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**IDAPA 18
TITLE 02
CHAPTER 02**

18.02.02 – AUTOMOBILE INSURANCE POLICIES

000. LEGAL AUTHORITY.

Title 41, Chapter 25, Idaho Code; Title 67, Chapter 52, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.

01. Title. These rules are titled, IDAPA 18.02.02, “Automobile Insurance Policies.” (3-28-18)

02. Purpose. The purpose of this Rule is to provide guidelines that will assist in the implementation and uniform interpretation of the following Sections of the Idaho Code. (3-28-18)

a. Section 41-2506 - Cancellation of Policies - Definitions. (7-1-93)

b. Section 41-2507 - Cancellation of Policies - Grounds. (7-1-93)

c. Section 41-2508 - Notice of Cancellation or Intention not to Renew. (7-1-93)

d. Section 41-2509 - Cancellations and Non-Renewals - Exceptions. (7-1-93)

e. Section 41-2502 – Uninsured motorist and underinsured motorist coverage for automobile insurance – Exceptions. (3-28-18)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. (3-28-18)

003. ADMINISTRATIVE APPEALS.

All administrative appeals will be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General - General Provisions.” (3-28-18)

004. INCORPORATION BY REFERENCE.

No documents are incorporated in this chapter of rule. (3-28-18)

005. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS – WEB ADDRESS.

01. Office Hours. 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (3-28-18)

02. Mailing Address. P.O. Box 83720, Boise, ID 83720-0043. (3-28-18)

03. Street Address. 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (3-28-18)

04. Web Address. The department’s website is <http://www.doi.idaho.gov>. (3-28-18)

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with this rule are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, as well as applicable exemptions. (3-28-18)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho Department of Insurance adopts the definitions set forth in Title 41, Chapter 25, Idaho Code. In addition,

the following terms are defined as used in this chapter. (3-28-18)

01. The Act. For the purpose of this Rule, the term “the Act” shall, unless otherwise noted, refer to Sections 41-2506, 41-2507, 41-2508, 41-2509, 41-2510, 41-2511, 41-2512 of the Idaho Insurance Laws, otherwise known as the Insurance Code. (7-1-93)

02. Non-Payment of Premium. The provisions of Section 41-2506(1)(d), Definitions - Non-Payment of Premium, means the failure of the named insured, or his legal representative, to discharge when due any of his obligations in connection with the payment of any premiums or installment premiums on a policy as defined in the Act, or any membership fees due an association or organization, other than an insurance association or organization, which by its by-laws requires the payment of such membership fees by the member prior to his obtaining or continuing insurance in force through such an association or organization. The term “non-payment of premium” as referred to in the Act shall also apply when the named insured or his legal representative is obligated to pay such premium or membership fee directly to the insurer, its agent or representative, or indirectly under any premium finance plan or extensions of credit. However, if the agent or other representative of the insurer extends credit to the insured, orally or otherwise, and said agent or representative terminates such credit arrangement with the insured because of non-payment, said agent or representative, with the knowledge and consent of the insurer, shall then mail or deliver, or cause to be mailed or delivered, to the named insured or his legal representative written notice of cancellation which states, in effect, that the insurance provided by the policy upon which such credit was granted shall cease on a given time and date. This time and date shall be no earlier than ten (10) days after the date such notice was mailed or delivered, the date of mailing considered to be the first day and the tenth day being considered to be ended at midnight, standard time, at the last known address of the named insured. Nothing in this rule shall be construed to permit any agent or other representative of the insurer to cancel any policy without the concurrence of the insurer or for any private debt between the agent and the insured. Also, nothing in the section shall be construed to prohibit a policy from being canceled effective as of any date that is mutually acceptable to the insured, the insurer and the lienholder, if any. Furthermore, a prior existing policy shall terminate on the effective date of any other policy procured by the insured with respect to any automobile designated in both policies and containing duplicate insurance coverage. (7-1-93)

