found invalid and contrary to UM statute. *Higginbotham v. US Agencies Cas. Ins. Co.*, 2018 La. App. LEXIS 1209, 17 491 (La.App. 3 Cir. 06/13/18).

- UM rejection form that did not include carrier's name found to be ineffective. *Guillory v. Commonwealth Ins. Co. of Am.*, 2021 U.S. Dist. LEXIS 8766. See also *Meziere v. State Farm Mut. Auto. Ins. Co.*, 2022 La. App. LEXIS 180.
- Carrier that requires its insured to execute new UM selection for each policy renewal bears burden that form is correctly completed. *Baack v. McIntosh*, 2021 La. LEXIS 1487.
- Inadvertent payment on prior claim insufficient to establish insurance company waiver as to defense under anti-stacking statute. *Forvendel v. State Farm Mut. Auto. Ins. Co.*, 2018 La. LEXIS 1688, 2017-2074 (La. 06/27/18); 2018 WL 3150255.
- Insured bus who operator "shopped" with competing carriers and then completed application before renewing policy raises fact question as to whether new UM rejection is necessary. *Nordstrom v. New York Marine & Gen. Ins. Co.*, 2019 La. App. Unpub. LEXIS 334.
- Insured's election of "Economic-Only" UM on electronic form found to be create a valid presumption of being adequately informed as to available UM/UIM elections. However, court complained that current state-approved form does not provide "additional consumer safeguards" that would protect the consumer. *Coleman v. Liberty Pers. Ins. Co.*, 2020 La. App. LEXIS 1018.
- Form that purports to limit coverage to "Economic Only" UM must specifically state whether it applies to per person/per accident or combined single limit coverage. *Bagala v. Tregre*, 2020 La. App. LEXIS 1921.
- No requirement for carrier to provide UIM to non-owned vehicle used by insured to merely to perform good deed for friend, when policyholder admitted in his vehicles were fully operable and available. *Landry v. Progressive Sec. Ins. Co.*, 2022 La. LEXIS 284.

State Minimum UM Limits

- 50/100

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit; Must offer BI liability limit, 24-A-2902 2. (as amended by PL 1999, c.271).

UM/UIM Stacking

- No/No inter- or intra-policy stacking permitted unless anti-stacking language ambiguous.

UM/UIM Trigger

- Limits; Aggregated inter-policy UIM limits must exceed tortfeasor's available BI limits. See Misc.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor's available BI limits.
- Gap approach adopted for allocation of offsets among multiple insurers. See *Tibbetts v. Dairyland Ins.*, 2010 Me. LEXIS 64. Offset is automatic under law, not discretionary. *Farthing v. Allstate*, 2010 Me. LXIS 131.

Umbrella Coverage

- Per 2014 case law, UM/UIM requirements do not apply to umbrella or excess policies.

Umbrella Comments

- Maine Supreme Court interpreted UM/UIM statutes, to find that they do not apply to umbrella or excess policies, thereby establishing clear law on this issue, in *Dickau v. Vermont Mutual*, 2014 Me. LEXIS 167.

Miscellaneous

- LD 2021 enacted in 2006 overrules *Butterfield v. Norfolk & Dedham Mut. Ins.* case; now insured must sustain bodily injury to recover UM/UIM. The total damage award and not the amount payable under a high-low agreement will determine whether an insured is "legally entitled to recover damages" for triggering UM/UIM in policy, per *Beal v. Allstate*, 2010 Me. LEXIS 19.
- UM/UIM requirements do not apply to GL or BOP, even with hired and non-owned auto endorsements, as not issued for specific motor vehicles, per *Peerless Indemnity v. Frost*, 2013 U.S. App. LEXIS 13927.
- 2013 Maine law, S. 218, clarifies how offset works when there are multiple claimants and one accident limit. 2014 Maine Supreme Court decision in *Dickau*, above, says that statutes do not mention umbrella or excess, and there is no intent or business sense to apply them so broadly.

State Minimum UM Limits

- 30/60/15 Effective January 1, 2011

Mandatory or Optional; Maximum Offer

- Mandatory; Must offer minimum limit, except personal auto is to equal BI liability limit, 19-509(e). Note: Must also offer on any policy issued after July 1, 2018
- Enhanced Uninsured Motorist (EUM) coverage equal to the liability coverage provided under the policy.
- Effective October 1, 2020 all UM and EUM policies must include coverage for property damage, including loss of use of the insured vehicle.
- Effective July 1, 2024 **new** private passenger customers must opt out of EUM rather than accept following offer; further, **existing** policyholders will keep the current coverage at renewal.

UM/UIM Stacking

- No/No inter- or intra-policy stacking per case law if policy language unambiguous; Watch separate premiums charged.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor's available BI limits unrecovered; WC (including WC liens and other amounts paid by employer), PIP offset against UM/UIM limits. See *Blackburn v. Erie Insurance, Md. App. LEXIS 54*; See *Parry v. Allstate, 2009 Md. LEXIS 38*.
- Only amount actually paid by (not billed to) WC carrier is part of statutory offset. *Westfield Ins. Co. v. Gilliam, 2022 Md. LEXIS 54*.

Umbrella Coverage

- Not required if separate policy, per insurance code and case law.
- See *Stickley v. State Farm, 2013 Md. LEXIS 274*, holding personal Umbrella is not auto insurance under UM/UIM family member offer law.

Umbrella Comments

- Per statute MD. INS. Code at 19-509 and case law, *Staab v. American Motors, 345 MD 428*, a policy that is excess may include UM, but not required if separate policy.

Miscellaneous

- May be required if umbrella is provided as endorsement to primary policy, rather than as a separate policy.

- Maryland law permits UM/UIM carriers to exclude coverage for vehicles “owned-but-otherwise-insured.” See *GEICO Gen. Ins. Co. v. Barnes-Simmons*, 2018 Md. App. LEXIS 22, 2018 WL 317781.
- Provision that excluded UIM coverage for vehicle “owned but not insured” under policy found to be valid in case where policyholder sustained serious injuries from at-fault vehicle when operating an ATV in legally permissible manner on West Virginia road. *Mut. Ben. Ins. Co. v. Natale*, 2021 U.S. Dist. LEXIS 123407.

State Minimum UM Limits

- 20/40/5
- Note: Effective 07/01/2025, limits increase to 25/50/30

Mandatory or Optional; Maximum Offer

- Mandatory. Must offer minimum limit or 35/80 175: 113C; Buses and taxis are exempt.

UM/UIM Stacking

- No/No inter- or intra-policy stacking per statute.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's available BI limits.
- Employee collecting WC is not entitled to UM/UIM under employer's policy.

Umbrella Coverage

- Not required, per case law.

Umbrella Comments

- Per case law, *Liberty Mutual v. McLaughlin*, 412 Mass. 492 (1992), states personal umbrella policy not a motor vehicle policy.

Miscellaneous

- n/a

State Minimum UM Limits

- Not applicable.

Mandatory or Optional; Maximum Offer

- Optional at insurer's discretion; no UM/UIM statute, thus offers not required and policy wording governs scope of coverage, *Citizens Ins. Co. of Am. v. Buck*, 1996 Mich. App. LEXIS 93 and *Rohlman v. Hawkeye-Sec. Ins. Co.* 1993 Mich. LEXIS 1957.

UM/UIM Stacking

- No/No inter- or intra- policy stacking; Anti- stacking clauses enforced. *St. Bernard v. Detroit Auto. Inter-Ins. Exchange*, 350 N.W.2d 847, 851 (Mich. App. 1984).

UM/UIM Trigger

- Per policy wording.

UM/UIM Offsets

- Per policy wording.

Umbrella Coverage

- Not required per statute.

Umbrella Comments

- UM/UIM laws repealed and replaced with No-Fault statutes.

Miscellaneous

- Court upheld "for your covered auto" language to preclude coverage of taxi not listed on personal auto policy, per *Hempel v. Nsumba*, 2014 Mich. App. LEXIS 2277.
- PIP benefits denied, but UIM benefits allowed in motorcycle accident, as indirect physical contact with metal object in road is sufficient under policy language, as long as a substantial physical nexus exists. *Herrera v. State Farm Mut. Auto. Ins. Co.*, 2017 Mich. App. LEXIS 97.
- However, policy requirement of "direct physical contact" means that vehicles must actually touch each other for UM/UIM coverage to apply. *Rozenberg v. Auto Club Group Ins. Co.*, 2020 Mich. App. LEXIS 8753.

State Minimum UM Limits

- 25/50

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit.
- Must offer minimum limit, except higher limits are permitted, 65B.49 Subd. 3a. (1).

UM/UIM Stacking

- No/No inter- or intra-policy stacking per statute.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limits.
- For excess UIM, must exceed benefit actually paid by first UIM policy applicable, per *Sleiter v. Am Family*, 2015 Minn. LEXIS 428.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's available BI limits; WC offset.

Umbrella Coverage

- Not required, per statute and case law.

Umbrella Comments

- Per case law, *State Farm v. Levinson*, 238 N.W. 2d 110 (Court of Appeals).
- Also statutory reference, Minn. Stat. at 65B-50 rules excess policy not required to provide residual liability coverage (which contains UM/UIM).

Miscellaneous

- UM denied when insured receives WC benefit, *Peterson v. Kludt*, 317 N.W. 2d 43 (Minn. 1982).
- UM/UIM required only to injured insured and not to family member with wrongful death action, per *Hanbury v. Am. Family*, 2015 Minn. App. LEXIS 37.
- Provision that excluded UIM cover for "owned but not insured" vehicle found to be valid in case in which policyholder sustained severe injuries by at-fault driver while operating a motorcycle not listed on the policy. *Eberlein v. Std. Fire Ins. Co.*, 47 F.4th 905.
- However, note that owned vehicle exclusion as to "motor vehicle" was found to be ambiguous, in case where policyholder sought UIM cover from PAP for accident while operating separately insured motorcycle. Reason: Policy differentiated between "motorcycles" and "motor vehicles" but exclusion mentioned only "motor vehicles." *Berg v. Metro. Prop. & Cas. Co.*, 2022 U.S. Dist. LEXIS 52312.

State Minimum UM Limits

- 25/50/25

Mandatory or Optional; Maximum Offer

- Optional, insured may reject.
- Must offer minimum limits, except up to the BI liability limit at the option of the insured, 83-11-101(1).
- Notice of UM/UIM reasons and benefits form law enacted in 2014, and bulletin with form later issued. See Misc.

