

## On a Personal Note



# THE Policies, THEY ARE a-Changin'

BY MARY LAPORTE,  
CIC, CPCU

## ISO INTRODUCES THE PUP & SPAP

One thing we can always depend on in the insurance industry is change. I sometimes think that many of us in the business become “hooked” on the continuous changes that rule our lives. Our world is regularly subjected to market shifts, technological advances, regulatory changes, and new or revised coverages. For those of you who work in personal lines, more change is coming your way.

In recent months, Insurance Service Office (ISO) has introduced two new personal lines forms. One is the Personal Umbrella Liability Policy (PUP) DL 98

01 10 06 with a distribution date of October 2006. This is a revision of the Personal Umbrella Liability Policy, which was originally introduced in June 1998. The other form is the new Special Personal Auto Policy (SPAP) PP 90 01, with a July 2006 edition date.

### Personal Umbrella Liability Policy

Historically, most companies have developed their own Personal Umbrella Liability Policy (PUP) forms, and there was very little uniformity. In an effort to offer a model of standardization, ISO introduced its Personal Umbrella Liability Policy in 1998. Since then, many compa-

nies have adopted the form, and others have used it as a model when creating or revising their own forms.

The 2006 PUP is the first revision to that original form. When ISO introduced the revised Homeowners Policy in 2000, many of the provisions in the 1998 PUP were out of step with the new wording. Since a Personal Umbrella must provide excess liability coverage above the underlying Homeowners Policy, the PUP needed to be revised. As a result, most of the changes in the new PUP form were implemented in order to more closely track with the Homeowners 2000. In addition, there were some editorial changes.

Here are some of the more notable changes in the form:

### 1. *Vehicles, Watercraft, Aircraft, and Hovercraft*

- A new definition for aircraft, hovercraft, recreational motor vehicle, and watercraft liability has been added. This new definition, together with the related exclusions, will now exclude the “occupancy,” “operation,” and “failure to supervise or negligent supervision of any person” involving such vehicle or craft by an insured.
- A definition of hovercraft is added.
- The policy more clearly defines which trailers are considered an “auto.” This new definition now more closely follows the Personal Auto Policy wording.
- On the positive side, the policy now provides coverage for a non-owned recreational vehicle used by the insured or a family member, just as the Homeowners Policy does.

### 2. *Business*

- The definition of business has been expanded to track with the definition of business in the 2000 edition of the Homeowners Policy. “Business” now includes any trade, profession, or occupation engaged in on a full-time, part-time, or occasional basis. It also includes any other activity for which the insured receives over \$2,000 total compensation for the previous 12-month period. The definition clarifies that volunteer activities are not considered “business,” nor is providing home day care service to your own relatives, or day care to anyone else for which no compensation is received.
- The exclusion for “Rental or Holding for Rental” has been removed, since the exclusionary wording is now part of the business exclusion.

### 3. *Personal Injury*

A new exclusion has been added for personal injury: “caused by or at the direction of an ‘insured’ with the knowledge that the act would violate the rights of another and would inflict ‘personal injury.’”

### 4. *Intra-Insured Exclusion*

The previous policy excluded bodily injury or personal injury to you or a family member. New wording has been added to exclude “any claim made or suit brought:

a. To repay; or

b. Share damages with;

another person because of ‘bodily injury’ or ‘personal injury’ to you or a family member.”

It appears that this was intended to remove any coverage from an “action over” which resulted from bodily injury or personal injury to the insured or a family member.

### 5. *Endorsements*

Some of the endorsements used with the PUP have been revised to reflect similar changes in the 2000 edition of the ISO Homeowners Policy. Some of these updates relate to the more restrictive wording related to vehicles, watercraft, aircraft, and hovercraft as mentioned earlier.

Other endorsements have been introduced to be used in conjunction with the new PUP. Since the PUP excludes most business-related exposures, there was a need to provide excess form-following coverage in cases where the underlying Homeowners Policy provided coverage. ISO has now developed forms for this purpose.