03. Sixty Day Period. The sixty (60) day period referred to in Subsection (2) of Section 41-2506, Cancellation of Policies - Definitions, is intended to provide to insurers a reasonable period of time, if desired, to thoroughly investigate a particular risk while extending coverage during the period of investigation. Should an insurer, after such investigation, conclude that it does not wish to remain on the risk, it may decline to continue such policy in force provided that its action conforms with the provisions of Section 41-2506(2) of the Act. Therefore, the provisions of this section shall be interpreted to mean that an insurer may deliver notice of cancellation or mail notice of cancellation concerning any new automobile policy on or before the sixtieth (60th) day after inception date of the policy, the inception date being considered to be the first day and the sixtieth (60th) day being considered to be ended at midnight, standard time, at the last known address of the named insured. The policy shall thus remain in force from the date the notice of cancellation is mailed to the usual date the cancellation is effective as required by the terms and conditions of the policy, without the policy being considered to be subject to the provisions of the Act. For the purpose of this rule, the term “inception date” shall mean that date and time that the policy goes into effect and the protection furnished by the policy commences. (7-1-93)

011. ERRORS OR MISREPRESENTATIONS IN THE APPLICATION.

01. Material Misrepresentation. The provisions of Section 41-2507(2), Cancellation of Policies - Grounds, relating to material misrepresentation by the insured in obtaining a policy as permitted grounds for cancellation of the policy, shall be construed to mean that an insurer may cancel or refuse to renew a policy after giving the insured proper notice if the insurer has evidence that the named insured, or his legal representative, made fraudulent or material misrepresentations, omissions, concealment of facts or incorrect statements in obtaining the policy and if the insurer in good faith would not have issued the policy nor would have provided coverage with respect to a particular hazard if the true facts had been made known to the insurer as required in the application. (7-1-93)

02. Prohibitions. Nothing in this rule shall be construed to allow the insurer to void the policy back to its inception date or rescind coverage under the policy in order to prevent a recovery under the policy in the event of a loss otherwise insured by the policy. (7-1-93)

03. Representations -- Application. Nothing in this rule shall be construed to change the meaning of, or modify in any way, Section 41-1811, Representations in Application, Idaho Code. (7-1-93)

012. ALLOWABLE CONVICTIONS FOR TRAFFIC VIOLATIONS.

01. Grounds and Requests for Cancellation Due to Traffic Violation Convictions. Section 41-2507(7)(h), Cancellation of Policies -- Grounds, shall be construed to mean that an insurer may send proper notice of cancellation as soon as the named insured has been convicted of or forfeited bail for three (3) or more violations, as described under this section, within the thirty-six (36) months immediately preceding the notice of cancellation or non-renewal. The insurer may also send proper notice of cancellation at such time as any other individual operator who either resides in the same household or customarily operates an automobile insured under the policy has been convicted of or forfeited bail for three (3) or more violations as described under this section within the thirty-six (36) months immediately preceding the notice of cancellation or non-renewal. (7-1-93)

02. Conviction. For the purposes of the Act, the term "conviction" shall mean a final conviction by any court having competent jurisdiction over violations of laws regulating the operation of motor vehicles as set out in Section 41-2507(7)(h), Idaho Code. (7-1-93)

03. Conviction Exception. For the purposes of the Act, a conviction for an overtime parking violation is not a conviction that would provide a valid reason for an insurer to send notice of cancellation of or refusal to renew a policy. (7-1-93)

013. NOTICE OF PREMIUM DUE AS WILLINGNESS OF INSURER TO RENEW.

01. Policy Renewal, Nonrenewal Requests. Some insurers effect a renewal of their outstanding policies of automobile insurance merely by sending a renewal premium notice to the insured a reasonable period of time in advance of the expiration date of his policy. The insured need only make a timely payment of the premium due in order to keep his policy in force. In this situation, the mailing by the insurer of the renewal premium notice does constitute such a manifestation of willingness by the insurer to renew as to comply with Section 41-2508(2) of the Act. If the insured fails to pay the renewal premium when due, the policy will terminate in accordance with its terms. No further notice to the insured by the insurer of an intention not to renew for non-payment of premium is necessary. (7-1-93)

