
ERRORS & OMISSIONS

RISK MANAGEMENT ALERT

Best Practices Can Help Protect Your Agency in the Face of Statutory Reform

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State legislators will periodically make changes to existing laws that impact the availability and limits of various insurance coverages. When changes from outside of your agency take effect, it is essential that your CSRs, producers, and agents adhere to best practices when handling customer accounts.

When faced with a change in the availability or limits of coverage – for instance, a change in PIP coverage from mandatory unlimited PIP limits to a variety of limits – it is imperative that your producers present all of the available options to your customers. In addition, they must have the customers select the appropriate coverage for their distinct risk appetite. It is also imperative that you have the customer, i.e., the Named Insured, sign acknowledging their selection of coverages and limits.

Best practices include, but are not limited to:

- Being knowledgeable on the changes in available coverages and limits.
- Understanding your customer's risk profile.
- Presenting your customer with the available options for coverages and limits.
- Having your customer select the coverages and limits that they desire.
- Documenting your customer's coverage and limits selections, with your customer's signature.

Being Informed

There is no shortcut, or substitute, for being informed on legislative changes. This will require diligence on the part of your agency staff and knowing where the resources are for this information, such as the website for the department of insurance in your state.

One way to accomplish the remaining bulleted items listed above is through the use of a Declined Coverage Form. This form helps your producers to:

- 1) Review the risk** to ensure that they have covered all of the relevant coverages for the customer in a convenient proposal form.
- 2) Market coverages and limits** by informing the customer, in writing, as to what is available. This forces the customer to consider the available coverages and limits, and sign acknowledging their selection.

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- 3) Document for E&O prevention purposes** by holding the customer accountable for their coverage elections. Listing all of the available coverage and limit options in one document for your customer to review should address your notice responsibilities, provided it is done in accordance with any time requirements as set forth in the legislation. Having your customer sign acknowledging their selections will also provide a crucial piece of documentary evidence, should your customer make a claim at a later date alleging that either the coverage, the limit, or both, were insufficient.

A Declined Coverage Form can be in paper or electronic form, which is convenient for situations where you are not able to meet face-to-face with your customers.

Just because there are changes in the market, legislative or otherwise, does not necessarily mean you need to alter the best practices for your industry. In fact, it is adherence to the established best practices that will protect your agency from errors and omissions, and provide you with a sound defense should an allegation of an error or omission arise.

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