



MISSISSIPPI INSURANCE DEPARTMENT

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BULLETIN 2014-4

NOTICE AND REJECTION OF UNINSURED MOTORIST COVERAGE FORM SENATE BILL 2733

On May 30, 2013, the Mississippi Supreme Court ruled in *Honeycutt v. Coleman*, 120 So.3d 358 (2013), that an insurance agent has a duty to explain uninsured motorist ("UM") coverage to the insured in order to obtain a knowing and voluntary waiver of UM coverage, and that whether such a waiver was given is a genuine issue of material fact. As a result of this decision, many insurers have questioned what steps must be taken to accomplish a knowing and valid waiver of UM coverage by the policyholder.

In response in part to the *Honeycutt* decision, the Mississippi Legislature, 2014 Regular Session, passed Senate Bill 2733 which amends Miss. Code Ann. § 83-11-101, to provide that rejection of uninsured motorist coverage shall be binding upon all persons insured by the policy and shall be presumed to be an informed, knowing rejection and waiver of coverage if said waiver is made on a form approved by the Department of Insurance ("Department"). This Bulletin is being issued to provide insurers who write automobile liability coverage information regarding the Notice and Rejection of UM Coverage Form that may be used.

Senate Bill 2733

SB 2733 amends Miss. Code Ann. § 83-11-101, by adding a new section to the statute. This new section establishes four (4) elements regarding the effective waiver of UM coverage:

1. An insurer shall inform the named insured or the applicant of the benefits of and reasons for electing to purchase UM coverage;
2. This information and waiver shall be on a form approved by the Department;
3. If the insured named in the policy chooses to reject UM coverage, the form shall be signed by or on behalf of the named insured, and such rejection is binding upon all persons insured by the automobile liability insurance policy; and,
4. If said form is signed, it shall be presumed that there was an informed, knowing rejection and waiver of UM coverage.

Notice and Rejection of UM Coverage Form

Pursuant to SB 2733, the Department has created a Notice and Rejection of UM Coverage Form

entitled "Mississippi Selection/Rejection of Uninsured Motorist Insurance" ("Form"), which is attached hereto as Exhibit "A". The provisions contained within this Form are considered by the Department to be the minimum information that insurers must provide to their insureds regarding the benefits of and reasons for electing to purchase UM coverage.

Insurers who adopt this Form may use it immediately without the necessity of obtaining prior approval from the Department. Minor non-substantive changes which identify the insurer or insurance producer, or which provide contact information are allowed. Insurers who make substantive and material changes or additions to this Form must have their version approved by the Department prior to use. Changes to the style and appearance of this Form are not considered material or substantive. Any notice and form filed with the Department that does not contain the minimum provisions set forth in the attached Form will not be approved for use.

Effective Date

An insurer may begin using the UM Coverage Form provided with this Bulletin immediately, or if a company files a version of the Form with the Department, then after approval by the Department. However, insurers are advised that the provisions of SB 2733 establishing the elements of an effective waiver of UM coverage are not effective until on and after July 1, 2014.

Insurers are directed to begin using the Form, or their approved version of the Form, by July 1, 2014, for all new policies and renewal notices that are issued by the company on and after July 1, 2014.

The Department recognizes that pursuant to statutory requirements, renewals that will be effective on and after July 1, 2014, may have already been sent to policyholders. Also, many policies currently in force will not renew for several months. In those instances, the Department is directing insurers, by September 1, 2014, to notify their policyholders that have rejected UM coverage of the provisions of SB 2733 and request the policyholder complete the Form, or the company's approved version of the Form. The Department will consider insurers that provide this notice and request to their designated policyholders to be in compliance with the provisions of this Bulletin, even if the insurer is unable to obtain a completed UM Coverage Form from their policyholders.

Questions

If an insurance company has any further questions concerning the implementation of SB 2733 that have not been addressed in this Bulletin, please contact the Legal Division of the Mississippi Department of Insurance, (601) 359-3577.



MIKE CHANEY
COMMISSIONER OF INSURANCE

**MISSISSIPPI SELECTION/REJECTION OF
UNINSURED MOTORIST INSURANCE**

Miss. Code Ann. §83-11-101 provides that no automobile liability insurance policy shall be issued unless it contains provisions undertaking to pay the insured all sums which the insured shall become legally entitled to recover as damages for (1) bodily injury or death and (2) property damage from the owner or operator of an uninsured motor vehicle, within limits which shall be no less than those set forth in the Mississippi Motor Vehicle Safety Responsibility Law, as amended, under provisions approved by the Commissioner of Insurance.

The Code also provides that the insured named in the policy is permitted to reject such coverage in writing, either in its entirety or partially, that is, the damage for bodily injury or death and the property damage coverage may be rejected or the property damage coverage only may be rejected. The law does not allow you to reject the damage for bodily injury or death and elect only the property damage coverage.

Uninsured Motorist ("UM") insurance is recoverable by you under your own policy should the owner or operator of an uninsured or underinsured vehicle be found to be legally at fault for injuries or damages sustained by you. Your rejection of UM insurance would mean that you would not be covered by your insurance company for damages sustained by you from an owner or operator of an uninsured or underinsured vehicle. The selection or rejection of this coverage in whole or in part should be made by you after knowingly and intelligently considering the matter.

The rejection/selection indicated below shall apply to this policy and all future renewals of such policy. The rejection or selection indicated below shall also apply to all future policies issued to you by this Company because of a change of vehicle or coverage, or because of an Interruption of Coverage, until you notify the Company in writing that you are electing to add UM coverage to your policy. It is your responsibility to notify your Company if it is your intention to change the coverage requirements.

To be certain that your policy is issued correctly, please indicate your choice of the option available by an "X", then sign and date this form as an acknowledgement of your choice.

The undersigned insured(s) make the following choice(s):

- () I hereby reject Uninsured Motorist Coverage for both bodily injury and property damage.
- () I hereby reject only the property damage of Uninsured Motorist Coverage.
- () I hereby select the following Uninsured Motorist Coverage limit of liability:

Single Limit of Liability:

\$ _____ each accident

Separate Limits of Liability:

\$ _____ each person – Bodily Injury

\$ _____ each accident – Bodily Injury

\$ _____ each accident – Property Damage

I hereby warrant, by my signature below, that I have specific authority by any corporation or other party named as a named insured to select or reject uninsured motorist coverage in behalf of the corporation or other party for whom this selection is made.

Signature of Named Insured

Date

Policy Number