



The State of New Hampshire Insurance Department

21 South Fruit Street, Suite 14
Concord, NH 03301
(603) 271-7973 / Fax (603) 271-1406
TDD Access: Relay NH 1-800-735-2964

Roger A. Seigny
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

INFORMATIONAL LETTER

DATE: December 9, 2014
TO: New Hampshire Producers and Insurers
FROM: New Hampshire Insurance Department
RE: Insurer Policy Review: Liability Coverage Must be
Primary for Owned Rental Vehicles

It has come to the Department's attention that some motor vehicle liability policies issued to automobile rental companies might contain language that makes the coverage for the owned rental vehicles excess coverage in certain circumstances.

New Hampshire law mandates that all motor vehicle liability policies provide primary liability coverage to both the named insured and any permissive user for all owned vehicles that are covered by the policy. See RSA 259:61. Permissive users include any individual who is operating the covered motor vehicle with expressed consent and those with implied consent. See *Northern Ins. Co. v. N.H.* 649 (2005), and RSA 264:18, VI. Any policy language that purports to make liability coverage for owned motor vehicles excess coverage is, as such, illegal under New Hampshire law. *Universal Underwriters Ins. Co. v. Allstate Ins. Co.*, 134 N.H. 315 (1991).

All insurers who issue policies to automobile rental companies must review all such in-use motor vehicle liability policies to ensure that owned rental vehicles are provided primary coverage and must report any non-compliance to the department and contemporaneously make a corrective filing. The department's only intent in issuing this informational letter is to bring all in-use forms into compliance with the current law.

If you have any questions, please contact James Fox at 603.271.7973, Ext. 205 or Gail Matson at Ext. 242 or by email at James.Fox@ins.nh.gov or Gail.Matson@ins.nh.gov