UM/UIM Stacking

- Yes/Inter- and intra-policy stacking permitted, but clear anti-stacking clauses upheld.
- Per law and regs, insurer may offer single UM non-stacking limit for fleets of at least 10 vehicles at minimum limit of 10x FR; For smaller fleets, case law permits stacking if one policy.
- Minimum number of vehicles for purchasing single limit, non-stacked coverage is 4, and maximum stacked limit is 4xFR for a fleet of four or more vehicles, per HB 545.

UM/UIM Trigger

- Limits; Insured's UIM stacked limits must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor's available BI limits.
- No WC or MP offsets against statutory minimum.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Statute 83-11-111 states that excess policies are not subject to UM/UIM statute.

Miscellaneous

- All auto policies are required to include UM coverage unless specifically waived; this includes corporations.
- Per Reg 2005-3 on stacking, all renewals require offer of higher FR limits. 2013 law, HB 545, reduced threshold for non-stacked single limit to four (4) vehicles from 10.
- Per SB 2733, notice of benefits/reasons for UM/UIM must be given to applicants and insureds in course of sale or issuance, on form approved by DOI. When signed by NI, presumed valid and binding on all insureds. DOI Bulletin 2014-4 provides DOI Notice and Rejection form. Definition of "uninsured motor vehicle" includes one protected by Mississippi Tort Claims Act if insured has exhausted all administrative remedies under that chapter. *McGlothlin v. State Farm Mut. Ins. Co.*, 2018 U.S. Dist. LEXIS 44857.

- Policyholder injured by underinsured at-fault motorcyclist permitted to stack UIM limits from three separate policies for household vehicles issued by single carrier, despite one of the policies being issued in West Virginia for son who attended college age there but continued to maintain Louisiana residency. Further, the West Virginia policy's "anti-stacking" and "owned but insured" language considered contrary to Mississippi's public policy. *Kroeger v. Geico Gen. Ins. Co.*, 2020 U.S. Dist. LEXIS 74385.
- When two separate policies provide UIM cover for same loss, carrier that covers involved vehicle is first responsible for payment; consequently, that carrier's policy is offset in its entirety by at-fault party's liability coverage. *Viking Ins. Co. v. Miss. Farm Bureau Cas. Ins. Co.*, 2021 Miss. LEXIS 246.
- Policy exclusion for UM/UIM cover as to any resident relative not listed on policy found to be valid, in case where policyholder did not disclose prior to accident that resident son had use of insured vehicle and was not listed on the policy declarations page. *Hawkins v. Viking Ins. Co.*, 2021 U.S. Dist. LEXIS 234487.
- For a somewhat different interpretation but the same result, see *Bradley v. Viking Ins. Co. of Wisconsin*, 2023 U.S. App. LEXIS 342. (Carrier's unnamed driver UM exclusion violated public policy, but UM coverage denial valid because insured failed to disclose that son lived in household and had access to insured vehicle, creating a material misrepresentation.)

State Minimum UM Limits

- 25/50

Mandatory or Optional; Maximum Offer

- Mandatory UM selection of at least minimum limit.
- Must offer minimum limit, 379.203 1; Commercial fleets of 0-4 vehicles are exempt.
- UIM is optional.

UM/UIM Stacking

- Yes/Inter- and intra-policy UM stacking by named insured per *Cameron Mut v. Madden*, 533 SW2d 538 (Mo 1976); but employees and permissive users may not stack per *Linderer v. Royal Globe*, 597 SW2d 656 (Mo App ED 1980) and *Hines v. Geico*, 656 SW2d 262 (Mo 1983).
- Anti-stacking clause for optional UIM enforced. *Rodriguez v. General Acci. Ins. Co.*, 808 S.W. 2d 379, 383 (Mo. 1991); *Ritchie v. Allied P&C*, 2009 Mo. LEXIS 536.

UM/UIM Trigger

- Limits; UIM is optional (not statutory) coverage and is triggered based on policy wording.
- Note: UM may be converted to UIM when tortfeasor's BI limit is less than financial responsibility limit per *Cook v. Pedigo*, 714 S.W. 2d 949 (Mo. App. 1986).

UM/UIM Offsets

- No UM offsets or exclusions (e.g., tortfeasor's BI, MP, WC and disability) if effect is to reduce below statutory minimum.
- Limits of UIM can be reduced by tortfeasor's BI limits so long as the UIM limits are at least twice the limits required by Missouri's financial responsibility law, see 379.204 RSMo.
- See *Manner v. Schiermeier*, 2013 Mo. LEXIS 6, no offset if damages are greater than UIM plus tort recovery; also, no offset for any product liability (non-auto) recovery.
- Statutes do not require passengers to be covered for UM/UIM as they are not "users" in statute, per *Steele v. Shelter Mut.*, 2013 Mo. LEXIS 28.

Umbrella Coverage

- Doubtful, per statute. Undetermined in case law.

Umbrella Comments

- UM statute 379.203 RSMo addresses mandatory coverage (note: UIM is not statutory).
- *West v. Transamerica*, 614 S.W. 2d 752 (1981) states umbrella policy "specifies extent of its coverage and makes no mention of UM coverage," but specific issue of it being required was not addressed.

Miscellaneous

- UM and UIM are separate coverages. UM is statutory 379.203 RSMo; UIM is purely contractual except as to set off provision in 379.204 RS Mo.

- Owned vehicle exclusion upheld to preclude stacking, as there was no coverage and no other limits to stack. See *McBride v. Farm Bureau Town & Country Ins. Co.*, 2019 Mo. App. LEXIS 1790 (family member who had separate policy for vehicle could not “stack” father’s UM/UIM cover, when family member sustained injuries as passenger in uninsured vehicle).
- “Other Insurance” clause that stated company’s UIM was excess of UIM cover provided by other companies does not create sufficient ambiguity to overcome anti-stacking provision. *Brown v. Am. Family Mut. Ins. Co.*, 2019 Mo. App. LEXIS 573. See also *Johnson v. Safeco Ins. Co.*, 2020 U.S. App. LEXIS 39749.
- Per *Martin v. Auto Owners Ins. Co.*, 2016 Mo. App. LEXIS 13, due to “other insurance” clause UIM Anti-Stacking language found unenforceable. *Owners Ins. Co. v. Craig*, 2017 Mo. LEXIS 99 (Mo. Apr. 4, 2017) Court held auto policy unambiguously providing UIM coverage with set-off language found in the policy was proper. Policy limits mentioned in the declarations served only as reference point.
- In UM case that killed insured and minor child and seriously injured another, policy language that attempted to limit UM cover to \$1M each person and \$1M each occurrence found to be ambiguous, thereby creating three separate limits. Court reasoned that had carrier sought to limit UM cover to \$1M, it should have omitted “each person” language. *Dustin Braz. v. Auto-Owners Ins. Co. Mut.*, 2020 U.S. Dist. LEXIS 130275.
- No public policy or legal authority prevents insured injured while using covered auto from pursuing WC and UM claims. *Erie Ins. Prop. & Cas. Co. v. Cooper*, 2021 U.S. Dist. LEXIS 16381. (State trooper sustained shoulder and arm injuries while attempting to apprehend fleeing motorcyclist at DUI checkpoint.)
- “Other Insurance” clause that purported to make UIM cover excess to any other collectible UIM as to any non-owned vehicle found to be valid, in case where policyholder collected \$1M UIM limit for damages arising in accident sustained while operated vehicle owned and insured by employer. *Nationwide Ins. Co. of Am. v. Six*, 2022 Mo. App. LEXIS 390.
- Household exclusion that capped UIM coverage at statutory \$25,000 minimum for any family member found to be valid, in case where wife/passenger sued driver/husband’s estate for \$500,000 UIM limit. *Mendelson v. McLaughlin*, 2022 Mo. App. LEXIS 714.
- “Step down” provision that limited non-family members to \$25,000 UM minimum lawful as to non-resident daughter injured while operating parents’ vehicle with permission and named as a driver on the policy. *Bratcher v. Farmers Ins. Co.*, 2023 U.S. Dist. LEXIS 3190.

State Minimum UM Limits

- 25/50/20.

Mandatory or Optional; Maximum Offer

- Optional, insured may reject.
- Must offer minimum limit, 33-23-201-(1); UIM not required.

UM/UIM Stacking

- Yes/Inter- and intra-policy stacking permitted unless actuarially approved by DOI for non-stacking, per 2007 statute.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's available BI limits.
- No WC offset unless to prevent double recovery and in clear policy language.

Umbrella Coverage

- Not required, per statute and case law.

Umbrella Comments

- Per statutory law 61.6.103, umbrella is not auto policy and *Rowe v. Travelers*, 245 M 413 (1990).

Miscellaneous

- Limited offset law evident in med pay case where court allowed double recovery of health insurance and auto policy med pay, per *Winter v. State Farm*, 2014 Mont. LEXIS 168. However, med pay non-duplication (offset) provision in UIM policy does not violate "reasonable expectations" of an insured. See *Cramer v. Farmers Ins. Exch.*, 2018 MT 198, 2018 Mont. LEXIS 271, 2018 WL 3853469.
- Per H375 property damage FR requirement is \$20,000.
- Insured's policy-limit settlement with tortfeasor for prior to entry of judgment does not represent "issue preclusion" sufficient to bar UIM claim. *Reisbeck v. Farmers Ins. Exch.*, 2020 MT 171.
- Carrier that provided UIM cover for multiple vehicles, but not motorcycle because of underwriting decision not to insure motorcycles in MT, cannot then exclude UIM cover under "owned vehicle" exclusion, because doing so represents an unattainable condition precedent contrary to public policy. *Goss v. USAA Cas. Ins. Co.*, 2021 MT 289.

State Minimum UM Limits

- 25/50

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit; Must offer minimum limit, except up to 100/300 at the insured's written request, 44-6408(2).

UM/UIM Stacking

- No/No inter- or intra-policy stacking per statute 44.6410.
- If more than policy covers, maximum recovery is highest limit.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's available BI limits.
- UM and UIM excess over MP to prevent duplication of benefits.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Per statute R.R.S. Neb. at 44-6413, insurer not required to offer UM/UIM in umbrella.

