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Bulletin 04 - 15

To: Property and Casualty Insurance Companies

RE: Motor Vehicle Liability Insurance - Invalid Exclusions

Date: August 4, 2004

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The Court of Appeals of Maryland recently issued a decision in the case of *Michael Joseph Salamon v. Progressive Classic Insurance Company*, 379 Md. 301(2004) which is of significance for automobile insurers writing in the State of Maryland. In *Salamon*, the insured was a pizza delivery driver who was involved in a motor vehicle accident while on the job. Progressive declined to indemnify or defend its insured for claims brought by the other driver relying on an exclusion under its motor vehicle liability insurance contract that excluded bodily injury and property damage coverage "arising out of the ownership, maintenance, or use of a vehicle while being used to carry persons or property for compensation or a fee, including, but not limited to, delivery of magazines, newspapers, food, or any other products."

The Court concluded that since Maryland has a compulsory automobile insurance statute, contractual exclusions in automobile insurance policies that excuse or reduce benefits below the minimum statutorily required levels or types of coverage that are not expressly authorized by the General Assembly are invalid. Here, the Court found that the Progressive exclusion was not expressly authorized under statute and was therefore invalid.

As a result of this decision, the Maryland Insurance Administration ("MIA") advises insurers that any exclusion for liability coverage under a motor vehicle liability insurance policy is invalid unless it is expressly authorized by statute. In addition, any current exclusions of coverage under the policy for liability coverage are invalid unless the amount is in excess of the minimum limits required by as required by §19-504 of the Insurance Article. Each insurer issuing motor vehicle liability insurance policies in Maryland must:

- File, along with the appropriate filing fees, the amendatory endorsements or revised policy provisions removing all exclusions not authorized by statute. The deadline for filing will be November 1, 2004, with an effective date of the filing no later than January 1, 2005.

Any insurer found not to be in compliance with this Bulletin will be subject to administrative penalties.

Questions regarding the information provided in this bulletin or the steps required for compliance should be directed to Fred Santiago, Supervisor Rates and Forms by telephone at (410) 468-2317 or by email at [fsantiago@mdinsurance.state.md.us](mailto:fsantiago@mdinsurance.state.md.us).

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