02. Renewal. Inasmuch as Section 41-2508(2) of the Act, entitled, Notice of Cancellation or Intention Not To Renew, requires in effect that no insurer shall fail to renew a policy to which Section 41-2506 of the Act applies unless the insurer has manifested its willingness to renew, it might be implied that the insurer must automatically renew the policy whether or not requested to do so by the named insured or his agent. It is the position of the Department of Insurance that such an implication was not intended in the Act and, therefore, failure to send notice to the insured of the insurer's intent not to renew a policy shall also be considered to be a manifestation by the insurer of its willingness to renew the policy, and nothing in this subsection requires an insurer to renew a policy unless requested to do so by either the insured or his agent. Nevertheless, if an agent, who is properly licensed to represent the insurer, asks the insurer not to renew a particular policy and the insurer complies with this request, then such failure to renew the policy constitutes a "Refusal to Renew" under the provisions of the Act. In the event the policy in question does not have a fixed and definite expiration date, the insurer, or its authorized legal representative, shall be required to send proper notice of premium due to the insured's last known mailing address not less than fifteen (15) days prior to the date the policy would expire in the event such premium was not paid and such notice of premium due shall plainly indicate the date that coverage ceases under the policy because of non-payment of premium. On policies that do contain a fixed and definite renewal date, proper notice of the forthcoming expiration date and the premium due shall be sent to the last known address of the named insured by the insurer or its authorized legal representative at least fifteen (15) days prior to said expiration date. (7-1-93)

014. AGENT SHALL NOT WITHHOLD BENEFITS OF THIS ACT FROM THE INSURER.

01. Penalties. Any insurance agent or other representative of an insurer who knowingly or willfully withholds information or gives misleading information, or in any manner conceals from the insured knowledge to the effect that the insurer under the new policy may not be subject to the obligations and responsibilities intended by the

Act for the first sixty (60) day period as provided by Section 41-2506(2) of the Act, shall be subject to the penalties prescribed or referred to in Section 41-117, General Penalty, for violation of Section 41-1305, Twisting, Prohibited, Idaho Code. (7-1-93)

015. ACCEPTABLE FORMS FOR NOTICE OF CANCELLATION, REFUSAL TO RENEW, AND AVAILABILITY OF IDAHO AUTOMOBILE INSURANCE PLAN.

01. Notice Forms. Each insurer shall prepare the forms of notice which it proposes to use and submit such to the Director of Insurance for approval. (7-1-93)

02. Acceptable Language. As a guide, the Department will accept the following language, or language substantially similar, as satisfying the indicated notice requirements of the Act: (7-1-93)

a. Right of Insured to Request Reasons for Cancellation by Insurer: “As required by State Insurance Laws, upon your written request, mailed or delivered to (Name of Insurer) not less than ten (10) days prior to the effective date of this cancellation, (Name of Insurer) will supply to you the reason or reasons why your policy has been canceled.” (7-1-93)

b. Right of Insured to Request Reasons for Refusal to Renew by Insurer: “As required by State Insurance Laws, upon your written request, mailed or delivered to (Name of Insurer) not less than fifteen (15) days prior to the expiration date of your policy, which is the date coverage ceases under your policy unless it is renewed, the (Name of Insurer) will supply to you the reason or reasons why your policy will not be renewed.” (7-1-93)

c. Notification to Insured of Coverage Available Under Idaho Automobile Insurance Plan: “Should you experience difficulty in obtaining automobile liability insurance, please contact your agent or company representative for full particulars concerning your possible eligibility for insurance through the Idaho Automobile Insurance Plan.” (7-1-93)

016. STANDARD STATEMENT REGARDING UNINSURED AND UNDERINSURED MOTORIST COVERAGE.

The form set forth below is the standard statement approved by the director of the department of insurance pursuant to Section 41-2502, Idaho Code, and carriers must begin using the new form for all new policies and those existing policies where UM or UIM coverage is added or removed no later than January 1, 2019. Carriers may make non-substantive changes to this form, for example, including inserting company letterhead, and carriers must file their standard statement forms with the director prior to use. This rule does not create new requirements for the types of UIM coverage carriers must offer beyond what existed as of the effective date of this rulemaking. (3-28-18)

017. -- 999. (RESERVED)

APPENDIX A
(UNINSURED/UNDERINSURED MOTORIST DISCLOSURE)

IDAHO UNINSURED MOTORIST AND UNDERINSURED MOTORIST DISCLOSURE -- Do not sign until you read

Idaho law requires that every auto liability insurance policy include **Uninsured Motorist (UM)** bodily injury coverage and **Underinsured Motorist (UIM)** bodily injury coverage, unless a named insured (you) has rejected these coverages in writing, which may be in electronic format.