Miscellaneous

- 2012 bills to remove the prohibition on stacking (LB 1143) and increase UM/UIM minimums (LB 984) did not pass.
- Courts upheld definition of UIM that does not include insured covered under liability provisions of same policy, which is consistent with statute. *Alsidez v. American Family, 2011 Neb. LEXIS 135*.

State Minimum UM Limits

- 25/50/10

Mandatory or Optional; Maximum Offer

- Optional, insured may reject.
- Must offer BI liability limit, 57-687B.145 2.
- Reoffer not required at renewal, but each renewal must include form for insured to request change.

UM/UIM Stacking

- Stacking permitted if premium paid on each auto and anti-stacking language in policy is ambiguous.
- Anti-stack clause upheld if clear, prominently displayed and separate premium per vehicle, *Nationwide v. Coatney*, 42 P.3d 265 (Nev. 2002).

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages reduced by tortfeasor's BI, MP and PIP limits. However, per 2007 law (A.B. 496), no WC offset in commercial UM/UIM for employees.

Umbrella Coverage

- Required, but only when attaching to primary auto policy, per statute.

Umbrella Comments

- Per statute, Nev. Rev. Stat. Ann. at 687B.145(5), umbrella carrier need not offer UM/UIM, if not part of primary auto policy. See Misc.

Miscellaneous

- Insurers providing excess/umbrella policies with primary must provide a disclosure statement as to UM/UIM coverage in policy (687B.440).
- Anti-stack clause must specify applicable limit (e.g., highest available).
- Reduction clause that sought to reduce recovery by amounts that "could have been paid" through WC found to violate public policy, as it would allow insurer to reduce recovery through "theoretical" not actual benefits and would thereby leave the insured less than whole. *Fernandez v. State Farm Mut. Auto. Ins. Co.*, 2018 U.S. Dist. LEXIS 150348.

State Minimum UM Limits

- 25/50/25

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit.
- If insured buys higher liability limit, mandatory UM equal to that higher liability limit.
- No UIM statutory requirements. RSA 264.15 I.

UM/UIM Stacking

- No/No inter- or intra-policy stacking if policy language is clear.

UM/UIM Trigger

- Limits (Modified Limits after 1/1/15).
- UIM limits must exceed tortfeasor's BI limits.
- Note: No UIM statute so policy language prevails.
- UM also triggered where available liability insurance is less than UM coverage.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor's BI recoveries and WC payments.
- No MP offset, per *Murley v. Hanover Ins. 2007 N.H. LEXIS 92*.

Umbrella Coverage

- Required per statute.

Umbrella Comments

- Per statute RSA 264:15, umbrella over auto must provide UM/UIM up to BI limits unless written rejection obtained.
- No requirement that insured maintain underlying UIM as precondition for excess UIM. *Santos v. Metropolitan Property & Casualty Insurance Company, 201 A.3d 1243*.

Miscellaneous

- Per DOI guidance (response to a company filing), the UM/UIM requirements apply to Hired and Non-owned coverage; med pay must be included subject to exceptions for commercial fleets of 5 or more, or auto-related businesses.
- For HNO on umbrella, rejection permitted. Per HB 1353, a vehicle is uninsured to the extent that (1) applicable liability insurance limits are less than UM limits applicable to insured; or (2) the available liability insurance has been reduced by payments to others injured in accident to an amount less than the UM limit.
- Per HB 479, amending HB 264:15 clarifies that equality in scope of coverage and dollar amounts applies whether the insured elects minimum limits or higher limits.
- Because it represented an "amendment or renewal" and not issuance of a new policy, UM/UIM waiver executed in prior policy year remained valid at subsequent renewal during

which policyholder reduced umbrella coverage limit. *O'Donnell v. Allstate Indem. Co.*, 2020 N.H. LEXIS 100 (2020).

State Minimum UM Limits

- 25/50/25.
- Effective 1/1/26, limits increase to 35/70/25.

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit, except optional for basic auto.
- Must offer up to a.) BI liability limit or b.) 250/500/100 or 500CSL, whichever is less, 17:28-1.1 b.
- New Jersey has enacted Senate Bill 1155 regarding compulsory uninsured motorist coverage for autocycles.

UM/UIM Stacking

- Yes inter-/No intra-policy stacking per statute (17-28-1.1).
- Exceptions for PIP medical expense coverage, and per *Selective Ins. v. Thomas*, 847 A. 2d 578 (N.J. 2004) that inter-policy stacking statute applies on per insured basis.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's available BI limits. No WC offsets.

Umbrella Coverage

- Not required, per case law.

Umbrella Comments

- Per case law, *Doto v. Anthony Russo*, 140 N.J. 544 (1995), umbrella policy is not an auto policy.

Miscellaneous

- UM denied when insured receives WC benefit, *Kough v. N.J. Auto Full Ins. Udwrtg. Assn.*, 237 N.J. Super. 460, 528 A.2d 127 (1990).
- Offset of liability payments against UM/UIM is on per person basis, and not for amounts paid to other injured parties, per *Karper v. Calderon*, 2015 N.J. Super. Unpub. LEXIS 1241.
- UM/UIM requirements for standard auto policy are not eliminated by state creation of basic auto policy, per *Nelson v. Rider Ins.*, 2015 N.J. Super. LEXIS Unpub. 1952.
- *Granata v. Rasizer*, 2016 N.J. Super. Unpub. LEXIS 1163 (App.Div. May 19, 2016) mere citation of statute NJSA 39:6A-3, regarding UM/UIM coverage reduction for non-resident relative is not sufficient notice of reduction of coverage.
- Carrier able to exclude UIM coverage for accident involving vehicle owned by insured but not covered under policy because policy did not unlawfully link UIM coverage to insured's

vehicle. *Katchen v. Government Emples. Ins. Co. (GEICO)*, 2019 N.J. Super. LEXIS 10, 2019 WL 272926.

- Driver using vehicle owned by fiancé with permission not entitled to his UIM coverage by virtue of her UIM coverage being not greater than that on vehicle, due to the “step down” provision in the owner’s policy. *Falk v. Donovan*, 2020 N.J. Super. Unpub. LEXIS 979 (2020).
- No “step down” provision to limit UIM coverage minimum limit, in case where family member daughter injured while driving vehicle owned by parents that had different garaging address than other vehicles insured under same policy. Reasons: (1) Dec page provided \$100,000 UM/UIM for each vehicle; (2) UM/UIM premium charged was same for each vehicle; and, (3) Vehicle in question was covered with different garaging address, creating reasonable expectation of \$100,000 UIM coverage. *Motil v. Wausau Underwriters Ins. Co.*, 478 N.J. Super. 328, 313 A.3d 430 (Super. Ct. App. Div. 2024)

State Minimum UM Limits

- 25/50/10

Mandatory or Optional; Maximum Offer

- Optional, insured may reject; Must offer BI Liability limit, 66-5-301 A. Applies to UM and UIM per case law, *Gulbransen v. Progressive*.

UM/UIM Stacking

- Yes/Inter- and intra-policy stacking permitted if separate premium charged.
- Anti-stacking clause upheld only if “truly unambiguous” and single premium for single coverage.

UM/UIM Trigger

- Limits; UIM stacked limits must exceed tortfeasor’s available BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor’s available BI limits; UM and UIM excess of MP.
- No WC offset.
- Note: If providing minimum-limit UM and UIM coverage, carrier must also notify policyholder that offset from at-fault motorist’s limit may result in no UIM recovery, if the at-fault motorist purchased minimum limit BI coverage. Absent such notice, minimum-limit coverage is illusory. *Crutcher v. Liberty Mut. Ins. Co.*, 2021 N.M. LEXIS 45. For additional guidance, see Bulletin 2021-024.

Umbrella Coverage

- Not required per case law. See comments per potential change in law.

Umbrella Comments

- Per *Archunde v. International Surplus*, 120 N.M. 724 (1995), excess policy not required to provide coverages mandated in primary policy.
- New Mexico Supreme Court let stand an appellate ruling enforcing a UM/UIM exclusion in an umbrella policy, in *Pielhau v. RLI*, 2008 N.M. App. LEXIS 72.
- Appellate court had found no expectation of UM/UIM coverage under umbrella, or law/public policy requiring such coverage.

Miscellaneous

- Some suggestion exists now that for rejection to be valid, consideration should be given to the insured's ability to communicate in English, whether an individual's inability to communicate in English was known or should have been known to the insurer, and whether the individual was offered assistance or information in a language he or she could understand in assessing whether the insurer meaningfully offered UM/UIM coverage so

that the insured could knowingly and intelligently act to reject it. *Contreras v. Fred Loya Ins. Co.*, 2022 N.M. App. LEXIS 71.

- No requirement for carrier to offer every combination of UM/UIM coverage stacking for rejection to be valid, per *Hawley v. Farm Bureau Prop. & Cas. Ins. Co.*, 2021 U.S. App. LEXIS 171.
- Declaration page that showed UM/UIM premium for each of two vehicles on policy represents sufficient proof to refute stacking rejection form that offered coverage for single premium charge. *Garcia v. Allstate Fire & Cas. Ins. Co.*, 2023 N.M. App. LEXIS 77.

State Minimum UM Limits

- 25/50/10

Mandatory or Optional; Maximum Offer

- Policies for cars principally used in New York must include SUM (Supplementary Uninsured/Underinsured Motorists) equal to the BI limits under the policy. Insured may waive SUM or select lower SUM coverage limit to state minimum above. Waiver must be in writing.
- Maximum SUM limits are 250/500 or 500 CSL.
- Effective 01/01/2020, any “stretch limousine” (defined as having capacity for at least eight and be for hire) must carry \$1.5M in SUM for any death or injury to one or more persons in any one accident.
- Effective 12/23/2023, SUM required for all police vehicles, at least up to levels of BI coverage.

UM/UIM Stacking

- Yes/Inter-policy stacking permitted for statutory UM and SUM unless premium is reduced.
- No intra-policy stacking for statutory UM or SUM if policy language clear.
- Stacking only where separate policies exist.

UM/UIM Trigger

- Limits; Insured’s BI limits must exceed tortfeasor’s BI limits. Affirmed by *Matter of Allstate Insurance Company, 2009 N.Y. Slip Op. 04300* in case involving multiple insureds.

