

UNINSURED MOTORIST AND UNDERINSURED MOTORIST CLAIMS

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Oftentimes, the injuries suffered by an auto accident victim are caused by a negligent party who either had no liability insurance or had inadequate liability insurance to fully compensate the injured person. In these situations, the uninsured or underinsured negligent driver is typically not collectable. However, if “*uninsured motorist coverage*” and/or “*underinsured motorist coverage*” has been purchased by the injured person or the owner of the vehicle occupied by the injured person, then the injured person will be able to pursue the liability claim against the insurance company that issued the uninsured/underinsured coverage. Basic principles regarding uninsured and underinsured motorist claims are summarized below:

I. UNINSURED MOTORIST BENEFITS

If an injured person’s policy includes ***uninsured motorist coverage***, and if the injury was caused by an uninsured driver, the injured victim will be able to assert his/her liability claim directly against his/her own insurance company who will then “*stand in the shoes of the negligent driver.*” The injured person will be able to recover noneconomic damages and excess economic damages up to the limits of his/her uninsured coverage in exactly the same manner they would had the negligent party been insured. The only difference is that these claims are sometimes pursued in an Arbitration proceeding as opposed to a Circuit Court lawsuit, although this will depend on the exact wording of the policy. Strict compliance with policy provisions is required.

II. UNDERINSURED MOTORIST CLAIMS

If the injured person purchased ***underinsured motorist coverage*** and if the injury was the result of the negligence of someone who has inadequate liability limits to fully compensate the injured person, he/she can pursue that portion of the liability claim not covered by the at fault driver’s insurance through the injured person’s own insurance company in much the same manner as one would pursue an uninsured motorist claim. However, there are certain strict rules that must be followed so that this claim is not jeopardized. For example, insurance policies typically require that the injured person completely exhaust the negligent party’s liability limits before pursuing the claim for underinsured motorist coverage. In addition, most policies require that the injured person obtain written consent from his/her insurance company before settling with the negligent party. There may be other very important conditions set forth in the policy that must be complied with in order to maintain this claim, such as short notice of claim requirements. Failure to follow these policy conditions can result in the loss of underinsured motorist benefits. ***Therefore, extreme caution is necessary to protect these claims!***

Underinsured motorist coverage claims are sometimes handled in an Arbitration proceeding as opposed to a Circuit Court lawsuit, although this may differ depending upon the language of the insurance policy.

Unfortunately, underinsured motorist benefits are not sold by several large insurance companies. As of the date of this brochure, AAA and State Farm were among the insurance companies that did not sell underinsured motorist coverage in Michigan. In this day and age, underinsured motorist coverage is important enough that serious consideration should be given to whether the consumer should change insurance companies in order to obtain this coverage if the consumer's auto insurance company does not sell the coverage.