These coverages can protect you and your passengers by paying damages, up to the UM/UIM policy limits you have chosen, when an at-fault person does not have any or enough liability coverage.

- **UM** coverage may pay damages for bodily injuries caused by an at-fault motorist who has no insurance, or from a hit-and-run vehicle where the at-fault party is unknown.
- **UIM** coverage may pay damages for bodily injuries if the at-fault motorist does not have enough liability insurance to cover your costs. UIM coverage is offered in different types by different insurers, and insurers are not required to offer more than one type of UIM coverage. The most common available type of UIM coverage is "Difference in Limits" (or "Offset") Coverage. Some insurers may offer "Excess" Coverage. **Please refer to the attached examples to see how the different types of UIM coverage may impact your level of protection.**

You have the option to purchase both UIM and UM coverage in varying amounts at or above the minimum liability requirements in Idaho, which are \$25,000 per person, \$50,000 for two or more persons in any one accident. By signing below, you acknowledge that the insurance company has explained the following UM/UIM coverages that are available as part of your policy:

Insurer: _____ UIM Type: Difference in Limits (Offset) Excess

I have read the above explanation of Uninsured Motorist and Underinsured Motorist coverages. I understand that I have the option to reject either or both coverages.

Named Insured (print name) **Signature of Named Insured** **Date**

UNINSURED AND UNDERINSURED MOTORIST COVERAGE – OPTION TO REJECT

I understand that, by signing below, I am informing my insurer that I choose to reject the UM/UIM coverage(s) under my automobile liability policy, or under any renewal or replacement of my policy.

I reject and do not wish to purchase <i>Uninsured Motorist Coverage</i> (UM).
_____ Signature of Named Insured (only if rejecting)
_____ Date

I reject and do not wish to purchase <i>Underinsured Motorist Coverage</i> (UIM).
_____ Signature of Named Insured (only if rejecting)
_____ Date

This general explanation is NOT an insurance agreement. All auto insurance policies have terms and conditions that control your rights and obligations as a policyholder. For a more detailed explanation of these coverages, refer to your policy, agent or the insurer. The Idaho Department of Insurance can also provide assistance with insurance related questions. Call 800-721-3272 (Idaho only) or 208-334-4250 or visit the Department's website at www.doi.idaho.gov.

	"Difference in Limits" (or "Offset") UIM	"Excess" UIM
Definition of the type of UIM coverage	Your UIM coverage limits are reduced or eliminated by any amounts recovered from another party's insurance.	Your UIM coverage limits are above and beyond what is paid by another party's insurance.

Example 1		
At-fault motorist and you have the same bodily injury/UIM coverage limits		
	"Difference in Limits" (or "Offset") UIM	"Excess" UIM
Bodily Injury liability limit of at-fault motorist	\$25,000	\$25,000
Your Underinsured Motorist (UIM) Coverage limit	\$25,000	\$25,000
Maximum available for your bodily injury	\$25,000	\$50,000
Example 1 explanation	Your UIM coverage doesn't provide additional coverage above the at-fault motorist's coverage because they have the same limit	Your UIM coverage increases the available Bodily Injury coverage above the at-fault motorist's coverage limit

Example 2		
At-fault motorist has lower bodily injury coverage limits than your UIM		
	"Difference in Limits" (or "Offset") UIM	"Excess" UIM
Bodily Injury Liability limit of at-fault motorist	\$25,000	\$25,000
Your Underinsured Motorist (UIM) Coverage limit	\$100,000	\$100,000
Maximum available for your bodily injury	\$100,000	\$125,000
Example 2 explanation	Your UIM coverage covers any deficiency in the at-fault motorist's Bodily Injury coverage, as if the at-fault motorist had Bodily Injury coverage at your UIM limit	Your UIM coverage increases the available Bodily Injury coverage above the at-fault motorist's coverage limit

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