UM/UIM Offsets

- Limits; Combines UM/UIM and SUIM by agreement.
- Benefits reduced by tortfeasor’s BI payments per case law and per Reg. 35-e.
- Economic damages reduced by Med Pay, No-Fault, GL and WC.

Umbrella Coverage

- Not required, per case law, except in certain Personal Umbrellas. (See Maximum offer.)

Umbrella Comments

- Per statute 3420(f)(2)(A), personal umbrella required to cover at least \$500,000 in SUM if carrier offers SUM alternative limits of 100/300 or 300 CSL.
- Per case law, *Matarasso v. Continental, 56 NY 2d 264 (1981)*, umbrella policy is a third-party liability policy and UM/UIM is first-party coverage not required under umbrella.

Miscellaneous

- No payment of non-economic loss will be made unless a statutorily defined serious injury has occurred.

- Offset for tortfeasor liability insurance can include dram shop's liquor liability payments, per *Weiss v. Tri-State Consumer Ins.*, 2012 N.Y. App. Div. LEXIS 6247.
- GL policy recovery offset upheld in *Redeye v. Progressive Ins.*, 2015 NY App. Div. LEXIS 8429.
- *GEICO v. Tramontozzi Sherlock*, No. 2015-04208 (N.Y. App. Div., 2d Dept, June 8, 2016), a non-duplication provision will not prevent an insured "from seeking full compensation by combining partial recoveries from several tortfeasors."

State Minimum UM Limits

- 30/60/25 (Note: Effective 07/01/2025, limits increase to 50/100/50)

Mandatory or Optional; Maximum Offer

- Mandatory up to BI/PD liability limit not to exceed \$1mm BI/PD, per HB 738 (2008) and S 749 (2009).
- Policies applicable solely to commercial motor vehicles or fleet vehicles are exempt; 2009 law clarifies application of fleet exemption.

UM/UIM Stacking

- Yes/Inter-policy UIM for private passenger non-fleet policies allowed per 2008 law.
- No/Intra-policy UM/UIM per same law 20-279.21. *Nationwide Mut. v. Mabe*, 444 S.E.2d 664 (N.C. 1994).

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's BI limits.
- UIM limits under separate policies can be stacked for UIM to BI comparison.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor's available BI limits.
- WC offset per case law.

Umbrella Coverage

- Not required per statute, 58-3-152, and case law, *Progressive American v. Vasquez*, 515 S.E.2d 8 (N.C. 1999).

Umbrella Comments

- Per *Vasquez*, no UM/UIM if umbrella is a separate policy; if umbrella is part of multiple coverage policy and not specifically excluded, UM/UIM may apply (*Isenhour* case - multiple coverage fleet policy).

Miscellaneous

- For fleets, insurer may rely on number of vehicles in initial or renewal application. Misrepresentations by insured allows insurer to avoid paying UM/UIM in excess of FR requirements, per *James v. Integon National Ins.*, 2013 N.C. App. LEXIS 719.
- Confirmed fleet exemption in statute; hired and non-owned endorsement did not provide coverage for vehicle not listed on endorsement schedule, even if that vehicle was listed on auto policy, per *West American Ins. v. Terra Designs*, 2014 U.S.D. LEXIS 43395 and *Travelers Prop. Cas. Co. of Am. v. Seretta Constr. Mid-Atlantic, LLC*, 2018 U.S. Dist. LEXIS 132769, 2018 WL 3745834.
- However, fleet exemption found inapplicable in case in which insured was injured by at-fault underinsured motorist while on motorcycle not listed on commercial auto policy for

business that insured owned. Court found endorsement that broadened coverage to individuals and provided coverage for autos borrowed for personal use voided fleet exemption. Owned vehicle exclusion also found invalid, because it denied coverage to "Class 1" named insured and his spouse. *Vincent v. Amco Ins. Co.*, 2020 U.S. App. LEXIS 24504.

- Broadened coverage endorsement which extended UIM coverage to any auto except one personally owned by insured found to be invalid under Financial Responsibility Act. See *Vincent v. Vick*, 2018 U.S. Dist. LEXIS 135671.
- Where more than one motorist is at fault, trigger is applied by comparing UM/UIM limit to the limit of just one tortfeasor policy limit, per *Lunsford v. Mills*, 2014 N.C. LEXIS 1202.
- For illustration of UIM trigger, see *N.C. Farm Bureau Mut. Ins. Co. v. Lunsford*, 2020 N.C. App. LEXIS 343.
- Daughter who resided with mother and stepfather for four-month period each year sufficient for UIM coverage under their policy, despite factors such as listing biological father's address on her driver's license and voting registration in same county as father. *N.C. Farm Bureau Mut. Ins. Co. v. Herring*, 2022-NCCOA-456.
- Carrier prevented from applying statutory "multiple claimant exception" in case where policyholders' insured son and others sustained serious injuries as passenger in his separately owned vehicle. Court found that son could stack his UIM coverage with that of his parents. *N.C. Farm Bureau Mut. Ins. Co. v. Hebert*, 2022-NCCOA-556.

State Minimum UM Limits

- 25/50

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit.
- Must offer minimum limit, except up to 100/ 300 or 300 CSL at the insured's request, 26.1-40-15.2, 2.
- Vehicles >20,000 lbs. are exempt.

UM/UIM Stacking

- No/No inter- or intra-policy stacking if policy clearly prohibits.
- Highest limit applies if more than one policy available. 26.1-40-15.4(2).

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's BI limits, WC and MP. See *Jund v. Johnnie B's Bar and Grill*, 2011 N.D. LEXIS 230 (WC deducted from total damages, not UM/UIM limits).

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Per statute N.D. Cent. Code 26.1-40-15.7, insurer not required to offer UM/UIM on umbrella.

Miscellaneous

- In multiple MV, max. recoverable is equal to highest limit for any one vehicle under any one policy. UM denied when insured received WC benefit, *Cormier v. Nat'l Farmers Union*, 445 N.W. 2d 644 (N.D. 1989).
- Injured party is insured in UM/UIM statutes permitting recovery and stacking by parents not in accident is not allowed, per *Twetten v. Country Preferred Ins.*, 2013 N.D. LEXIS 115.
- Business owner not covered individually as to UIM for injuries sustained while in passenger of separately insured vehicle because commercial auto policy did specifically name him as an insured. *Carpenter v. Grinnell Mut. Reinsurance Co.*, 2019 U.S. Dist. LEXIS 222752.

State Minimum UM Limits

- 25/50/7.5

Mandatory or Optional; Maximum Offer

- Optional at insurer's discretion; No offer required, 3937.18 (A); UM/UIM is governed by law when written voluntarily.

UM/UIM Stacking

- Yes/Yes inter- or intra-policy stacking unless clearly excluded by policy per 3937.18.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor's available BI limits after reduction by payment to other claimants, *Clark v. Scarpelli*, 744 N.E.2d, 719 (Ohio 2001).
- No WC offset. Med pay offset per *State Farm v. Grace*, 2009 Ohio LEXIS 3192.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Per statute 3937.18(A).

Miscellaneous

- No UM/UIM recovery for insured who is not injured in accident, per *Johnson v. Progressive Preferred*, 2011 Ohio App. LEXIS 5306.
- UM/UIM policy can exclude coverage of persons (other than named insureds, family) with their own auto policies, per *Johns v. Hopkins*, 2013 Ohio App. LEXIS 1997. (Ohio Ct. App., Scioto County Oct. 31, 2016). "Regular use" exclusion valid, in case where insured mother sustained injury while daughter operated her vehicle. *Kaiser v. Goff*, 2022-Ohio-4725.

State Minimum UM Limits

- 25/50

Mandatory or Optional; Maximum Offer

- Mandatory offer of at least minimum limit and up to BI liability limit, 36-3636 B; Insured may reject in writing. Does not apply to commercial trucks if WC coverage provided.

UM/UIM Stacking

- No/No intra-policy stacking if single, discounted premium charged and policy language clear. No inter-policy stacking if policy contains "other owned auto" exclusion.
- "No stacking" rule codified by S. 991, effective Nov. 1, 2014, stating no aggregation of limits unless expressly provided for by insurer. See Misc.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages; Damages may be reduced by tortfeasor's BI liability payments; however, liability attaches to UM/UIM carrier without insured first seeking recovery against tortfeasor. *Burch v. Allstate, 1998 Okla. LEXIS 138.*

Umbrella Coverage

- Not required, per case law. *Geico v. Northwestern Pac. Indem., 2005 Okla. LEXIS 41.*

Umbrella Comments

- Per case law, *Moser v. Liberty, 731 P. 2d 406 (1986)*, umbrella policy not an auto policy as defined in UM/UIM statute.

Miscellaneous

- Need new written rejection of intra-policy stacking if change in insured, vehicle or limit, or multiple limits apply, per statute and case law; see 2014 law above to change this law and process. UM/UIM is primary. *Mustain v. USF&G, 1996 Okla. LEXIS 113.*
- Failure to obtain DOI approval of UM/UIM rejection form did not invalidate it, per application of statute, *Davis v. Progressive Northern Ins., 2012 Okla. Civ. App. LEXIS 83.*
- "Pay to play" law barring certain tort recovery if uninsured was found unconstitutional, per *Montgomery v. Potter, 2014 Ok. LEXIS 137.*
- Exclusion eliminating UM coverage if the insured was able obtain recovery from at-fault party to the statutory minimum limits found to be against public policy. *Lane v. Progressive Northern Ins. Co., 2021 OK 40.*
- To be effective, exclusion that seeks to bar UM/UIM coverage to resident relative operating their own vehicle "not insured by a motor vehicle policy" must include requirement that resident relative carry UM/UIM coverage; in other words, existence of resident relative's

liability coverage is sufficient to defeat exclusion. *Johnson v. Metro. Prop. & Cas. Ins. Co.*, No. 23-6061, 2024 U.S. App. LEXIS 8369 (10th Cir. Apr. 8, 2024).

State Minimum UM Limits

- 25/50/20

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit.
- Must offer BI liability limit, 742.502(2)(a).
- Vehicles >8,000 lbs driven by employees with WC are exempt.

UM/UIM Stacking

- Yes/Inter; Doubtful/Intra per statute 742.504(9) and case law. See Misc.