This is a list of the forms ISO has introduced recently:

- DL 98 03 Personal Umbrella Liability Policy Excess Home Business Liability Coverage Endorsement

- DL 98 04 Personal Umbrella Liability Excess Home Day Care Liability Coverage Endorsement
- DL 98 05 Personal Umbrella Liability Policy Excess Business Pursuits Coverage Endorsement
- DL 98 06 Personal Umbrella Liability Policy Excess Incidental Farming Personal Liability Coverage Endorsement
- DL 98 07 Personal Umbrella Liability Policy Assisted Living Care Liability Coverage Endorsement
- DL 98 08 Personal Umbrella Liability Policy Trust Endorsement
- DL 98 23 Personal Umbrella Liability Policy Named Driver Exclusion Endorsement
- DL 98 24 Personal Umbrella Liability Policy Exclusion—Motorcycle and Moped Endorsement
- DL 98 25 Personal Umbrella Liability Policy Exclusion—Watercraft Endorsement
- DL 98 30 Personal Umbrella Liability Policy Exclusion—Motor Home Endorsement
- DL 99 02 Personal Umbrella Liability Policy Excess Permitted Incidental Occupancies Liability Coverage Endorsement

### 6. *Other Changes*

There have been a number of other changes, editorial in nature, which serve to clarify previous wording.

The best course of action is to familiarize yourself with the form and

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#### ABOUT THE AUTHOR: MARY LAPORTE, CIC, CPCU

Mary LaPorte is an independently employed insurance consultant and trainer who began her insurance career in 1971. With more than 30 years of agency experience, Mary has held the positions of agency claims manager, personal lines manager, excess and surplus lines manager, and agency principal. She currently serves as an instructor for CISR and is on the national faculty of CIC.



determine which, if any, of your carriers have adopted the new wording. Even if your carriers do not adopt the form in its entirety, some carriers may update the wording in their own forms to reflect these recent changes.

Since this new form complements the 2000 edition of the ISO Homeowners Policy, it makes sense that your umbrella carrier would use this revised Personal Umbrella Liability Policy in conjunction with that newer Homeowners form. However, agents should exercise caution if the Personal Umbrella Liability carrier uses this new umbrella form in situations where the underlying Homeowners language reflects an older edition date (such as the 1991 edition of the ISO Homeowners Policy). You would not want to rely on a PUP coverage form with more restrictive language than the underlying Homeowners Policy. When placing umbrella coverage, work with your carriers to determine whether the umbrella form is at least as broad as the underlying policies.

### **The New Special Personal Auto Policy—Standardization of the Non-Standard**

Historically, drivers with bad driving records were shunned by insurers offering standard policies, and had to rely on either the residual marketplace (such as assigned risk plans) or non-standard (also referred to as sub-standard) auto markets to secure coverage. The non-standard markets would embrace the driver with a troubled record, but at a higher cost. In many cases, insurers in these markets would reduce some of the coverage in their auto forms in an attempt to reduce exposure and make coverage more affordable. Up until now,

no guideline was available to create any standardization in this area.

ISO has now introduced the Special Personal Auto Policy PP 90 01 with an edition date of July 2006. This was offered as an “alternate” policy to the standard ISO Personal Auto Policy (PAP). According to Jeff DeTurrís, assistant vice president of personal lines at ISO, the non-standard auto marketplace has evolved, and there was a need for more standardization in this area. *“In response to the growth of the non-standard market, we developed the Special Personal Auto Policy that contains some coverage limitations. We see this as an alternate policy form to the standard ISO Personal Auto Policy,”* DeTurrís said.

Clearly, the marketplace has changed. Where once standard insurers would avoid writing inexperienced operators or those with less than stellar records, today we see this market as more attractive to insurers. While some carriers are utilizing their standard forms and applying a pricing mechanism to compensate for the additional exposure, others are seeking alternative forms to make policies more affordable by reducing coverage. DeTurrís envisions that some carriers may adopt the new SPAP as it is, while others will use the policy wording as a resource when developing or updating their own forms. *(Note: To date, state approvals are limited.)*

### **No Longer Reserved for High-Risk Drivers**

Another trend has developed in recent years. In areas where auto insurance has become less affordable because of the legal or regulatory environment, insurers have introduced more restrictive coverage forms to meet the needs

of low-income drivers. In some jurisdictions, these reduced coverage forms are the only forms offered by some carriers. And since there has been no standardization, coverage can vary dramatically from one policy to another. It is hoped that the SPAP will bring more standardization to these policies by providing model policy language.

### **Differences from the Personal Auto Policy**

The Personal Auto Policy (PAP) was used as the basis for developing the new SPAP. To accomplish this, coverage provisions and exclusions have been changed or added. In some cases, the liability provisions were amended to comply with the minimum financial responsibility requirements. State-specific endorsements for use with the SPAP incorporate state-mandated requirements.

