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for Insurance Agents

At Least One-Third of E&O Claims Result from an Agency Moving Coverage to a New Carrier

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Whether you are moving a client to a new carrier due to hard market conditions, a carrier exiting the market, or for more traditional coverage/pricing reasons, use caution. It is estimated that at least one-third of all E&O claims involve scenarios where an agency moves coverage to a new carrier and the replacement coverage is not as broad as the expiring coverage. It is essential for agencies to have a procedure to address this.

Do an in-depth analysis when proposing a new carrier at renewal.

1. **Review coverage differences with the client.** Create a side-by-side spreadsheet noting the primary coverage issues and listing how each carrier addresses them.
2. **Note coverage issues in your proposal.** Many agents do this, pointing out differences – especially reductions – and what's uncovered. Coverage differences could include sub-limits, the definition of who is an insured, what's covered and what's excluded, and more.
3. **Advise the policyholder when there is a reduction and note that they agreed to change to the new carrier.** Without this analysis and notification, the client could have grounds to bring an E&O action against the agency if the client had a loss that would have been covered by the expiring carrier, but not by the current one.

In other situations, it could extremely difficult or even impossible to do a full comparison. When moving coverage to a new carrier, bring reductions to the client's attention in writing and get the client's acknowledgment in writing if they are agreeable to the reductions. To help in the agency's defense if a problem occurs, a suggested approach is to include standard wording such as the following in your proposals:

> ***In proposing the moving of coverage for ______________ to a different insurance company, we have reviewed and noted in this proposal some of the coverage differences between your expiring coverage (policy) and the possible replacement coverage. It is important to note that during the review of the coverage differences, there may be other additional coverage differences that have not been noted in this proposal. We encourage you to read the policy completely and contact us with any questions.***

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CLAIM EXAMPLES

Example 1: A Commercial General Liability (CGL) policy was written through a wholesaler with pollution coverage included. After a couple of renewals, a pollution exclusion was added to the policy. While this was listed on the quote proposal, no formal notification of the reduction in coverage was provided to the agent or insured. The client subsequently had a pollution claim which was denied by the carrier. The wholesaler had no obligation to specifically advise the agent of the added exclusion. We anticipate a six-figure payout from the agent's E&O for this claim.

Lesson: Always check your renewals for changes to coverage.

Example 2: A Professional Liability Policy was placed through a wholesaler with a 1999 retro date requested. A conditional quote was provided with retro inception and prior acts excluded. When formal terms were requested, it was again noted that a 1999 retro date was needed. Coverage was bound and the policy was issued with retro inception and prior acts excluded. The client later filed a claim which was denied based on the prior acts exclusion. The agent contacted the wholesaler to question why the 1999 retro date was not provided. While the wholesaler did reach out to the carrier and indicated their intention was to provide coverage with the 1999 retro date, the carrier declined to amend the retro date. The carrier declination was not communicated to the agent. This claim paid $500,000 from the agent's E&O coverage. Efforts to pursue the wholesaler where unsuccessful.

Lesson: Review proposals and policies carefully to ensure the coverage is accurate. Clear up any discrepancies immediately.