UM/UIM Trigger

- Damages; Insured's damages must exceed tortfeasor's BI limits. See SB 411, effective 1/1/16.

UM/UIM Offsets

- Damages: UM limits on top of tortfeasor's liability payments (incl. insurance); offset for WC appears to be retained. See ORS 742.507(c) and 2015 SB 411, effective 1/1/16, re: UIM applies on top of liability insurance.

Umbrella Coverage

- Not required per statute.

Umbrella Comments

- Per 1993 Amendments to ORS at 742.468, Umbrella is not a motor vehicle policy; overcoming Court of Appeals, *American Economy v. Canamore* (which had reformed Umbrella policy to include UM/UIM).

Miscellaneous

- Failure of commercial auto carrier to include premiums for varying levels of coverage on UIM election form does not negate clear policyholder intent to reject UM/UIM limits equal to liability limits. See *Nikolaychuk v. Nat'l Cas. Co.*, 2018 U.S. Dist. LEXIS 138792, 2018 WL 3946529.
- However, another case holds that waiver to be valid must contain "brief summary" comparing price of UM/UIM at default coverage to lower level requested by the policyholder. *Nikolaychuk v. Nat'l Cas. Co.*, 787 Fed. Appx. 456. (2019).
- Personal auto UIM exclusion for vehicle provided for "regular use" found to be valid in MVA which policyholder perished in company-provided vehicle. *Estes v. State Farm Mut. Auto. Ins. Co.*, 2021 U.S. Dist. LEXIS 95214. See also *State Farm Mut. Auto. Ins. Co. v. Todt*, 2022 U.S. Dist. LEXIS 146165.

- Policy definition that limited UM/UIM cover to vehicles having “at least four wheels” found to be invalid, in case where policyholder purchased and was subsequently injured on newly acquired motorcycle. *Cantu v. Progressive Classic Ins. Co.*, 325 Ore. App. 184 (2023).
- Amount of UM recovery limited to policy insuring vehicle involved in accident, in case where insured attempted to collect UM from four separate policies, each insuring a single vehicle. *Sosa v. State Farm Mut. Auto. Ins. Co.*, 2023 U.S. App. LEXIS 22616.

State Minimum UM Limits

- 15/30/5

Mandatory or Optional; Maximum Offer

- Optional, insured may reject in writing; Separate forms for UM and UIM rejections; Must offer up to BI liability limit or 100/300/5 or 300 CSL, whichever is less, 75-1731(a).
- Applies to fleets. See Misc.

UM/UIM Stacking

- Yes/Inter- and intra-policy stacking; May buy no stacking option for lower premiums.
- New waiver required when vehicle is added unless/while any after-acquired auto provision in policy applies, per *Sackett v. Nationwide Mut. Ins. 2007 Pa. LEXIS 2878*. See Misc.
- No stacking permitted for self-insured or for commercial fleets per *Everhart v. PMA, 2007 Pa. LEXIS 2881*, but case does not define “commercial fleet.” See Misc.
- Must offer opportunity to waive stacking whenever personal insured increases UIM for more than one vehicle. *Barnard v. Travelers Home & Marine Ins. Co., 2019 Pa. LEXIS 5449*.
- Must also execute new stacking form whenever insured adds vehicle to existing policy. *Kline v. Travelers Pers. Sec. Ins. Co., 2019 Pa. Super. LEXIS 1157*. See Misc.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor’s BI limits.

UM/UIM Offsets

- Damages; Damages from injury reduced by tortfeasor’s BI limits, 75-1702 and *Pervati v. Port Auth., 914 A.2d 946 (PA. Commw. Ct. 2006)*.
- WC offset limited per *Heller v. PA League of Cities and Munic. 2011 PA. LEXIS 2521*.
- Disability benefits offset, per *Tannenbaum v. Nationwide, 2010 PA. LEXIS 926*.

Umbrella Coverage

- Not required, per case law.

Umbrella Comments

- Per case law, *Kromer v. Reliance, 696 A. 2d 152 (1997)*, umbrella policy is an excess liability policy rather than a motor vehicle liability policy.

Miscellaneous

- UIM rejection executed in 2004 remained valid in 2015 accident, as evidenced by pre-accident renewal that reflected purchase of UM but rejection of UIM. Further, rejection remains valid through lifetime of policy until affirmatively changed by the insured. *Koch v. Progressive Direct Ins. Co., 2022 Pa. Super. LEXIS 327*.

- New waiver required for adding vehicles unless within after acquired vehicle clause; but if car is specifically added to policy, it's not within after acquired vehicle clause so must obtain waiver. *Sackett v. Nationwide litigation/rulings*.
- Because request for additional UM for all vehicles constitutes "purchase," stacking waiver required regardless of whether acquisition occurs as part of initial application or as change made during personal auto policy term. *Barnard v. Travelers Home & Marine Ins. Co., 2019 Pa. LEXIS 5449*.
- Adding vehicle to existing personal auto policy, requires execution of new stacking waiver, as additional premium constitutes "purchase" under MVFRL. *Kline v. Travelers Pers. Sec. Ins. Co., 2019 Pa. Super. LEXIS 1157*. Same applies for new vehicle added to policy. *Pergolesi v. Std. Fire Ins. Co., 2017 Pa. Super. LEXIS 243*.
- However, simply removing vehicle from policy for which stacking had been validly waived along with all other vehicles on policy is not a "purchase," as no new premium was being collected. *Franks v. State Farm Mut. Auto. Ins. Co., 2021 Pa. Super. LEXIS 596*. Same for validly reducing UM coverage and then adding vehicle in subsequent policy year without requesting increase in UM/UM coverage. *Geist v. State Farm Mut. Auto. Ins. Co., 2021 U.S. Dist. LEXIS 235574*.
- Household vehicle exclusion (HVE) that purported to preclude UM stacking across separate policies issued by same carrier found to violate MVFRL because it acts as de facto waiver of stacked UM and UM coverages by stripping default UM/UM coverage without requiring an insurer to demonstrate that the insured was even aware that the exclusion was part of the policy. *Gallagher v. Geico Indem. Co., 2019 Pa. LEXIS 345, 2019 WL 290122*. Same for resident daughter who had separate UM/UM policy with same carrier as parents who had elected to stack UM/UM coverage on three vehicles while daughter had not. Daughter allowed to collect \$300,000 in "stacked" UM/UM cover for serious injuries sustained as passenger in her own vehicle. *Stockdale v. Allstate Fire & Cas. Ins. Co., 2020 U.S. Dist. LEXIS 33406*. *Gallagher* deemed applicable to cases that involve earlier-issued policies because it did not announce a new rule but rather interpreted law for the first time in a retroactive precedential decision. *Butta v. Geico Cas. Co., 2019 U.S. Dist. LEXIS 67205*. *Gallagher* found to apply to situations in which separate carriers issue policies. *Nat'l Gen. Ins. Co. v. Sheldon, 2020 U.S. Dist. LEXIS 178605*. See also *Blizman v. Travelers Pers. Ins. Co., 2020 U.S. Dist. LEXIS 224192*. *Gallagher* also applicable in single-vehicle accident, where same carrier had issued separate policies to stepfather and stepdaughter family members residing in same household and both named insureds selected stacked UM/UM coverage. *Erie Ins. Exch. v. Baluch, 2025 PA Super 2*.
- Note that *Gallagher* analysis is not necessary when parties agree valid stacking waiver exists. *Bubonovich v. State Farm Mut. Auto. Ins. Co., 2022 U.S. App. LEXIS 18506*. (Mother and son insured under separate policies issued by same carrier. Mother resided with son. Son's policy contained stacking waiver and HVE but wife's did not. Wife's estate able to collect UM cover on her policy but not son's. Reason: Son validly waived stacking because policy only covered one vehicle.)
- See also *Miale v. Nationwide Ins. Co. of Am., 2021 U.S. Dist. LEXIS 245514*. (Policyholder had separate policies for auto, motorcycle, and RV policy which had valid stacking waiver. No "stacked" UM/UM cover for RV as a result.)
- Stacking waiver form to be valid must now contemplate existence of any policy separately issued by another carrier. *Erie Ins. Exch. v. Petrie, 2020 Pa. Super. LEXIS 921*.
- Stacking waiver must now also contemplate all policies in same household issued by same carrier, including those issued separately to resident relative, when the relevant policy insures multiple vehicles. Absent this language, HVE and "Coordination of Benefits" endorsement that attempted to restrict coverage to single highest UM limit among multiple policies are invalid. *Donovan v. State Farm Mut. Auto. Ins. Co., 2021 Pa. LEXIS 3394*.