Following is a summary of the most critical differences between the SPAP and the PAP. This is not meant to be a complete review of the policy, but rather an overview of the limitations in the new form.

### **Newly Acquired Autos**

- Automatic coverage is only provided for a replacement vehicle, not an additional vehicle. The same coverage as the vehicle replaced will apply to the replacement vehicle, but physical damage will only continue for 14 days after acquiring the vehicle unless the company is notified.

### **Liability Coverage for an Insured**

- You (the named insured and resident spouse) are only covered for the ownership, maintenance, or use of a private passenger auto, pickup, or van. (The PAP, on the other hand, gives liability coverage for any type of auto, such as a motor home or truck of any type).
- Family members are covered for liability only for “your covered auto.” In other words, your 18-year-old son would not have the protection of liability coverage when driving a friend’s car, or any other vehicle.

### **LEARN MORE, EARN MORE**

The CIC Personal Lines Institute provides a wealth of information on the Personal Umbrella Policy (and excess coverages) and the Personal Auto Policy. The Ruble Personal Lines Seminar kicks it up a notch, examining borrowed autos, who is insured under umbrella and auto policies, etc. CISR’s Insuring Personal Auto Exposures speaks for itself.

### **Minimum Limits of Liability Could Apply**

Even if you purchase higher limits under your policy (for example \$100/300,000), there are many situations where the policy limits will “step down” to the minimum limit required in your state (for instance \$20/40,000) in the event of a loss. This could occur in the following situations:

- If you allow others to use your auto, the person who is driving the car would only receive minimum limits. The permissive driver would need to seek excess limits under his or her own auto policy, if available.
- If you are in the auto business (selling, repairing, servicing, storing, or

- When delivering newspapers, magazines, or food products.
- Liability resulting from non-owned golf carts.
- Punitive damages.

### **Uninsured Motorists**

- The PAP provides uninsured motorist coverage for you, family members, and others occupying your auto and “other entitled parties”; the SPAP removes coverage for the “other entitled parties.”
- Like liability and medical payments, uninsured motorists also excludes coverage when the vehicle is used for delivery of newspapers, magazines, or food products.

- Damage to a non-owned auto being used for business is not covered.
- Damage to your auto when being used for business which was not disclosed to the company is not covered.
- Damage to your auto when being driven by an undisclosed operator is not covered.
- Damage to your auto is not covered if it is being leased out or rented to anyone other than you or a family member.

Agents will want to familiarize themselves with the auto coverage forms now being written in their office. It is not safe to assume that all auto policies are cre-



parking autos) and an accident occurs with your covered auto.

- For any insured driving under the influence of alcohol or a controlled substance.
- For any insured while attempting to elude lawful apprehension or arrest, or if the vehicle is used to commit a felony.
- If the accident results from an undraged driver using the vehicle.
- For any business use of the auto that was not disclosed to the company.
- For any accident resulting from an undisclosed operator.

In each of the situations listed above, medical payments coverage would not apply.

### **Liability Coverage Not Included**

The policy will exclude liability and medical payments coverage entirely in these situations:

- When using a non-owned auto for business use (this could be a rental car).

### **Physical Damage**

- The deductible is not waived when two vehicles on the policy are involved in the same accident.
- When a temporary substitute vehicle is used, physical damage coverage extends from the vehicle which was laid up, not the broadest coverage for any auto under the policy as in the PAP.
- Physical damage coverage is only provided for non-owned autos driven by “you,” not by family members.
- Transportation expense coverage is not provided.
- Electronic equipment is covered only if factory installed.
- All customization of vehicles is excluded, on private passenger autos as well as pickups and vans.
- Damage to the auto is not covered when delivering newspapers, magazines, or food products.
- Damage to the auto is not covered when driving under the influence of alcohol or a controlled substance.

ated equal. When writing sub-standard business, review the coverage form that is being offered. Likewise, review and evaluate the coverage forms used by standard carriers as well. Make sure that restricting coverage forms are not utilized when broader coverage forms are available. In an effort to reduce errors and omissions (E&O) claims in this area, agents could consider having the applicant sign an acknowledgement indicating that they have waived the offer of broader coverage.

### **CONCLUSION**

The good news is that by introducing both the PUP and the SPAP, ISO has offered a degree of standardization which did not exist before. In both cases, however, your carriers may be offering coverage forms which are broader. A conscientious agent will become familiar with the provisions in these forms and carefully compare them to other coverage forms that are available. And of course, as we look to the future, always be prepared—for more change. ■