- If stacking waiver contemplates all vehicles insured under single policy, then stacking waiver and “Coordination of Benefits” endorsement are both valid. *Erie Ins. Exch. v. Backmeier*, 2022 Pa. Super. LEXIS 514.
- However, Gallagher found to not void “regular use” exclusion in case where resident daughter attempted to claim parents’ UIM coverage after being injured in an accident that involved vehicle jointly owned with husband and insured by another carrier. *Nationwide Affinity Ins. Co. of Am. v. Fong*, 2020 U.S. Dist. LEXIS 74156.
See also *Shepherd v. Talotta*, 2021 U.S. Dist. LEXIS 77729. (No personal UIM for policyholder injured at work while using employer’s van that had same carrier as policyholder) and *Campbell v. Travelers Home & Marine Ins. Co.*, 2021 U.S. Dist. LEXIS 167939. (No UIM cover under PAP for policyholder insured operating tractor trailer covered by separate policy from different carrier.)
- Granddaughter who lived with parents at separate residence but who also had bedroom and stayed regularly at grandparent’s nearby home found to be “household member” for stacked UIM coverage. *Geico Cas. Co. v. Alicea*, 2019 U.S. Dist. LEXIS 165132.
- However, note distinction between stacking waiver and outright rejection of UIM. As to latter, HVE valid due to no reasonable expectation of coverage and lack of premium payments. *Dunleavy v. Mid-Century Ins. Co.*, 2021 U.S. App. LEXIS 7933. Exclusion as to “regular use” for non-owned vehicle found to be invalid, in case where police officer sustained injuries from at fault driver while operating city-owned vehicle and where officer had purchased stacked UM/UIM on his two personal autos, because exclusion limits the scope of UM/UIM coverage that the MVFRL requires. *Rush v. Erie Ins. Exch.*, 2021 Pa. Super. LEXIS 646.
- See also *Jones v. Erie Ins. Exch.*, 282 A.3d 1139.
- HVE found applicable in case where insured’s son sustained serious injuries offroad while on uninsured dirt bike owned by insured. Reason: Policyholder neither paid premium for dirt bike nor made inquiry as to whether such coverage could be obtained. *Mid-Century Ins. Co. v. Werley*, No. 23-1822, 2024 U.S. App. LEXIS 22554 (3d Cir. Sep. 5, 2024)
- Some suggestion that PA is now moving away from strict compliance with MVFRL waiver language. See *Farmland Mut. Ins. Co. v. Sechrist*, 769 Fed. Appx. 66 (2019). (“MVFRL does not require a particular form be completed in order to satisfy Section 1734 regarding the election of lesser [underinsured motorist] coverage; it only requires a request in writing for reduced coverage limits.”). See also *Egan v. USI Mid-Atlantic Inc.*, 2014 Pa. Super. LEXIS 148.
- UM/UIM waiver law applies to fleets, even though fleets are exempt from stacking waiver requirements per *Everhart*. Open question now exists as to whether commercial fleet employer must notify employee when it declines UIM coverage. See *Bielec v. Am. Int’l Grp.*, 2017 Phila. Ct. Com. Pl. LEXIS 95. However, rejection of UM cover for employees by trucking company owner found to be valid. See *Rarick v. Federated Serv. Ins. Co.*, 2018 U.S. Dist. LEXIS 114817.
- “Other Insurance” clause that purported to limit UIM to limit highest applicable limit for any one vehicle for any applicable policy found to be valid and not contrary to MVFRL, in case where carrier had obtained valid stacking waiver and plaintiff had sought “second priority” UIM benefits on that same policy. *Meyers v. Travelers Ins. Co.*, 2022 U.S. Dist. LEXIS 63752. Carrier’s “non-duplication” provision found to be void against public policy, in case where passenger’s UIM carrier sought credit for driver’s UIM limit and that of tortfeasor’s liability limit. *State Farm Mut. Auto. Ins. v. Kelsea Griffiths & Elec. Ins. Co.*, 2022 U.S. Dist. LEXIS 150782.
- Strong case law supports validity of “regular use” exclusion. For most recent case, see *Rush v. Erie Ins. Exch.*, 308 A.3d 780 (Pa. 2024).

State Minimum UM Limits

- n/a

Mandatory or Optional; Maximum Offer

- No UM/UIM regulations at this time.

UM/UIM Stacking

- -

UM/UIM Trigger

- -

UM/UIM Offsets

- -

Umbrella Coverage

- -

Umbrella Comments

- -

Miscellaneous

- -

State Minimum UM Limits

- 25/50/25

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit except insured may select zero when BI limit equals compulsory. Must offer BI and PD liability limit, 27-7-2.1(a). See revised Insurance Regulation 10 (2012) for details and rejection form.

UM/UIM Stacking

- Yes/Inter- and intra-policy stacking permitted per statute if multiple premiums charged, and may collect up to the aggregate of all vehicles. No stacking under commercial fleet policies.

UM/UIM Trigger

- Limits or damages; Insured's stacked UM/ UIM limits, or damages, must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages; Recoveries reduced by tortfeasor's BI limits (only to extent of preventing a double recovery). Med Pay setoff and subrogation not clearly allowed by statute, per *Footte v. GEICO, 2013 R.I. Super. LEXIS 28*.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Per statute 27-7-2.1(C.2), UM/UIM mandated for primary policies only.

Miscellaneous

- Courts rejected off-duty employee coverage under employer's policy. *Medeiros v. Anthem Cas. 822 A.2d 175 (R.I. 2003)*.
- RI Bureau of Ins. adopted revisions to Reg. 10 effective Dec. 19, 2012, to provide rejection form, clarify renewal notice and PD requirements, and add/clarify on arbitration provisions. Rejection form used must be "substantially similar" to form in regulation. Notification of UM/UIM availability required whenever policy renewed, replaced or modified. DOI later clarified that regulation applies to personal and commercial lines, and a formal correction is forthcoming.
- Reg. 10 spells out final, revised requirements with rejection form. *Progressive Cas. Ins. Co. v. Dias, 2017 R.I. LEXIS 5 held with regards to G.L. 1956 §27-7-2.1(i)*. Progressive Northern and Progressive Casualty are two distinct insurance companies which does not allow UM/UIM coverage to apply. Rhode Island PAP and SPAP filings submitted to reinforce definition of UM to track Gen Laws 27-7-2.1(e).

State Minimum UM Limits

- 25/50/25

Mandatory or Optional; Maximum Offer

- Mandatory UM and UIM selection of at least minimum limit.
- Must offer, at option of insured, up to BI liability limit, 38-77-160. Forms revised per Bulletin 2006-3. Applies to personal lines only.

UM/UIM Stacking

- Yes/Inter- and intra-policy stacking permitted unless anti-stacking clause or statutorily limited per *Ruppe v. Auto Owners*, SC APP (1996). Stacking exclusion invalid for resident relatives not driving covered vehicles, per *Nakatsu v. Encompass Indemn.*, 2010 S.C. App. LEXIS 215 and *Carter v. Standard Fire Ins.*, 2013 S.C. 332 (but max. amount for stacking is UM/UIM limit of resident's policy on other auto). See also *Progressive N. Ins. Co. v. Ladue*, 2021 U.S. Dist. LEXIS 95170.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's available BI limits.
- No WC offset, per *Antley v. Nobel Ins. 2002 S.C. LEXIS 99*. However, WC offset permitted in employer-purchased auto policy, per *Sweetser v. S.C. Dept. of Ins. Reserve Fund*, 2010 S.C. LEXIS 414.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Per statute 38-77-161, umbrella policy need not provide UM/UIM.

Miscellaneous

- Policyholder who collects from at-fault driver and UIM from carrier of separately insured vehicle which he was driving may also collect UIM under PAP, as this is consistent with *Progressive*, and does not constitute "stacking." *Carson v. USAA Cas. Ins. Co., No. 24-30014, 2024 U.S. App. LEXIS 19675 (5th Cir. Aug. 6, 2024)*
- Offer of "additional" coverage unclear and not meaningful, per *Liberty Mut. v. McKnight*, 2015 U.S. Dist. LEXIS 107037. Carrier must offer UM/UIM to each named insured on the policy; otherwise, policy will be reformed to add UM/UIM coverage. *Allstate Fire & Cas. Ins. Co. v. Simpson*, 2016 U.S. Dist. LEXIS 10460 (D.S.C. Jan. 28, 2016).
- Adding additional named insured to existing policy is not a material change that would trigger offer of UIM coverage previously declined *Progressive Direct Ins. Co. v. Reeves*, 2019 S.C. LEXIS 71, 2019 WL 3310487. Policyholder struck by at-fault underinsured motorist while

using rental car may “stack” coverage from other insured vehicles *State Farm Mut. Auto. Ins. Co. v. Windham*, 2020 S.C. App. LEXIS 90.

- Named driver exclusion found to be valid not only to the excluded driver, but also to policyholder’s own UIM claim, in case where she was injured in a vehicle operated by driver specifically excluded under the policy, and where excluded driver had separate policy as required by statute. *United Servs. Auto. Ass’n v. Pickens*, 2021 S.C. LEXIS 102.
- Statutory phrase “legally entitled to recover” under UIM policy provision means judgment secured against at-fault defendant, thus barring UIM recovery by passenger as to both driver’s and passenger’s carrier, when both had received WC benefits. *Connelly v. Main St. Am. Grp.*, 2023 S.C. LEXIS 7.

State Minimum UM Limits

- 25/50

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit; Must offer up to BI liability limit or 100/300, whichever is less, unless the insured requests higher, 58-11-9.
- Government-owned vehicles exempt.

UM/UIM Stacking

- No intra-policy stacking; Yes inter-policy stacking provided it stacks two policies from two insurers unless policy clearly prohibits it, per *Hockett v. LaPointe & AMCO Ins.*, 2006 S.D. LEXIS 79.

UM/UIM Trigger

- Damages; Insured's uncompensated damages as determined by judgment must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor's available BI limits, as actually paid.

Umbrella Coverage

- Optional for Personal and Commercial Umbrella, per DOI Bulletin 13-01 and informal DOI discussion.

Umbrella Comments

- Per issuance of February 19, 2013 Bulletin 13-01 and informal discussion with DOI examiner, DOI has changed its position and UM/UIM is no longer mandatory for Personal Umbrella. However, if the insurer does not offer UM/UIM, a disclosure is required that the coverage is not available. If coverage is available but not taken, a disclosure must state that no UM/UIM coverage is provided.
- There are no filing requirements for disclosure forms.

Miscellaneous

- Statute 58-11-13 describes policies exempt from the UM/UIM requirements, and umbrella is not one. See Bulletin 13-01, per above.
- Non-injured insured may collect UM/UIM for death of parents per *Gloe v. Iowa Mutual*, 2005 S. D. LEXIS 31.
- UM and UIM regulations are not interchangeable, per SD Supreme Court holding invalid an "owned but not insured" exclusion in UM policy, as statute gives more leeway for UIM than for UM. *Wheeler v. Farmers Mut. Ins. Co. of NE*, 2012 S.D. LEXIS 158.

- UM and UIM coverage apply to a named insured for bodily injury sustained in accident with an under or uninsured tortfeasor, without a requirement that the insured be occupying a covered auto at the time of the accident. *Acuity v. Terra-Tek, LLC, 2024 S.D. 49.*

State Minimum UM Limits

- 25/50/25 split limit or CSL of \$65,000. Effective 4/14/2022.

Mandatory or Optional; Maximum Offer

- Optional, insured may reject; Must offer BI liability limit, 56-1148(a)(1).

UM/UIM Stacking

- No/No inter- or intra-policy stacking per statute, 56-7-1201(b)(2).
- Exception for insured named on another UM policy, which becomes excess.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor's BI limits, WC. See Misc.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Per statute, 56-7-1201(a)(3), umbrella policy need not provide UM/UIM and confirmed by case law, *State Farm v. Stone*, 2008 Tenn. App. LEXIS 307.

Miscellaneous

- Carrier does not have to write excess auto, but if offered, then must offer UM/UIM. *Mullins v. Miller*, 683 S.W. 2d 669 (TN 1984).
- Punitive damages may be recovered from UM carrier. WC offset allowed even without reducing language in policy if to prevent double recovery, but without such language, insurer cannot reduce if total damages exceed combined WC and UIM, per *Mears v. Williams*, 2012 Tenn. App. LEXIS 459.
- Offset applies to med pay, as long as carrier makes payment as "legally responsible party" (effectively making payment on behalf of the under or uninsured tortfeasor). *McCoy v. Conway*, 2022 Tenn. App. LEXIS 307.
- Commercial auto policyholder's valid UIM rejection remained in effect at renewal and does not represent new application that requires new written rejection. *Hughes v. Liberty Mut. Fire Ins. Co.*, 2021 Tenn. App. LEXIS 507.
- Strong legal precedent supports "regular use" exclusion. For recent example, see *Miller v. Giamanco*, 2022 U.S. Dist. LEXIS 145309.

State Minimum UM Limits

- 30/60/25

Mandatory or Optional; Maximum Offer

- Optional, insured may reject in writing; Must offer minimum limits, except up to the BI liability limit at the option of the insured, I.C. 5:06-1(4)(a) and Tex. Ins. Code 1952.101.

UM/UIM Stacking

- No intra-policy stacking per statute; inter-policy stacking permitted, but See Misc.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's BI limits.
- WC offset cannot reduce UM/UIM recovery below min. required limits, *Hamaker v. American States Ins. Co.*, 493 S.W.2d 893 (Tex. Civ. App. Houston 1st Dist. 1973).

Umbrella Coverage

- Not required, per case law.

Umbrella Comments

- No statute, but doubtful due to appellate level decision *Sidelnick v. American States*, 914 S.W. 2d 689 (1996) holding that umbrella need not provide UM/UIM.

Miscellaneous

- UIM limits can be stacked for UIM to BI comparison such as to allow for recovery of actual damages. UM denied when insured received WC benefit, *Valentine v. Safeco Lloyds*, 928 S.W. 2d 639 (Tex. Ct. App. 1996).
- Punitive damages not covered by UM/UIM, per *Laine v. Farmers Ins. Exch.*, 2010 Tex. App. 768. *Johnson v. State Farm Mut. Auto. Ins. Co.*, 2017 Tex. App. LEXIS 2947 (Tex. App. Austin Apr. 6, 2017) Court held as it relates to meaning of "regular use" concerning rental cars, a passenger may not recover under both liability and UIM provisions of the same policy. Primary and Umbrella coverage addressed.

State Minimum UM Limits

- 25/65/15 or 80 CSL as of 1/1/09.
- **Note: Effective 1/1/2025 limits increase to 30/65/25.**

Mandatory or Optional; Maximum Offer

- Optional, insured may reject.
- Must offer BI liability limit or the insurer's maximum filed UM/UIM limit, whichever is less, 31A-22-305; if rejected, affirmative waiver in writing required.
- In 2012 Utah amended UIM statute combining the rejection and waiver requirements. Utah Code Ann. §31A-22-305.3(3)(2012). Acknowledgement form changes per 2013 law, SB 236, with retroactive effect if no actions filed as of May 14, 2013.

UM/UIM Stacking

- Yes inter-/No intra-policy stacking per statute, 31A-22-305 (7).

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's BI limits.

UM/UIM Offsets

- Damages reduced by tortfeasor's BI limits. Note: Effective 05/03/22 no subrogation for WC and no WC offset.
- Utah has enacted Senate Bill 215, which amends motor vehicle insurance provisions relating to subrogation. Bill effective May 9, 2016.

Umbrella Coverage

- Undetermined.

Umbrella Comments

- No statute or case law. Coverage appears limited to primary coverage; 31A-22-305. See Misc. for appellate court upholding decision that UM/UIM requirements do not apply to umbrella, in *Kingston v. State Farm*.

Miscellaneous

- Effective 05/12/2020 §§31A-22-305 and 31A-22-305.3 modified to reflect that a covered person injured as a pedestrian by an underinsured motor vehicle may recover underinsured motorist benefits under any one policy in which they are described as a covered person.
- Effective 05/07/2018 §§31A-22-305 and 31A-22-305.3 modified to reflect that (1) UM does not cover benefits paid or payable as WC, except as to a limited statutory credit; (2) Requesting binding arbitration for a UM or UIM satisfies the statute of limitations when the claim is submitted to arbitration; (3) Provisions related to an insurer's right to subrogation are repealed; and (4) a UIM insurer does not have right of reimbursement against another

insurer if it insures the person liable for the injury-causing accident and it has tendered the policy limit.

- UM/UIM waiver language did not provide a “reasonable explanation” of coverage even though it mirrored statutory UIM definition; as statutory language not “intuitive,” more information was required, per *Lopez v. United Auto.*, 2012 Utah LEXIS 13. Lower court held that UM/UIM definitions without description of damages covered did not satisfy *Lopez*, although no verbal explanations required, per *Salazar v. State Farm*, 2012 U.S. Dist. LEXIS 131755. Also, insurer not required to produce signed waivers, per *Randall v. Progressive*, 2012 UT App. LEXIS 250. UM denied when insured received WC benefit, *Peterson v. Utah Farm Bur.*, 927 P.2d 192 (Utah Ct. App. 1996).
- Court held that under earlier law, substitution of vehicle does not require new waiver; also upheld finding that UM/UIM requirements did not apply to umbrella policy, per *Kingston v. State Farm*, 2015 UT App. LEXIS 28.
- UIM may attach to non-owned vehicle used in course and scope of employment, per *Dircks v. Travelers Indem. Co. of Am.*, 2017 UT 73, 2017 Utah LEXIS 167, 2017 WL 4675471.
- UIM insurer must pay damages in excess of the primary insurer’s coverage without reduction of policy limits due to amounts paid by workers compensation, but to avoid an insured’s double recovery a UIM insurer need not duplicate benefits already paid by workers’ compensation, per *Truck Ins. Exch. v. Rutherford*, 2017 UT 25, 395 P.3d 143, 2017 Utah LEXIS 63, 837 Utah Adv. Rep. 13, 2017 WL 1534997.
- Plain and ordinary meaning of “land motor vehicle” in policy requires finding that does not include airplane that crash-landed into insured’s vehicle and as result does not entitle policyholder to UM benefits. *Sandoval v. State Farm Mut. Auto. Ins. Co.*, 2022 U.S. Dist. LEXIS 112390.

State Minimum UM Limits

- 25/50/10

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit; Must offer BI liability limit, T.23-941(c) and Insurance Division Bull. 68 (1983); Insurance Division “suggests” written waivers.
- Personal lines only.

UM/UIM Stacking

- No/intra; yes/inter-policy stacking unless language is clear, per case law. *Monteith v. Jefferson Ins.*, 159 Vt. 378 (Vt. 1992).

UM/UIM Trigger

- Modified Limits; UIM limits must exceed tortfeasor’s available BI limits after reduction by other payments, per 2005 law.

UM/UIM Offsets

- Limits; UIM limits reduced by tortfeasor’s available BI limits.
- No WC offset per 2005 ruling in *Feeley v. Allstate*, 2005 Vt. LEXIS 247.

Umbrella Coverage

- Required, per insurance code and case law.

Umbrella Comments

- Statute V.S.A. Title 23 Sec. 941 states every policy providing auto liability must provide UM/UIM. Vermont Supreme Court held that the statute applies to umbrella/excess, as there is no umbrella exception. *Ins. Co. of St. of PA v. Johnson*, 2009 Vt. LEXIS 92.
- Insurance Department applies to umbrella policies, which must offer up to BI limits; minimum required coverage is 50/100.
- Umbrella may require underlying UM/UIM equal to BI limit Applies to personal and commercial umbrella, per Department checklists. Also applies to Hired and Non-owned per written DOI response to our informal inquiry.
- Injured insured cannot collect total more than UM/UIM limits after receiving portion of liability recovery, thereby enforcing policy exclusions, per *Progressive Cas. v. MMG Ins.*, 2014 VT LEXIS 91.

Miscellaneous

- Vermont Superior Court upheld per person limits in UM clause.
- Setoff provision enables carrier to aggregate UIM payments and reduce its UIM liability accordingly, regardless of number of claims made. *Progressive Northern Ins. Co. v. Muller*, 2020 VT 76.

State Minimum UM Limits

- 25/50/20
- Note: Effective 01/01/2022, limits on policies increase to 30/60. Effective 01/01/2025, limits increase again to 50/100/25. “Carve out” for self-insured taxicab operators leaves limits at current 25/50/20.
- Note: Effective 07/01/2023, any Transportation Network Company (TNC) must provide the same UM and UIM as required for all motor vehicle policies.

Mandatory or Optional; Maximum Offer

- Mandatory selection of at least minimum limit; Must offer BI liability limit, 38.2-2206 A. and 38.2-2202 B.
- Note: Policies issued or renewed after 07/01/2023 must include option that does not include offset from liability coverage. Further, policyholder must “elect to refuse” increased coverage.

UM/UIM Stacking

- No/No inter- or intra-policy stacking if language clear per case law; Otherwise permissible.

UM/UIM Trigger

- Limits; UIM limits must exceed tortfeasor’s available BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor’s available BI limits and MP; No WC offset. Underinsured motorist law eff.
- January 1, 2016 changes with the addition of Va. Code § 8.01-66.1:1, with amendments to Va. Code § 38.2-2206. Burden of defending a suit shifts from liability carrier to UIM carrier once the liability policy limits are paid.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Per VA Code at 38.2-2206J, umbrella policy not required to offer UM/UIM.

Miscellaneous

- Punitive damages included. UM denied when insured receives WC benefit, *Aetna Cas & Sur. v. Dodson*, 235 Va. 346, 367 S.E.2d 505 (1988).
- Per 2010 law (HB 93), UIM carrier has duty to pay benefits within 60 days of date that liability carrier makes irrevocable offer to pay; beyond that date UIM carrier must reimburse liability carrier for defense costs.
- High court upheld WC exclusion in personal auto policy, not merely setoff, per *Christy v. Mercury Cas*, 2012 VA. LEXIS 36 (See PA Heller case).

- Plain language of policy that dictates UIM cover applies only to owned vehicles; not against public policy in case in which insured was killed by tortfeasor while using non-owned rental truck. *Levine v. Empls Ins. Co.*, 2018 U.S. App. LEXIS 9146, 2018 WL 1748056.
- UM/UIM per-accident limit of \$50,000 determined to be floor - not maximum - in case in which risk pool under contact provided \$1M in UM/UIM cover to public entity. Consequently, full \$1M UIM limit determined to be available for school bus passenger who sustained serious bodily injury. *VACORP v. Young*, 2020 Va. LEXIS 34.
- No separate limits for UM and UIM, in case where policyholder sustained injuries from two tortfeasors, one uninsured and the other underinsured. *Geico Advantage Ins. Co. v. Miles*, 2022 Va. LEXIS 81.

State Minimum UM Limits

- 25/50/10

Mandatory or Optional; Maximum Offer

- Optional, insured may reject; Must offer BI liability limit, 48.22.030 3.

UM/UIM Stacking

- No/No inter- or intra-policy stacking per statute if policy language is clear.

UM/UIM Trigger

- Damages; Damages must exceed tortfeasor's available BI limits.

UM/UIM Offsets

- Damages; Damages reduced by tortfeasor's BI limits and PIP payments. Also offset of employer's liability insurance, per *Ochoa v. Progressive*, 2012 Wash. App. LEXIS 2827.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Per statute Rev. Code. Wash. at 48.22.030, umbrella policy is considered GL and not subject to UM/UIM code.

Miscellaneous

- Excess liability policy exposed only if directly applicable to the vehicle insured.
- UM/UIM requirements do not apply to garage liability policy when garage does not own or garage its own vehicles. *Hodge v. Raab*, 88 P. 3d 959 (Wash. 2004).
- A material policy change triggering new waiver requirement was met by expanding coverage from certain vehicles to all vehicles, per *Dennis v. Liberty Mut.*, 2014 U.S.D.C. LEXIS 33792.
- Ambiguity in UM/UIM policy language enables policyholder to recover damages for loss of use, resulting from property damage caused by underinsured motorist, including incremental cost associated with renting vehicle comparable to the one damaged while repairs are being made. *Cheban v. State Farm Fire & Cas. Co.*, 2019 Wash. App. LEXIS 2079.
- Policyholder insured under two separate policies from same carrier that covered one car each but with different UIM limits able to recover higher of two due to ambiguity as to meaning of "your car" in declarations page. *Miles v. State Farm Mut. Auto. Ins. Co.*, 2021 U.S. Dist. LEXIS 169376 (Policyholder injured while operating vehicle with lower limit.)

State Minimum UM Limits

- 25/50/25. See Misc. re: waiver forms.

Mandatory or Optional; Maximum Offer

- UM Mandatory selection of at least minimum limit.
- Must offer BI liability limit and 100/300 per 33-6-31(b) and will equal full limit unless rejected. UIM not mandatory, but full limit offer required.
- Effective 06/05/2019 an insurer must make available a new UM and UIM coverage form when offering to place an insured with an affiliate company. However, if the insured does not return the form within 30 days, then the last form previously signed by the insured governs the amount of UM or UIM coverage provided.

UM/UIM Stacking

- No/No inter- or intra-policy stacking. Stacking in a single or separate auto policy covering multiple cars prohibited if multi-car premium discount given, per case law. See *Dairyland v. Fox*, 550 E 2nd-338 (2001). See Misc.

UM/UIM Trigger

- Limits; UIM coverage triggered when tortfeasor's available limits are less than the insured's limits.

UM/UIM Offsets

- Damages; Damages reduced by available tortfeasor's BI limits.
- Med pay offset from UM/UIM allowed to prevent double recovery per *State Farm v. Schatken*, 2012 W. Va. 831.

Umbrella Coverage

- Required, per statute, with offer of full liability limit for UM and UIM.

Umbrella Comments

- W.Va. code §33-6-31f and Informational Letter 194 (replacing 130) mandate offer of UM/UIM coverage for excess and umbrella policies with automobile liability; forms provided.
- Split limits so UM and UIM must each have full limit offer.

Miscellaneous

- Adult children cannot collect UM/UIM under own policy for death of parents, per *Strum v. Swanson*, 2007 W.Va. LEXIS 77.
- When different insurers issue policies on different vehicles but cover same loss, insurer cannot enforce anti-stacking clause saying that only highest limit policy applies, per *Cunningham v. Hill*, 2010 W.Va. LEXIS 80. For broader discussion of non-duplication/offset issues and review of other state law, see *State Farm v. Schatken*.

- Per written DOI response to our informal inquiry, confirming that umbrella must offer full limit for UM and for UIM (split limit), and that Hired and Non-owned Auto coverage is subject to offer requirements because it provides auto liability insurance. Latter point confirmed by case – See *Erie Ins. Prop. & Cas. Co. v. Cooper*, 2021 U.S. Dist. LEXIS 16381.
- Per state supreme court, failure to use prescribed DOI waiver form resulted in loss of compliance presumption and insurer must prove it was compliant – such failure to use exact form did not automatically require payment of minimum or policy limit, as statute did not require it. *Thomas v. State Farm*, 2013 W.Va. LEXIS 1045.
- Policy exhaustion requirement found valid, in context of a bad faith case, per *Draughn v. Na. Union Fire*, 2014 U.S.D. LEXIS 50165.
- See July 2015 Informational Letters 193 (primary) and 194 (umbrella) for waiver form language and guidance on when needed under new law. Use of forms creates presumption of valid offer.
- See July 5, 2015 regulation bulletin wherein OIC proposed rule change on R2016-18 to amend the requirements for rejection of UIM to require motorist to be made aware in writing the risk involved in rejecting UIM coverage.
- Because golf carts are off-road vehicles that are not required to be registered under West Virginia law, no requirement exists to offer underinsurance coverage under 33-6-31(b). *Baez v. Foremost Ins. Co.*, 2018 W. Va. LEXIS 346.

State Minimum UM Limits

- FR 25/50/10
- UM 25/50; UIM 50/100.

Mandatory or Optional; Maximum Offer

- UM mandatory selection of at least min. limit, 632.32 (4)(a), as revised per 2011 law change; for UIM, must “make available” and only one time rejection required – if accepted, must offer at least 50/100. Need not be in writing; absence of premium is proof of rejection.
- Excess/umbrella are exempt per 2011 law, see below.

UM/UIM Stacking

- No/No- No stacking required per amendments in 2011 law.
- Stacking up to three vehicles from 2009 law until 2011 changes take effect.

UM/UIM Trigger

- Limits; Limits must exceed tortfeasor’s BI limits, per 2011 law change.
- 2009 law used damages to limits, which applies until 2011 changes take effect.

UM/UIM Offsets

- Permitted per 2011 law change.
- Reducing clauses permitted for liability insurance, WC payments or disability benefits. 2009 law had prohibited same.

Umbrella Coverage

- UM and UIM do not apply to personal or commercial insurance policies per 2011 law change. Previous 2009 law and cases had applied to umbrella.

Umbrella Comments

- 2011 law removed umbrella of \$1 million or more from scope of UM/UIM, hence overcoming case law, statutes and regulations on the topic, effective Nov. 1, 2011.

Miscellaneous

- Policy limitations upheld that prohibit passenger from recovering liability limits and UM/UIM under driver’s policy, per *Hutchison v. Liberty Mut.*, 2012 Wisc. App. LEXIS 932.
- Offset for liability insurance includes any employer GL paid to injured party on behalf of negligent employee, per *Kott v. Am. Family*, 2012 Wisc. App. LEXIS 1030.
- Offset as to W/C limited to net amount recovered by the claimant and does not include any payments made to the W/C insurer from a third-party settlement with the at-fault driver. *Secura Supreme Ins. Co. v. Estate of Huck*, 2023 WI 21.
- Offset from at-fault motorist’s coverage applies either to UM or UIM limit, not both. *Tuohy v. Artisan & Truckers Cas. Co.*, 2021 Wisc. App. LEXIS 968.

- Event that triggers notice requirement in UIM policy is tender of tortfeasor's underlying policy limit; moreover, tender constitutes timely notice under policy. *Shugarts v. Mohr*, 2018 WI 27, 2018 Wisc. LEXIS 141, 2018 WL 1630301.
- Reducing clause which purported to diminish UIM cover by "all sums" paid by legally responsible party found to impermissibly aggregate payments, in case in which at-fault underinsured driver killed driver of other vehicle and his front-seat passenger. *Acuity v. Estate of Shimeta*, 2021 Wisc. App. LEXIS 763.
- No UIM benefit for surviving son insured as resident relative, in case where father perished as passenger in separately insured vehicle and father was not an insured under same policy as surviving son. *Brey v. State Farm Mut. Auto. Ins. Co.*, 2022 WI 7.

State Minimum UM Limits

- 25/50/20

Mandatory or Optional; Maximum Offer

- Optional, insured may reject; Must offer minimum limit, Ins. Div. Admin. Rule 23-2 (1975).

UM/UIM Stacking

- No/No intra-policy stacking if policy language clear; Inter-policy stacking permitted but, per case law, anti-stack clause enforceable if clear and coverage/premium explained. *Aaron v. State Farm*, 34 P.3d 929 (Wyo. 2001).

UM/UIM Trigger

- UIM trigger is contingent upon policy language.

UM/UIM Offsets

- Admin. Rule 32-5 (1975): (1) Offsets of payments from other coverages in policy are permitted only when damages do not exceed UM limit. (2) WC offsets prohibited.

Umbrella Coverage

- Not required, per statute.

Umbrella Comments

- Statutory provisions restricted to minimum auto limits only, 31-9-405 (g).

Miscellaneous

- Lawsuits directly against carriers permitted before determination of UM liability. Statute applies only to UM, not UIM, and court deferred to Legislature to create any UIM coverage requirements. *Broderick v. Dairyland Ins.*, 2012 Wyo. LEXIS 23.
- Policy's liberalization clause does not retroactively provide UM coverage to policyholder who requested to be an individually named insured under a business auto policy following an accident in which the carrier denied UM cover for that reason. Carrier's decision to agree to policyholder's request applies only to occurrences from the date of coverage change forward. *Hurst v. Nationwide Mut. Ins. Co.*, 2020 U.S. App. LEXIS 17527.

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